

First Session

R E P U B L I C O F K E N Y A
T H E N A T I O N A L
A S S E M B L Y

OFFICIAL REPORT

Tuesday, 1st November 1988

ORAL ANSWERS TO QUESTIONS

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H A N S A R D

Tuesday, 1st November, 1988

The House met at thirty minutes past Two o'clock.

Mr. Speaker, in the Chair

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.390

MR. LEWA asked the Minister for Health:

- (a) whether he is aware that there is an urgent need for Ear Nose and Throat (E.N.T.) clinical officers to be stationed at Kilifi and Malindi hospitals of Kilifi District; and
- (b) how soon will these officers be posted to these hospitals.

THE ASSISTANT MINISTER FOR HEALTH (Mr. Ogur): Mr. Speaker, Sir,

I beg to reply.

(a) Yes, I am aware that there is need for Ear, Nose and Throat (E.N.T.) clinical officers to be stationed at Kilifi and Malindi Hospitals of Kilifi District.

(b) I am ^{happy} to inform the hon. Member that my Ministry will post an E.N.T. clinical officer to Kilifi Hospital to serve both Kilifi and Malindi Hospitals during the course of the month of November, 1988, which started today.

Question No.398

MR. BIDU asked the Minister for Health:-

- (a) whether he is aware that Mr. Johnson Mwachiti Nyawa, a former driver of the Ministry stationed at Kinango Hospital, in Kwale ~~Dist~~ District died as a result of a road accident while on duty on 2nd December, 1981;
- (b) why it has taken so long to pay compensation to the family of the deceased; and
- (c) when will they be paid this compensation.

THE ASSISTANT MINISTER FOR HEALTH (Mr. Ogur): Mr. Speaker, Sir,

I beg to reply.

(a) Yes, I am aware that the late Mr. Johnson Mwachiti Nyawa died as a result of an accident while on duty on 2nd December, 1981.

(b) Action has now been taken to request the Medical officer of health to give the National Social Security Fund (N.S.S.F.) ~~contribution~~ contributions upon which the necessary action will be taken with the Director of the Fund to effect the necessary payment to the dependants. The long delay to pay compensation was due to the lack of information to the Ministry's Headquarters. Mr. Johnson Mwachiti Nyawa was a casual employee, stationed at Kinango Hospital. He died before he was registered in our Ministry's payroll.

(c) The compensation will be paid as soon as the necessary ~~con~~ contributions have been given to the Director, N.S.S.F.

MR. BIDU: Mr. Speaker, Sir, this is a very old case. The man died in December, 1981, yet the Assistant Minister has told this House that compensation will be paid as soon as the Director, N.S.S.F. receives ~~the~~ the necessary contributions. Can the Assistant Minister give the House the specific month when the dependants will be paid the compensation, *will it be paid in January, December, January or February?*

MR. OGUR: Mr. Speaker, Sir, it is very difficult to give the exact date or a ~~week~~ week because we need some documents which will come ~~for~~ from the district. The medical officer of health will give us the details. After we get the documents, we will work out the compensation, and then we shall communicate with the Director, N.S.S.F. The compensation will be paid, as soon as possible, but I would ask the hon. Member to assist us so that we can ~~receive~~ receive these documents as quickly as possible, so that we can ~~make the~~ *pay* process and ~~make~~ the compensation *immediately.*

very late

MRS. NDEPEI: Mr. Speaker, Sir, I find it difficult to understand the Assistant Minister's answer. Can he clarify, whether he is talking about compensation from the Ministry of Health, or claims from the N.S.S.F. which is under the Ministry of Labour? These are two different funds.

MR. OGUR: Mr. Speaker, Sir, in my reply, I said that Mr. Johnson Mwachiti Nyawa was a casual worker, he was not registered in ~~our~~ our payroll. Therefore, we did not have any details needed in a case ~~so~~ to be able to ^{anything} organise ^{and} at all, so we are waiting for the medical officer of health, ^{as} ~~he~~ ^{has} been instructed, to forward these documents to us so that we can start working on the compensation. At the ~~next~~ moment, we cannot do anything because we do not have any ~~records~~ of his records. This man was not a permanent employee, he was a casual worker ^{and} ^{is} that ^{to come} why we are waiting for the documents from the Medical Officer of Health, Kinango Hospital. That is the answer, Mr. Speaker, Sir.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. I think the Assistant Minister was not in order when he said that the compensation will be paid when the necessary contributions have been ~~received~~ received by the Director, N.S.S.F. Nairobi. I think the N.S.S.F. ^{dues are not} is not ~~of~~ compensation; ^{they} ~~these~~ ^{these dues} people are paid, because they have contributed towards that Fund. He should ~~also~~ clarify what he means by compensation. I think the hon. Questioner was asking about the compensation from the Ministry, and not the ^{dues} ~~claim~~ from the ~~N.S.S.F.~~ N.S.S.F.

MR. OGUR: Mr. Speaker, Sir, we cannot pay any Workmens Compensation, until we get the details of the deceased, Mr. Mwachiti. We do not have any of his documents, and we have already asked the Medical ~~off~~ Officer of Health, Kinango Hospital to forward any details that he may have about this ~~an~~ man, and we will start from there. I said that the ~~dependant~~ ^{was because} dependants will be ~~in~~ paid as soon as possible, immediately we get these documents, ^{we} will start helping in ^{paying} ~~both~~ compensation and ~~the~~ N.S.S.F. ^{dues} ~~claim~~. We do not have any ~~d~~ of his documents, because he was a casual worker and ^{has not} ~~not~~ been put in our payroll at all.

MR. MWALZANDI: Mr. Speaker. Sir, the Assistant Minister is
~~mis~~ misleading this House by ~~saying~~ ^{that} telling us the employee was a
casual worker, yet he died ~~in~~ while on duty. I thought that the
Laws of this country say that ~~a~~ a person ~~is~~ should be paid
Workmens Compensation ^{once dies} if he ~~died~~ ^{dies} while on duty. He should be paid ^{Workmens' Compensatio}
whether he was a casual or permanent employee. He should be paid.

(END A)

MR. SPEAKER: I do not think ~~that~~ the hon. Assistant Minister is misleading anybody. What he is saying is that he is waiting for details from Kwale. If the hon. ^{Member} can help the family to forward the details to the Ministry, I think that would be much better.

MR. ADEN: Thank you, Mr. Speaker, Sir. Arising from the Assistant Minister's reply, it is alleged that this gentleman died on 2nd December, 1981, which makes it seven years since the death took place. What has the Ministry done during those seven years?

MR. OGUR: Mr. Speaker, Sir, I could not have done anything without any details. The hon. Member from that area has not helped the family bring this matter to us; this man was a casual worker and as such was not on our payroll. So, now we are trying to see whether we could get documents which would help us pay either L. u. c. the workmans compensation or the National Social Security Fund (N.S.S.F.) benefits.

MR. MALEBE: On a point of order, Mr. Speaker, Sir. My point of order is that the Assistant Minister is still misleading the House because a casual labourer is an employee of the employer. In normal circumstances if an accident occurs, the employer has to report that accident to the Ministry of Labour so that they can institute ^{of} paying compensation. In this case, the Ministry does not seem to have done this, which is really why we are getting such an inadequate answer from the Assistant Minister.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of clarification, Mr. Speaker, Sir. In addition to your very lucid clarification, assuming that the facts as presented here are correct, two things should have happened. The first one is that the matter of N.S.S.F. should have been processed through the Ministry of Labour in the normal way. The other thing is that assuming that the vehicle belonged to the Government, and also ~~as~~ that the deceased, Mr. Mwachiti Nyawa, was a casual employee, or otherwise, payment of

THE ATTORNEY-GENERAL (CTD):

general damages, which I assume are what is being referred to here as "compensation", would depend on the amount of negligence surrounding the accident. In this Question all the facts, which the Assistant Minister is entitled to have before he can answer it, have not been fully disclosed.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. I think the ^{Attorney-General} ~~was~~ ^{was} not right in assuming everything. This is because the Question has given all the details regarding this man. Now, if the Assistant Minister did ^{not} have details about that employee he would not have said that he was a casual ^{worker}. If he did not have the details, how did he know that ^{the man} ~~he~~ was a casual employee?

MR. OGUR: Mr. Speaker, Sir, there is no debate about me knowing whether an employee is a casual ^{worker} or not. A casual ^{worker} who is an employee not yet fully absorbed into permanent employment, is easily known in the Government Service because he has no personal number. This is the information we have about the deceased. Now other details which will help us pay the workmans compensation ^{are} what we are waiting for from our Medical Officer of Health (M.O.H.). The delay that occurred since 1981 has been as a result of non-availability of all these details.

MR. BIDU: On a point of order, Mr. Speaker. I would like to say that I am the person who ~~xx~~ raised this Question, and that I have evidence that all the ~~x~~ details were taken to the Ministry during that material time. The Ministry of Health was written to and a form for compensation was filled in. So, the Assistant Minister is misleading the House because all the documents were sent to the relevant Ministry. I would like him to tell this House where he got that answer from, since I have the papers of all the details that were sent to the relevant Ministries.

Question No. 375

MR. arap CHEPKOK asked the Minister for Agriculture:-

- (a) whether he is aware that Paul Cherop, P/NO. 15631/31, was retired before attaining the mandatory retirement age of 55 years;
- (b) why he was retired; and
- (c) whether he will consider reinstating Mr. Cherop without loss of benefits until he attains the mandatory retirement age.

THE ASSISTANT MINISTER FOR AGRICULTURE (Mr. Ngaruro):

Mr. Speaker, Sir, I beg to reply.

(a) Mr. Paul Cherop, P/NO. 15631/31, was retired from the Kenya Government Service with effect from 1st November, 1987 having attained the mandatory retirement age of 55 years according to the records held in the Ministry.

(b) Therefore, Mr. Cherop was retired on age grounds.

(c) In view of the above, reinstatement of Mr. Cherop is out of question.

MR. arap CHEPKOK: Mr. Speaker, Sir, I think the Assistant Minister is misleading the House. I went to the Minister with the person in question, and asked the Minister to assess him and see whether he is 55 years old. The Minister accepted that the man was not 55 years old, and asked him to write a letter and attach his birth certificate. The man did that and took the letter to the Minister's office, where he was told to go back home and wait for a reply. Recently he got a letter stating that the Ministry could not reinstate him. Now, the Assistant Minister comes here and says that the man was retired on attaining the age of 55 years, while the man is only 45 years old. How could that happen?

MR. NGARURO: Mr. Speaker, Sir, as I said that according to the records that we have, and also the birth & certificate supplied by this gentleman to the Ministry, Mr. Cherop was born on 2nd November, 1932, and obtained this birth certificate on 7th July, 1976.

THE ASSISTANT MINISTER FOR AGRICULTURE (Mr. Ngaruro)(Ctd):

Therefore, according to the records that we have this gentleman retired after attaining the age of 55 years.

MR. arap CHERKOK: Mr. Speaker, Sir, I do not think that I am satisfied with the answer ^{given} by the Assistant Minister. I would, therefore, like the Minister himself to answer this Question, because he saw the man's identity card showing his year of birth as 1942. Where did the Assistant Minister get 1932 as the year of birth for a man who is younger than I am?

MR. NGARURO: Mr. Speaker, Sir, I think I am competent enough to deal with this Question. As I said, the Minister himself is not medically qualified. Now, in the Civil Service whenever there is a dispute regarding the date of birth of an employee, the Government relies on available records. Any records indicating date of birth to be earlier than the one claimed can only ^{be} challenged and ~~xxx~~ ascertained by a medical officer of health. I suggest that the onus to obtain the necessary certificate from the Ministry of Health is on this gentleman. However, according to our ~~xx~~ records, this gentleman was retired on age grounds.

MR. MAKAU: On a point of order, Mr. Speaker, Sir. It seems that the hon. Questioner is giving the date of birth of this person as indicated on ~~the identity~~ ^{identity} card, while the Assistant Minister is claiming that on 7th July, 1976 a ^{birth} certificate was presented by the person in question. Who of the two do we believe because the birth certificate indicates the man's year of birth as 1932, while the ^{identity} ~~identity~~ card indicates it as 1942. If we are to go by what the Hon. Member and the Assistant Minister are saying, which ^{of the} ~~two~~ two years is the actual date of birth of this gentleman, and ~~x~~ between the ^{identity} ~~identity~~ card and the birth certificate which document does the Ministry take to be more reliable?

MR. NGARURO: Mr. Speaker, Sir, what we are saying is that according to the documents that we have, this gentleman obtained this birth certificate in 1976, and it says that he was born on 2nd November, 1932. Therefore, according to this document this gentleman attained the age of 55 when he was retiring.

MR. MAKAU: Mr. Speaker, Sir, I raised that point of order because I wanted to know from the Assistant Minister what they ask for when they are employing people. Do they ask for the identity card or birth certificate?

MR. NGARURO: Mr. Speaker, Sir, I said that what we have is a birth certificate showing that he was born on 2nd November, 1932.

MR. CHEPKOK: Mr. Speaker, Sir, the birth certificate which shows that the gentleman has attained the age of 55 is dated 1942 and not 1932, as the hon. Assistant Minister is alleging. But the identity card shows that he was born in 1942. How is he confusing the two documents? I took this gentleman to the Minister together with the birth certificate and his identity card, and he wrote a letter in front of the Minister.

MR. MAKAU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: No! Why do you not allow the Assistant Minister to reply first? Let him reply to hon. Chepkok's question.

MR. NGARURO: Mr. Speaker, Sir, according to the documents which I have here, a true copy of a birth certificate shows that he was born in 1932. So, unless the hon. Member brings me the other certificate showing that he was born in 1942, I can only rely on the documents that I have with me here.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. There are two documents that the hon. Assistant Minister is using; the identity card and the birth certificate. He has been asked on a point of order to say which document of the two he is using to reply to this question. Is it the birth certificate or the identity card? We always use our identity cards when we are being paid our salaries. Which document is he using now? Which one is valid? Is it the identity card or the birth certificate? Tell us now. Do not assume anything.

MR. NGARURO: Mr. Speaker, Sir, we have documents here that we are using in determining the birth of this gentleman, and if the hon. Member has other documents that he would like us to consider, he is at liberty to come to our Ministry and we shall definitely look at them.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. I asked the hon. Assistant Minister which documents he was using. Is it the identity card or the birth certificate? That is what I want him to tell the House, and not a story so that we can deal with the question as it is.

MR. NGARURO: Mr. Speaker, Sir, we have here a birth certificate which this gentleman obtained in 1976 and posted to the Ministry of Agriculture.

DR. MISOI: On a point of order, Mr. Speaker, Sir. This is a very important Question, and we would prefer that the Assistant Minister clarifies which of the two documents is legally acceptable in this case? This is because people have retired after attaining the age of 55 only to go back and alter their ages so that they can continue working. So, we have to get the right information. Which one of the two documents is valid? Can the Assistant Minister go back and check whether this gentleman was retired at the right age or not?

MR. NGARURO: Mr. Speaker, Sir, that is not a point of order, but another supplementary question..

MR. MAKAU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: No! Order! I think what is important here, and what is at issue is the fact that the Assistant Minister has requested hon. Chepkok to take all the documents to the Assistant Minister so that they can discuss the matter. They will be able to find out whether this gentleman was retired at the right age or not. Next Question, Mr. Malebe.

MR. MAKAU: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister has told hon. Dr. Misoi that that is not a point of order. Is he in order to make such a ruling?

(laughter)

MR. SPEAKER: No! Next Question, Mr. Malebe.

Question No. 415

MR. MALEBE asked the Minister for Transport and Communications:-

- (a) what happened to the plans by the Kenya Railways to build the proposed Nanyuki-Meru-Maua railway line; and
 (b) when this plan will be implemented.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. Mbai):

Mr. Speaker, Sir, I beg to give the following reply.

(a) Plans for the proposed new railway line from Nanyuki to Meru and onward to Maua were considered by the Kenya Railways Corporation some years ago, but were put in abeyance and an alternative route which is considered feasible from Sagana through Embu to Meru and beyond is now ^{under} investigation by the Corporation.

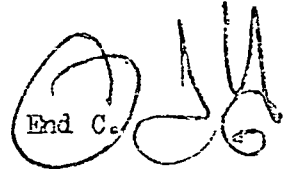
(b) As I have stated above, the plans for the proposed Nanyuki-Meru-Maua railway line will not be implemented. The plans for the alternative route will, however, be implemented after the completion of the necessary investigations and reviews and also on availability of funds.

MR. MALEBE: Mr. Speaker, Sir, we know that the railways in Kenya started in 1902 and reached Nanyuki 1931. Now, how long is the Ministry going to take to plan the extensions of railway lines, say, to open up areas which are high agricultural potential, particularly ⁱⁿ Meru District? Could the Assistant Minister tell us how long ~~are~~ these plans ^{are} going to ~~last~~ ^{take so that} and then we can see the railway growing in order to be able to transport ~~things~~ ^{crops} like coffee, cattle, and even people?

MR. MBAI: Mr. Speaker, Sir, the hon. Member should be happy with the information I have just given in that the Kenya Railways Corporation is considering establishing or constructing a railway line from Sagana through Embu to Meru so that it can serve those areas in-between potential areas agricultural. As soon as the reviews and investigations are over the Kenya Railways Corporation will then look for funds and start the construction of a railway line.

MR. MALEBE: Mr. Speaker, Sir, since they ^{have} abandoned the investigations they did from Nanyuki-Meru-Kaua, and now they have started doing investigations from Sagana through Embu to Meru and beyond, will the Assistant Minister confirm that the engineers of the Ministry have these plans on the desk and it is not just a promise that is going to be shelved in the Ministry's files for another long time until we come to ask them what they are doing with them?

MR. MBAI: Mr. Speaker, Sir, in my original reply I have already informed the hon. Member, and the House, that the Kenya Railways Corporation is carrying out investigations and reviewing the alternative route through Sagana, Embu, Meru and beyond. All I can ^{tell} the hon. Member is that he should wait for the outcome of investigations. Once they are complete, I am sure ^{that} the Kenya Railways Corporation will definitely undertake to construct a railway line.

End C. 

MR. ARTE: Mr. Speaker, Sir, would the Assistant Minister tell us for how long we are going to wait for the investigations he is now talking about. He told us that they have abandoned the original investigations without giving us any reasons. However, could he tell us how long these other investigations he is now talking about are going to take?

MR. MBAI: Mr. Speaker, Sir, I cannot give the date when these investigations are going to take, but I can assure the hon. Member that his sentiments have been taken note of and the railways will be asked to accelerate the review.

MR. SPEAKER: Next Question. Mr. Tanui

Question No.422

MR. SPEAKER: Mr. Tanui is not here? Mr. Kiliku's Question.

Question No.409

MR. KILIKU asked the Minister for Labour:-

- (a) whether he is aware that Ligna Co.Ltd. of P.O. Box 83940, Mombasa, has employed 37 people as casual workers for the last five years, and
- (b) whether he could order that these workers be absorbed on permanent terms of service with immediate effect,

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Messrs. Ligna Co. Ltd. of Mombasa, has been employing people on casual basis for varying periods.

(b) I cannot order that the casual workers be absorbed into permanent terms of employment because according to the Employment Act, Cap.226 of the Laws of Kenya, a casual employee is a person who works and is paid at the end of the day.

MR. MAKAU: Mr. Speaker, Sir, arising from the Assistant Minister's reply and due to the fact that these people have been employed as casuals for the last five years, is he aware that we have² labour law in this country

MR. MAKAU (Ctd.):

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which states very clearly that if a person works continuously for three months, he cannot be considered as a casual/^{worker}any more. So, when the Assistant Minister says that he cannot order this company to absorb these casuals into permanent terms of employment, we would like him to tell this House what labour law he is using. These people have been working as casuals for three continuous months and are therefore supposed to be absorbed into permanent employment. We have the law that should be used and we would like the Assistant Minister to tell us why he is not using the law to order the company to employ these people permanently.

MIBEI: Mr. Speaker, Sir, investigations have revealed that the company concerned has continued to employ a variable number of casuals each day. In this respect, it is difficult to confirm that the 37 people have been employed continuously for the last five years. A random survey revealed that the company employs an average of 23 casuals per day. The Ministry, has however persuaded the employer to convert between 15 and 20 of these casuals into permanent employment with effect from 1st November this year.

MR. MAKAU: On a point of order, Mr. Speaker, Sir. We are talking about 37 casuals here who have been employed as casuals for a period of five years continuously and not ^{the} 23. So, could the Assistant Minister confine his answer to 37 people who have been employed continuously for five years?

MR. MIBEI: Mr. Speaker, Sir, it has been difficult to know whether these people have been employed continuously for five years.

MR. KILIKU: Mr. Speaker, Sir, an employer can employ a person on casual basis if the nature of the work itself is ^{temporary}casual, but these 37 casual workers have been working continuously for the last five years because the job they have been doing is of a permanent nature. I am using the same Employment Act which says that if an employee works for a continuous period of three months, he ceases to be a casual worker. Therefore, would the ~~the~~ Assistant Minister use the same Employment Act to instruct the employer to absorb these people into permanent employment. It may be that he is using the same Employment Act, but a different clause.

MR. MIBEI: Mr. Speaker, Sir, after our investigations, we were not able to confirm what the hon. Member is saying that these people have been working continuously for five years. What we found out was that they were casual employees and by the definition of their terms of employment, they are paid ^a on/daily basis.

MR. MANG'OLI: Mr. Speaker, Sir, while appreciating the Assistant Minister's reply that these people are being paid on a daily basis, is he aware that he has almost agreed that they have worked as casuals for the last five years? Would the Assistant Minister undertake to protect these wananchi from exploitation by this particular employer by ordering him to absorb them into permanent employment? He has agreed that this employer has been paying these people on a daily basis for the last five years. According to the Employment Act, after three months, that is, 90 days, the employer is supposed to absorb those people ~~em~~ into permanent employment. In this particular question, I think the Assistant Minister has been trying to evade answering it by saying that he cannot do this or that. Who else can take the action if the Ministry cannot order this employer to absorb these people into permanent employment? Can he tell us who else can do so?

MR. MIBEI: Mr. Speaker, Sir, we follow the laws which are passed in this House strictly by their definition. At the end of the day, a casual worker is paid and the contract ends there. This contract can be renewed the following day and at the end of the following day, it also ends and this can continue even ^{for} ~~more~~ ^{than} ~~that~~ the period being referred to by the hon. Member. So, unless there is an amendment to the law, we shall continue to follow the existing law strictly.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister really in order to say that a person can continue working for more than five years as a casual while he knows quite clearly that the law says that if a person is employed as a casual for more than 90 days, he is supposed to be absorbed into permanent employment. Does he know that?

This law was passed by this House. If he knows that there is such a law, he ^{employment} and order the company to absorb these people into permanent/

MR. MIBEI: Mr. Speaker, a casual employee has been given a special definition by the Employment Act and we have followed this definition strictly and I do not think I have anything else to add to that.

MR. KILIKU: Mr. Speaker, Sir, I brought this Question here in view of the fact that two years ago, we passed a Motion in this House calling upon the Government to change the existing Employment Act so that casual workers can be treated as permanent employees. This is why I brought this Question to the House this afternoon. I would like to know from the Assistant Minister what happened to that Motion. Does it mean that the Ministry has not implemented that Motion up to this time and that they have kept it in the shelves? These casuals must be treated as permanent employees in view of that Motion which was unanimously passed by this House.

MR. MIBEI: Mr. Speaker, Sir, what we follow is the Act of this Parliament and not a Motion which has been passed in this House. Any Motion passed in this House must be converted into law.

MR. MAKAU: On a point of order, Mr. Speaker. The Assistant Minister is clearly telling us that these people have been in employment consistently. So, he should use the same law to order this company to absorb these workers into permanent employment because they have been working continuously for five years. He has the facts and therefore, we are now asking him to use that law.

AN HON. MEMBER: Is that really a point of order?

MR. MAKAU: This is a point of order to guide him into knowing how to follow up these things.

MR. MIBEI: Mr. Speaker, Sir, to answer the hon. Member, I would like to tell him that we have been using the persuasive method to ask the employer to consider absorbing some of the employees or all of them into permanent employment, according to their list.

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso): On a point of order, Mr. Speaker, Sir. I am seeking your guidance as to whether the various points of order which are now being raised here are actually genuine points of order. In my view, some of them are just questions or points of

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THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(Ctd.):
arguments. Are you, Mr. Speaker, satisfied that these are genuine
points of order?

END D

(Several hon. Members stood up in their places)

MR. SPEAKER: Order! Order, hon. Members! I understand the point that you are raising hon. Matiso. This is because even before I deem it a point of order, they are already on another point of order! So, why do we not take the minimal courtesy to understand what points of order are?

Next Question.

Question No. 382

MR. ARTE, on behalf of Mr. Nuno, asked the Minister for Tourism and Wildlife when the last recruitment of Game Rangers was carried out in Garissa District.

THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Awori):

Mr. Speaker, Sir, I beg to reply.

Recruitment of Game Rangers is not done in the districts but centrally at the ^{headquarters} ~~headquarters~~ of the Department of Conservation of Wildlife.

MR. ADEN: Mr. Speaker, Sir, in conformity with the Government policy of focus on rural development which has been in ^{practice} ~~practice~~ for some time and since it is difficult for people from various parts of the Republic to come and converge at the Wildlife Conservation Centre, could the Assistant Minister consider decentralising the recruitment system so that every district in the country can benefit from it?

MR. AWORI: Mr. Speaker, Sir, I accept that. May I also add that as of today we have 459 rangers and wardens employed throughout the Republic. If we were to follow the district quota programme, out of the 43 districts, there would only be 20 people from each district. At the moment we have 70 employees from Garissa District. So if we were to follow that programme we would have to reduce the number of employees from Garissa.

MR. ARTE: Mr. Speaker, Sir, according to the district focus

MR. ARTE (ctd.):

on rural development strategy employment of people and many other services... have been decentralised. I cannot ^{see} say why the Game Department is the exceptional. Could the Assistant Minister consider decentralising the recruitment of Game Rangers whether this will entitle reducing the number of employees from Garissa District or not?

MR. AWORI: Mr. Speaker, Sir, I had already said that I was going to do it.

Question No. 336

MR. ADEN A asked the Minister for Public Works:-

- (a) whether he is aware that the Mandera District Development Committee (D.D.C.) had recommended in 1979, that the Mandera/Finno/Elwak Road be made an all weather road;
- (b) whether he is also aware that at present, this road needs urgent repairs; and,
- (c) what urgent measures he is taking to gravel the said road in order to make it an all weather road.

THE MINISTER FOR PUBLIC WORKS (Mr. J.K. Koech): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the Mandera D.D.C. considered and approved the murrasing of Mandera/Finno/Elwak Road in 1979.

(b) I am also aware that there is need to repair the road, particularly, the two sections between Arabia and Finno trading centres which were damaged by the recent rains.

(c) There are no immediate plans to gravel this road due to shortage of funds.

MR. ADEN: Mr. Speaker, Sir, although I appreciate the reply given by the Minister, is he aware that problem does not affect this road only during the rainy seasons. This road is virtually impassable and no food stuffs or any other commodities for that matter can reach Mandera ^{even} during the dry seasons? That being the situation could the

MR. ADEN (ctd.):

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MR. J.K. KO

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MR. ADEN:

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MR. J.K. KO

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Speaker, Sir, I ^{agree with} acknowledge the sentiment
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Speaker, Sir, if the hon. Member followed
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or, Sir, will the Minister kindly ~~this~~
look for funds to gravel this road?

Speaker, Sir, I will try to look for the
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make sure that the road is passable.
funds.

MR. SPEAKER: Let us go back to Mr. Tanui's Question.

DR. MISOI: Mr. Speaker, Sir, I apologise for not asking
 Mr. Tanui's Question ^{When it} was first called.

Question No. 422

DR. MISOI on behalf of Mr. Tanui asked the Minister
 for Transport and Communications:-

- (a) whether he is aware that Nandi District does not have an airstrip; and
- (b) if so, when the Ministry is going to construct one in the area.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS

(Dr. Momanyi): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware. What I am aware of is that Nandi District has six airstrips.

(b) The Ministry has no plans to construct an airstrip in the area at the moment as the area is adequately served by the six airstrips. If, however, the local D.D.C. identifies the need for, and recommends for another airstrip and identifies a suitable site, then the Ministry will consider including the airstrip in the next Development Plan - 1989-1994.

MR. MALEBE: Mr. Speaker, Sir, could the Assistant Minister tell us why Nandi District has got six airstrips while other districts do not have more than two?

DR. MOMANYI: Mr. Speaker, Sir, I do not think that was the nature of the original Question. This is because the Questioner had stated in his Question that there was no airstrip in Nandi District.

MR. KILIKU: Mr. Speaker, Sir, I seek clarification from the Chair on this matter. The hon. Questioner says that that Nandi District does not have a single airstrip; yet the hon. Assistant Minister says that there are six of them. Are we going to rely on what the Assistant Minister has told us or what the Questioner has said? We want to know the truth.

(There was noise in the Chamber)

MR. SPEAKER: Order!. Maybe, Dr. Momanyi, you could tell the House name these airstrips in that district.

AN HON. MEMBER: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Order! The Assistant Minister is dealing with ^{another} point of order and he should finish that first.

DR. MOMANYI: Mr. Speaker, Sir, I said that there are six airstrips in Nandi District which are, Tinderet which is owned by Mr. P.L. Ivandas; Savani Estate Airstrip owned by East African Coffee Plantation; Kapsumbiwa ^{Airstrip} owned by Kapsumbiwa Tea ^{Company} ~~Factory~~; Kipkembe ~~owned by~~ located in the O9 and another one at Sasini Tea and Coffee Limited. They are all six.

MR. ADEN: On a point of order, Mr. Speaker, Sir, I think hon. Members ~~had~~ have ample time to go through the Standing Orders of this House and ^{adhere to} observe them accordingly. I noticed that while Mr. Speaker was on his feet, the Assistant Minister was still standing near the Table. I thought that was out of order, Mr. Speaker, Sir.

MR. SPEAKER: I am sure he has now understood what he was supposed to have done.

DR. MISOI: On a point of order, Mr. Speaker, Sir. Whereas I appreciate the answer given by the Assistant Minister whereby he named the airstrips owned by private companies, can he assure this House ~~that~~ that the Ministry will put ~~a~~ up an

DR. MISOI (Ctd.):

airstrip at Kapsabet for public use? Those ones he has named are all private airstrips.

HON. MEMBERS: That is not a point of order.

DR. MISOI: I agree it is a question, Mr. Speaker, Sir.

DR. MOMANYI: Mr. Speaker, Sir, the Question asked about airstrips ^{and the hon. Member} ~~he~~ did not specify a Government airstrip.

A private airstrip is as good as a Government airstrip.

MR. MAKAU: On a point of order, Mr. Speaker, Sir.

DR. MOMANYI: Mr. Speaker, Sir, I am still replying.

MR. MAKAU: On a point of order, Mr. Speaker, Sir.

The Ministry of Transport and Communications is a public Ministry. I wanted to know whether there is any airstrip that the Government has constructed; not the private ones? He has not talked about the Government airstrips and I feel the wording is wrong.

DR. MOMANYI: Mr. Speaker, Sir, I do ~~not~~ think that the question the hon. Member has asked is a relevant one because the Questioner asked about any airstrip. These private airstrips are registered by the Department of Civil Aviation and they can be used by anybody so long as he gets permission.

DR. MISOI: Mr. Speaker, Sir, part ~~k~~ (b) of the question asks whether the Ministry will put up an airstrip in the area, -- perhaps at the ~~at the~~ administrative centre of the district? These other private airstrips are outside -- at the tea estates. They are far away and the public cannot use them.

MR. SPEAKER: Dr. Misoi, that is not a point of order. Let us move on to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

MR. CHEPKOK: Mr. Speaker, Sir, before I ask this Question by Private Notice, I would like to ask the Attorney-General to answer it properly. I do not want to hear him saying that the issue is under investigation because that is ^{he} ~~what~~ promises/always.

Mr. Speaker, Sir, may I ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that the self-exiled fugitive Mr. Andrew Kimani Ngumba is using monies he acquired illegally from the sale of Boulevard Hotel Ltd; Westwood Park Country Hotel Ltd. and those of innocent depositors of Rural Urban Bank Ltd. to wage his subversive activities against our Government?

(b) How did this fugitive acquire Westwood Hotel Ltd. and how much money was paid to him both locally and overseas from the sale of Boulevard Hotel Ltd.?

(c) What arrangements is the Minister taking to have this person extradicted to answer criminal charges?

THE ATTORNEY-GENERAL: Mr. Speaker, Sir, before I answer this question, on behalf of the Minister of State, Office of the President, I would like the hon. Member to withdraw his remarks, one way or the other.

MR. SPEAKER: Mr. Chepkok, all you need to do is to ask you Question and do not insinuate anything. Your statement was an insinuation of one form or another.

MR. CHEPKOK: Mr. Speaker, Sir, I was just informing my friend, the Attorney-General that it has been his motive to reply to anything an hon. Member asks in this House by saying that it is under investigation.

MR. CHEPKOK (Ctd.)

However, I withdraw my remarks."

Mr. Speaker, Sir, may I now ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that the self-exiled fugitive, Mr. Andrew Kimani Ngumba is using monies he acquired illegally from the sale of Boulevard Hotels Ltd; Westwood Park Country Hotel Ltd. and those of innocent depositors of Rural Urban Bank Ltd. to wage his subversive activities against our Government?

(b) How did this fugitive acquire Westwood Hotel Ltd. and how much money ~~is~~ was paid to him both locally and overseas from the sale of Boulevard Hotel Ltd.?

(c) What arrangements is the Minister taking to have this person extradicted to answer criminal charges?

THE ATTORNEY-GENERAL: Mr. Speaker, Sir, thank you because the hon. Member has withdrawn those remarks although he has not apologized, but I am satisfied.

Mr. Speaker, Sir, on behalf of the Minister of State, Office of the President, I beg to reply.

This Question by Private Notice is very long and it has a lot of implications, some of which are of security nature. We share the sentiments of the hon. Questioner - hon. Chepkok - but I would like, having noticed the implications, that perhaps this Question be deferred. As always is the case, matters of this nature are subject to serious investigations and in this particular one, investigations are going on and any discussion may prejudice what may be the outcome of it.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. The hon. Member said that he hopes that this Question will not be deferred.

MR. SPEAKER: Order! That was withdrawn.

MR. MANG'OLI: Mr. Speaker, Sir, since now we are almost getting a similar answer, can you protect us?

MR. SPEAKER: I am telling you, Mr. Mang'oli that that has already been withdrawn.

MR. CHEPKOK: Mr. Speaker, Sir, how ^{can} we do investigations on somebody who has fled the country? What investigations are we going to do? We are asking a to be told at ~~what~~ what price did Mr. Ngumba sell Westwood Park Hotel Ltd; does this need investigation? This is very simple information.

MR. SPEAKER: Order! If you think it does not warrant any investigation, then there was not point in ~~giving~~ bringing this Question here. I fully agree with the Attorney-General; let him take his time and I am sure he will give us a very very relevant reply.

MR. CHEPKOK: On a point of order, Mr. Speaker, Sir. Can the Attorney-General tell this House when he intends to answer this Question?

MR. MULI: Mr. Speaker, Sir, I did say that this Question is very ^{long} ~~long~~ The hon. Member seems to have some information which would be of very good assistance to us. I kindly ask him to come and assist us complete the ^{investigations} ~~information~~.

MR. MAKAU: On a point of order, Mr. Speaker, Sir. This Question has already been forwarded to the House and we know that a Question by Private Notice has to be answered in 48 hours. ~~55~~ This Question is now the property of the House, yet the Attorney-General is asking the hon. Member to go and

MR. MAKAU (Ctd.):

help him in the investigations. Why are we mixing the matters of the House and their investigations? We would like to know when that Question will be answered.

MR. SPEAKER: What is much more relevant is for the House to be given a correct ~~xxx~~ reply. That is ^{much} more relevant to ~~us~~ ^{he will do so} and ^{as} soon as he is able to give it to us. Next Question.

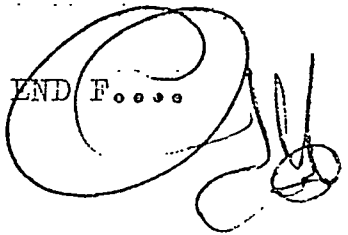
HON. MEMBERS: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Order! No more points of order on the same Question.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. This is not an ordinary Question but a Question by Private Notice which is supposed to be answered ~~xxx~~ within 48 hours. How many hours are we now allocating for it?

MR. SPEAKER: Order! Mr. Mang'oli, I said there will be no more points of order on that same Question. If you have any other point of order, I will be most delighted to ^{hear it} ~~hear it~~ here. Let us move on to the ~~xxx~~ next Question by Private Notice.

END F....



MR. P.K. KINYANJUI: Mr. Speaker, Sir, I beg to ask the Minister for Local Government and Physical Planning the following Question by Private Notice.

(a) Is the Minister aware that Mr. Fredrick K. Kamau, employment Ref. No. E01/10369, a former employee of the then City Council of Nairobi acted as Senior Laboratory Technician between 1st April, 1981 and 22nd November, 1985?

(b) Why was he not paid acting allowance and when will it be paid?

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT AND PHYSICAL PLANNING

(Mr. Mbori): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Fredrick K. Kamau was recommended by the then Nairobi City Council, for payment of acting allowance for performing the duties of Senior Laboratory Technician.

(b) Mr. Kamau, however, could not be paid this allowance because his basic salary was already equal to the minimum salary of the post he was supposed to act on and, therefore, there was no difference payable & in accordance with Clause (4) of the terms and conditions of service for employees in salaried grades.

MR. P.K. KINYANJUI: Sir, I do not know what the Assistant Minister is talking about. This is because this employee was requested to act in a senior position and was promised an allowance. How can the Assistant Minister come here and tell us that this employee was not entitled to an allowance which was promised to him in writing?

MR. MBORI: That is absolutely true. But if the hon. Member^{ever} listened to me give the reply, I said that there was no difference between the ~~st~~ salary of the officer and the salary on which he went to act. So there would be no question of responsibility or acting allowance.

MR. HWENJE: Mr. Speaker, Sir, if such ^a case arises normally the City Council or any other ~~such~~ local authority would pay an ex-gratia payment. Would the Assistant Minister consider paying this person ex-gratia?

MR. MBORI: Sir, you *will* agree with me that that is a totally different question which I have no answer right now.

MR. P.K. KINYANJUI: Mr. Speaker, Sir, I have a letter here which was written by the Town Clerk and I would like to read it for the House to hear. It reads as follows:-

D Dear Mr. Kamau,

I am pleased to inform you that the Nairobi City Commission at its meeting held on 2/6/87 approved a recommendation of the Finance Committee that you will be paid honorarium allowance based on ten per cent of your salary from 1/4/81 upto 30/9/82".

Therefore, the allowance was based on ten per cent of whatever salary he was getting. So could the Assistant Minister comment on this letter?

MR. MBORI: First of all I ask the hon. Member to lay the ^{letter} papers on the Table and secondly-----

HON. MEMBERS: No! No!

MR. MBORI: Sir, could you please protect me from ^{this} the harassment because I am actually giving the answer? If that is the case, then I promise to go and investigate.

MR. MANG'OLI: While we appreciate the reply from the Assistant Minister that he is going to investigate, ~~meanwhile~~ can he allow this gentleman to be paid the quoted honorarium allowance? Actually there is no need of investigation because this letter is self explanatory. So can the Assistant Minister order the ~~En~~ City Commission to pay this gentleman as they agreed?

MR. MBORI: As I said before, I will investigate.

MR. WASIKE-MDCHBI: We have two issues here; ^{the first} one is acting allowance and the other one is honorarium allowance. Maybe hon. P.K. Kinyanjui did not frame his Question the way it should be; honorarium allowance does not need investigation. Now that the Assistant Minister has heard that Mr. Kamau was promised honorarium allowance, he should just go back and order the Commission to pay him honorarium allowance. But the acting allowance is as the Assistant Minister had answered; if the substantive salary is equivalent to the minimum of ~~xx~~ the higher post then one does not get acting allowance. Therefore now that hon. P.K. Kinyanjui has clarified, can the Assistant Minister just order the City Commission to pay him his honorarium allowance?

MR. MBORI: Mr. Speaker, Sir, matters relating to salaries, allowances and so on are not simple matters. That is why I said I will investigate and when facts are proved beyond any reasonable doubts then the reply will be given accordingly.

MR. P.K. KINYANJUI: I would like the House to get the correct facts. When Mr. Kamau started acting the Town Clerk wrote to him this ~~is~~ letter on 5/11/81—

MR. MAKAU: On a point of order, Mr. Speaker, Sir. Since hon. P.K. Kinyanjui has got the papers and the Assistant Minister has said that he is going to investigate, would it not be in order for ~~him~~ the hon. Member to lay the papers on the Table?

MR. P.K. KINYANJUI: Sir, I would like the House to know how ~~is~~ this issue started. On 5/11/81, the Town Clerk wrote a letter to Mr. Kamau. If you would allow ~~me~~ me Sir, I ~~is~~ would like to quote that letter.

"To Mr. Kamau,

write
I ~~would~~ like to inform you that the Council at its meeting held on 3/11/81 approved a recommendation of the Finance Committee that you ~~paid~~ acting allowance for carrying out the duties of Senior Laboratory Technician from 1/4/81 until the post is filled".

Will be
The other letter which I read earlier was dated 10/6/87 perhaps after realising that there was no disparity in salaries and decided to pay him honorarium allowance instead of acting allowance. In fact, a letter was written to him promising him that he will be paid. What investigations is the Assistant Minister going to carry out other than to find out whether the man had been promised a payment which should be paid now? The Assistant Minister should tell us when it will be paid and not to talk about investigations.

MR. MBORI: The facts of the matter are as follows:- Mr. Kamau was on a salary ~~scale~~ scale of £1824 per annum and this particular ^{POST} in which he was acting was at £1824. Clause 8 (4) of the terms and conditions of service for the employees in salaried grades says ~~that~~ ~~and~~ ~~quote~~:-

"Acting allowance shall be the difference between the officer's basic salary and minimum salary with a scale assigned to the higher post".

Therefore, I do not see any ~~of~~ difference.

MR. KILIKU: Mr. Speaker, Sir, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) Is the Minister aware that Messrs. Kenya Suitcase Manufacturers of P.O. Box 84658, Mombasa have sacked 64 employees?

(b) Will the Minister inform the House the reasons why these employees have been sacked?

(c) Will the Minister order this company to re-instate these workers immediately?

THE ASSISTANT MINISTER FOR LABOUR: (Mr. Mibei): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Messrs Kenya Suitcase Manufacturers of Mombasa ^{have} ~~has~~ sacked 64 employees

(b) What I know is that on 6/10/88 more than 64 casual employees of this company refused to work after their demand that they be employed on permanent terms was turned down by the management. Most of them did not resume work after that.

(c) In view of the fact that the 64 persons were casual employees I am unable to order the company to re-instate them.

END G....

MR. KILIKU: Mr. Speaker Sir, this company has terminated the services of these employees. The Assistant Minister has not investigated the matter. I have documents here supporting my allegations. Could he now tell this House why these workers refused to work on this particular day?

MR. MIBEL: I think the workers wanted their terms of employment to be changed from that of casual employment to permanent employment, but the management of the company refused to do so.

MR. MANG'OLI: On a point of order Mr. Speaker Sir. We need your protection Mr. Speaker Sir. We ask very obvious Questions here which require very clear replies after deliberating on them. Some Questions are so obvious that the Ministers should reply in the affirmative. Just because they are Ministers, they would like to hold on to their guns. They cannot surrender even after they have known that the replies are clear. For example, hon. Mibel, when replying to the Question by hon. Kiliku, said, "I think—". Are we going to depend on his reply on what he thinks? The facts of the matter are that the employees were sacked. Can he consider ordering their reinstatement or not?

MR. MIBEL: As I said before, maybe the problem lies on the definition of 'casual employment'. These employees were casual_s who were employed on day-to-day basis, but they wanted their terms to be changed to that of permanent employment because they had been working on a casual basis for a long time. I cannot change the law; the law states that casual workers are required to be paid their dues at the end of each day they work.

MR. KILIKU: The Assistant Minister is deliberately misleading this House. Earlier on, he said that these workers were sacked because they refused to work. He is now saying that their services were terminated because they wanted their terms to be changed from casual employment to permanent employment. Which statement are we going to rely on? It is not an offence for anybody to fight for his rights.

MR. MIBEL: Casual employees cannot be said to have been sacked if they fail to be re-engaged at any one time. These employees were paid at the end of each day they worked. In effect that meant that their services were terminated at the end of each day, and they were at liberty to present or not to present themselves for employment the following day.

seem to be getting

MR. MAKAU: Mr. Speaker Sir, since we ~~have been~~ *seem to be getting* having cases of casual workers almost every day that we meet here, can we could ~~ask~~ the Assistant Minister tell the House the role of his Ministry ~~is~~ regarding employers and their employees? It seems as if the Ministry is powerless as regards this issue and consequently we will not be getting ~~just~~ the right replies. ~~Several~~ Severally, Questions of this nature have been asked here and we do not ~~get~~ get adequate replies. Could we get a Ministerial Statement from the Minister of Labour defining their role regarding arbitrating between employees and their employers?

MR. SPEAKER: Order! The answer is definitely "No". ~~But~~ The responsibility of this House is to make laws. So, it is upon hon. Members to ~~and~~ probably change terminologies in certain laws.

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT AND PHYSICAL PLANNING

(Mr. Mbori): On a point of order, Mr. Speaker Sir. ~~Can~~ Could I be in order to ask hon. ^{P.K.} Kinyanjui to lay on the Table the ~~the~~ papers he referred to regarding his Question by Private Notice?

MR. MANG'OLI: Is that a point of order?

MR. MBORI: Yes, it is!

MR. SPEAKER: Mr. Kinyanjui, can you please lay the papers on the Table?

^{P.K.}
(The hon. Mr. Kinyanjui laid the papers on the Table)

(Mr. Maiyani stood up to make a statement)

MR. MANG'OLI: On a point of order, Mr. Speaker Sir. Is it in order for the Assistant Minister for ^{Public Works} ~~Transport and Communications~~, Mr. Maiyani to continue standing up when you are standing up. ~~But~~ The Assistant Minister claims to be knowledgeable ~~as~~ *in* ~~in~~ *and*

MR. SPEAKER: Order! Mr. ~~in~~ Maiyani wanted to make a statement *and* that is why he stood up.

MINISTERIAL STATEMENT

THE MINISTER FOR LANDS AND HOUSING (Mr. Mbela): Mr. Speaker Sir, with your permission, I would like to make a Ministerial statement regarding ~~in~~ *Situations* made in this House on 26th October, 1988, during the debate on the Motion by the Member for Changamwe ~~constituency~~ constituency concerning the Government of Kenya/

THE MINISTER FOR LANDS AND HOUSING (ctd):

World Bank Site and Service Housing ^{Scheme} project at Chaani and Mikindani in ~~Mombasa~~ Mombasa.

Mr. Speaker Sir, since 1975, the Government of Kenya and the World Bank have jointly financed a series of urban development projects starting with the first urban project which consisted a site and service housing scheme in Dandora. This project was implemented ~~x~~ between 1975 and 1978. The second urban development project was implemented ~~xx~~ between 1978 and 1986 which consisted of a site and service housing scheme and upgrading schemes in Nairobi, Mombasa and Kisumu. Both Chaani and Mikindani fell under this project. The projects involved the provision of physical ~~infra~~ infrastructure such as community facilities, as well as material loans, components aimed at assisting plot owners to construct their houses. Initially the amounts of ~~material~~ materials allocated to each plot owner was Shs. 24,000.00 which ~~xx~~ was later increased to Shs. 36,000.00.

Mr. Speaker Sir, ~~xxx~~ insinuations made by in this House to the ~~xx~~ effect that some funds meant for these projects have or might have been misappropriated ^{are} ~~is~~ completely untrue and unfair. I would like to call upon ^{the} ~~the~~ Member for Changamwe to substantiate his claim if he has facts to prove it.


Mr. Speaker Sir, finally, I would like to emphasise ~~xxx~~ that plot owners who took the material loans have to repay them in full. In addition to this, ~~they~~ they have to pay the costs of infrastructure irrespective of whether one took the material loan or not. In fact, this is the point at which we held different views between me and the hon. Member for Changamwe. I insist that loans once taken must be repaid. Thank you Mr. Speaker Sir.

MR. KILIKU: Mr. Speaker Sir, what the hon. Minister has ~~given~~ made at a wrong time. ~~the~~ Ministerial statement / The subject in question ~~xxx~~ was a Motion which was ~~being~~ brought to this House and was finally passed. The Minister responsible for the Motion replied to sentiments raised by hon. Members ~~xx~~ here. I do not know why the Minister is saying that he wanted to issue a Ministerial statement ^{Now.} On what issue is he issuing ~~a~~ the statement? He should have done so during that time when the Motion was being debated.

MR. KILIGU (ctd):

Turning to the point he raised, I did say that Chaani and Mikindani plot ~~money~~ allottees were supposed to get Shs. 36,000.00 each, but some of them did not get any money. A few of them received less than the required amount. I am going to substantiate my allegation tomorrow morning. I challenge the Minister to be ~~present~~ here ~~from~~ early tomorrow. I wanted to know where the money went since the plot allottees did not get the ~~the~~ required amount while others did not get any money. Somebody must have misappropriated that money. As I said earlier ~~on~~, I am going to investigate that issue so that I may know the Minister's interest in M Chaani and Mikindani projects. After I have concluded my investigations, I am going to report my findings to this House. There must be a fishy deal going on in the ~~the~~ project. I am requesting the Minister to ^{here} come ^{very} early tomorrow, ~~and~~ he should not be ~~late~~.

ED H....



THE MINISTER FOR LANDS AND HOUSING (Mr. Mbela): Mr. Speaker, Sir, what I am objecting to is the allegation which was made by the hon. Member to the effect that I have got ~~an~~ ^{some} interest ^{because this} which ^{is} irregular and inconsistent ^{with} the housing ^{policy} ~~scheme~~ apart from my Ministerial duties. That is not true, and I think the hon. Member is being being very unfair by making that allegation.

MR. WASIKE-IDOMBI: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: ^{Order!} The Minister is on a point of order.

THE MINISTER FOR LANDS AND HOUSING: What made me issue that Statement ^{is} ~~are~~ the allegation~~s~~ which hon. Kiliku made. Let me quote what he said:

" I am going to investigate the matter so that I can know the interests he has in Chaani and Mikindani. The way the Minister opposed the Motion suggested that there may be something that we do not know."

I would like to assure the House that my only interest in the housing scheme is that I would like like the houses to be built. However, once the loans have been given to the ^{alloctees} ~~alloctees~~, they have to repay them. There will be no question of writing them off.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. Is the hon. Minister now in order to challenge the Motion which was passed by this hon. House? He is the one who is supposed to ensure that what has been passed in this House is implemented. I seek your guidance on this matter.

THE ATTORNEY-GENERAL (Mr. Mali): On a point of order, Mr. Speaker, Sir. Is hon Kiliku in order to impute improper motives ^{on} ~~to~~ the Minister? In ^{accordance with} our Standing Orders, ~~it is not~~ ^{is not allowed} allowed for an hon. Member to allege that a Minister has

THE ATTORNEY-GENERAL (contd.):

Some
 a) personal interest while performing a job which comes under his jurisdiction. Hon. Kiliku said that he is going to start investigating now, and that the Minister should be here tomorrow morning.

NAP Is he in order to impute improper motives. *?*

MR. KILIKU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Order! Unfortunately I was not in when this allegation was made, *and* so I am not in the picture. I am going to have a look at what was said by the hon. Minister and also *at* what the hon. Member said. If after reading ~~the~~ *The* HANSARD, I find that it is necessary for me to make a statement, I will do so.

MR. KILIKU: On a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Not on the same issue again.

Mr. Makau, what is your point of order? *?*

fs. MR. MAKAU: My point of order is not really on that point. I am seeking guidance from the Chair because the Minister stood up to make a Ministerial *Statement*, but instead he ended up making a Personal Statement. What I am asking is *this* *the* ~~that~~: Since *Motion* which we were debating was supposed to be answered by the Ministry of Local Government and Physical Planning, *then* why should the Minister for Lands and Housing issue a Ministerial Statement on it? The Motion was directed at the Ministry ~~for~~ of Local Government and Physical Planning and not the Ministry of Lands and Housing. I am seeking your ruling whether when we are having a debate a reply should come from the relevant Ministry or any other Minister can reply. The way the Minister has *made* brought forward the personal *Statement* is not the way Ministerial Statements are issued. Is he in order for him to call that *a* Statement Ministerial when it *was* a personal one?

MR. SPEAKER: I clearly stated that I am going to look into that matter, and if it will be necessary for me to make any statement, then I will do so.

POINTS OF ORDERS

MR. arap CHEPKOK: On a point of order, Mr. Speaker, Sir. I am not satisfied with the answer which was given by the Attorney-General to my Question by Private Notice. At least he should have mentioned when he expects to answer it. May I request that I be allowed to raise a Motion of Adjournment so that we can discuss this Question in detail.

MR. SPEAKER: Order Mr. Chepkok. That Question has been deferred and so it cannot be discussed before you get a reply.

MR. arap CHEPKOK: He could have told us whether he is going to reply it in one or two week's time.

MR. SPEAKER: That is my responsibility. I am going to request him to give us a reply as soon as possible.

MR. JALANG'0: On a point of order, Mr. Speaker, Sir. I rise on a matter of grave national importance.

Last Sunday, some poachers attacked the headquarters of Meru National Park. They attacked the wardens ---

MR. SPEAKER: Order Mr. Jalang'o. That is already being handled.

PUBLIC WORKS

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT AND PHYSICAL PLANNING (Mr. ^{Maiyana} Njirani): On a point of order, Mr. Speaker, Sir.

UNP
I arise on a point of order to make a Statement concerning a Parliamentary Question No.419, which was asked by hon. Amos Kimemia.

The road No. E1465, namely Maragoli Avenue-Menengai Crator road is a minor road. I have received full information from Nakuru which shows that the road was graded on the 21st, 22nd and 23rd October, 1988 by our grader No.GK 755B, driven by our driver, Mr. Omondi Sawe. The operation was personally supervised by Mr. Peter Karanja, who is our road overseer, grade one.

Our provincial engineer in Nakuru also inspected the work done on the morning of 27th October, 1988. He has confirmed that the grading of this road was properly done.

I wish to lay this report on the Table. I would also like to request the hon. Member to be more observant. It appears that by the time the hon. Member was asking the Question in this House he had not known the work that we had done on that road.

With all due respect, I wish to lay this paper on the Table: (Hon. Maiyana laid the report on the Table)

A.K.S
MR. KIMEMIA: Jambo la nidhamu Bw. Spika.

Ninafikiri kwamba Waziri Msaidizi analipotosha Bunge hili. Kutoka barabara hii hadi kwangu ni kama mita 500. Niliuliza Swali hili manamo tarehe 26 October. Wakati ambapo nilikuwa nikiuliza Swali hili ndipo mashini ilipelekwa kufanya kazi kwa kataka barabara hiyo. Hii ndiyo sababu Waziri Msaidizi hakutaka ku kueleza ni lini barabara yenyewe ilitirwa. Ingefaa aombe

MR. KIMEMIA (contd.):

nsamaha kwa sababu alilipotisha Bunge hili. Barabara hiyo
ililimwa mnamo tarehe 25 na 26 ^{Oktoba} ~~Oktober~~ na nilienda huko
kubakikisha. Hata Waziri Mcaidizi amthibitisha kwamba
ililimwa wakati huo kwa sababu amesema kwamba mhadisi
alienda huko mnamo tarehe 27 ~~Oktober~~ ^{Oktoba}.

THE ASSISTANT MINISTER FOR ~~SOCIAL GOVERNMENT AND PHYSICAL~~ ^{PUBLIC WORKS}

^{Maryam} ~~ELIASS~~ (Mr. Njirani): Mr. Speaker, Sir, I have stated that
the road was graded on the 21st, 22nd and 23rd of October; and
also that our provincial engineer personally when there to
inspect what had been done. Instead of the hon. Member doubting
our honesty, I thought he would have thanked the Ministry.

^{A.K.} MR. KIMEMIA: Jambo la nidhamu Bw. Spika. Nimesema
kwamba barabara hii ililimwa, lakini kazi hii ilifanywa
mnamo tarehe 25 na 26 Oktoba baada ya Swali kuulizwa
katika Bunge hili. Swali hili ^{lilichukua} ~~alichukua~~ zaidi ya mwezi moja
^{Kupitwa} ~~kabla~~ ^{alipotea} ~~halijajipita~~ na hiyo ndiyo sababu nimesema kwamba
ililipotisha Bunge hili.

MR. SPEAKER: Let us move on to the next Order.

end I

BILLS

First Readings

The Statute Law (Miscellaneous Amendments) Bill

(Order for First Reading read -
Read the First Time - Ordered
to be read the Second Time
today by leave of the House)

The Certified Public Secretaries of Kenya Bill

(Order for First Reading read -
Read the First Time - Ordered
to be read the Second Time
tomorrow)

Second Reading

The Statute Law (Miscellaneous Amendments) Bill

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir,
 I beg to move that the Statute Law (Miscellaneous Amendments)
 Bill be now read a Second Time.

Before I go into the points, I would like to give notice that there will be three amendments at the Committee Stage of the Bill. These amendments have been published in the Order Paper. So, when considering the Bill as published, I give notice that these amendments will come at the Committee stage and can, very well, form part of debate of the Bill.

Mr. Speaker, Sir, up to last week, we were dealing with Ministerial votes of Estimates and we came to the end of it on Thursday. From now on, the House will be engaged in several Bills and, to begin with, is this one I have just started on - the Statute Law (Miscellaneous Amendments) Bill. The purpose of this Bill is to make minor amendments to the Acts of Parliament, which are specified in the schedule to the Bill.

parts from Clause 2 up to the end. There are

THE ATTORNEY-GENERAL (ctd.):

several Acts of Parliament mentioned in column No. 1, and the section that is going to be amended is in the middle column whereas the actual amendment is stated on the third column.

This, Mr. Speaker, Sir, is a continuance of the process of keeping the Statute Law of Kenya up to date by removing anomalies where found, and introducing minor amendments to such Acts which do not warrant individual ~~or~~ Bills by themselves. The amendments ^{for} which I am seeking the approval of this House extend to some 28 Acts, and when you add the three amendments I have mentioned, you get 31 Acts of Parliament.

As hon. Members are aware, the Office of the Auditor-General (Corporations) was created in 1985 for the purpose of examining accounts of state corporations. Prior to that year ~~in~~ ~~1985~~ the functions were being carried out by one Constitutional office - the Controller and Auditor-General's office. The office of the Auditor-General (Corporations) was then established by the amendment of the Exchequer and Audit (Amendment) Act of 1985. During that time, some of the Acts under ~~which~~ which state corporations ~~were~~ were established were amended to reflect the change in the function of auditing of accounts of state corporations. However, not all Acts were amended, and those remaining Acts have now been examined, and it is proposed that special amendments be effective so that the accounts can now be audited by the Auditor-General (Corporations).

Mr. Speaker, Sir, as you and the hon. Members will remember, the Exchequer and Auditor-General, as one of the Constitutional offices, used to audit accounts belonging to Government Ministries, state corporations and for those companies in which the Government had a share holding. That was an

THE ATTORNEY-GENERAL (ctd.):

enormous task for one office and the Controller and Auditor-General was getting behind schedule in his work. It became necessary, therefore, to form another Auditor-General to specifically deal with statute corporations. At that time, it was not possible to bring all the corporations under the ^{ambit} ~~ambit~~ of the Auditor-General (Corporations). So, the list I am about to mention brings into line those state corporations which were brought under the ^{ambit} ~~ambit~~ of the Auditor-General (Corporations) in 1985.

The proposed amendment affects some 18 state corporations whose accounts are presently being audited by the Controller and Auditor-General. The proposed amendment affect such state corporations as the University of Nairobi, established by the University of Nairobi Act, Cap. 210; the Moi University, established by the Moi University Act, Cap. 210(A); the Kenyatta University, established by the Kenyatta University Act, Cap. 210(C); and the Agricultural Development Corporation, established by the Agricultural Development Corporation Act Cap. 346.

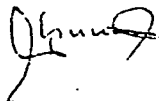
Mr. Speaker, Sir, this is a move which the Government takes very serious note of and hopes that the accounts of the state corporations will, in future, be audited in time. The books of accounts of these ~~exp~~ corporations will be submitted and eventually reach this Parliament for debate just like what happens to the Report ~~it~~ by the Controller and Auditor-General. It is only in that way that we can save the collapse of many state corporations which, hitherto, have been saddled with financial difficulties. A closer look at the accounts and auditing promptly is envisaged to cure the illness that has beset many of our state corporations.

THE ATTORNEY-GENERAL (ctd.):

So, Mr. B Speaker, Sir, I commend the hon. Members to have a look at the list on page 2234 and they will see those state corporations whose Acts we are amending in order to bring in ~~xxxxxxx~~ the Auditor-General (Corporations) to be their auditor.

Mr. Speaker, Sir, it is also proposed to amend the Law Reform Commission Act, Cap.3 of the Laws of Kenya, to enable judges of the Court of Appeal who are appointed Commissioners to retain their ranks, ~~sz~~ status, salaries and allowances. At the moment, the Chairman of the Law Reform Commission is a judge of the Court of Appeal, whereas three other commissioners are ~~just~~ judges of the High Court. It is anticipated that with the enactment of the ~~prop~~ proposed amendment, more judges will be willing to be appointed as commissioners.

END J.



THE ATTORNEY-GENERAL (ctd):

Mr. Speaker, Sir, the Kenya Law Reform Commission is a new innovation in our development. It started its work about five years ago and it has done a commendable job. We rely on the Judges of the Court of Appeal and the High Court and to a large extent, on our private sector. If a judge is removed from the Bench to be a Commissioner and works ^{time} to a full term, he can easily be by-passed by other judges of the High Court because he is more or less doing a special job.

To that extent, ~~it is unfair~~ if the judges appointed by the Kenya Commissioner of the Law Reform Commission retain their status and rank and salaries commensurate with those of the other judges, then more of them will be attracted to join, agree to be transferred or seconded to this very important Commission in order to enable us to revise and codify our laws. That is an important amendment which I propose as far as the Kenya Law Reform Commission is concerned and I would like to ask the hon. Members to support it.

As I said earlier, the Kenya Law Reform Commission is doing a commendable job. It is identifying those laws which are obsolete and which are no longer applicable to the present day circumstances of our conditions in Kenya. Some of the laws which are now being considered by the Commissioner are those which affect land matters and the welfare of our children. It is important, therefore, to strengthen that Commission with manpower to enable it to perform and execute its functions.

^{amendment also} This proposal ^{Amendment Bill also} seeks to amend the Criminal Procedure Code Chapter 75 of the Laws of Kenya to bring it into line with the recent amendment to the Constitution of Kenya in relation to the time during which a suspect can be brought before the court. It proposes to provide that where a person is arrested by police without a warrant of arrest, he will not be brought before the court within 24 hours unless he is suspected of having committed an offence of murder, treason, robbery with violence or attempted robbery with violence.

THE ATTORNEY-GENERAL (ctd):

In effect, Mr. Speaker, Sir, this is a consequential amendment following the amendment to the Constitution of Kenya. We could not do the amendment to the Criminal Procedure Code before the Constitution was amended. The Constitution of Kenya was amended only recently so that anyone who is held by police on reasonable suspicion that he has committed a capital offence of murder, treason, robbery or robbery with violence, he can be held for 14 days before he is brought to court. The ideal thing is that he must be brought to court as soon as practicable. So the idea that a suspect must be remanded for 14 days, is wrong. The thing is that he must be brought to court within 14 days or as soon as practicable and not later than 14 days. This issue was debated in this House. This consequential amendment seeks to make changes to our Criminal Procedure Code.

The other amendment which is being proposed concerns the Betting, Lotteries and Gaming Act Cap.131 of the Laws of Kenya. The effect of the proposed amendment is to make the membership of the Betting Control and Licencing Board be appointed for three years. At the moment, the period of appointment is not specified. We would like any member who is appointed ^{to} serve for a specified duration of three years and such a member can be re-appointed if need arises.

It is also proposed to make very fundamental amendment to the Trade Disputes Act Cap. 234 of the Laws of Kenya. I say so because the Trade Disputes Act has remained unamended with respect to membership for quite some time. As the hon. Members are aware, trade disputes are handled by an industrial court which is composed of one judge and ~~two~~ ^{four} other members. In other words, it is only one division which is headed by one judge. It has been realised that the volume of work has increased tremendously over the years and one judge cannot simply cope.

It is, therefore, necessary to establish another industrial court which will also be presided by a judge. For this purpose, it is proposed to

THE ATTORNEY-GENERAL (ctd):

amend the Trade Disputes Act so as to enable His Excellency the President to establish a second division of the industrial court consisting of such number of judges as he may determine. Under the same Act, it is also proposed that the number of the other members should be increased from the present four to eight. These other members will be appointed for a term of three years by the Minister for Labour after consultation with the Central Organisation of Trade Unions (Cotu) and the Federation of Kenya Employers.

It is proposed that a person appointed as a judge of the industrial court must be an advocate of the High Court of Kenya with not less than a tenure of seven years. This qualification is the same as the one which is provided for in the Constitution of Kenya for the appointment of the judges of the High Court.

That is a major move to increase the ^{division} ~~division~~ of the industrial court to enable trade disputes to be considered and decided by a proper forum without unnecessary delays. I commend this particular amendment to this House because - as I have often said - the law is not static. This is a clear demonstration that where the need arises, the law cannot remain static. There must be a move in that direction and that is why we are seeking to increase the industrial court from one division to at least two divisions. There will be room for His Excellency the President to appoint more divisions when the necessity arises.

On several occasions, the Government has introduced Validation Bills to validate the nomination of councillors in certain local authorities. Validation Bills are very unpalatable. When they are brought here, there is always hue and cry by the hon. Members that something has gone wrong somewhere. They also complain that the Minister has exceeded his powers and that he is coming to the House to ask it to stamp his decisions. It has become unnecessary and on two occasions, I have noticed that the House has been baffled to be used in that way.

THE ATTORNEY-GENERAL (ctd):

Mr. Speaker, Sir, it has, therefore, become necessary that the Local Government Act Cap.265 of the Laws of Kenya, which restricts the number of councillors who may be nominated by the Minister for Local Government and Physical Planning, be removed. It is proposed to remove this restriction to avoid a situation where this House is asked to validate an action by the Minister for Local Government and Physical Planning.

END....K

JMK

THE ATTORNEY-GENERAL (ctd.):

I commend that move to avoid the necessity of coming here with a Validation Bill, and that particular provision of the amendment is the deletion on page 225 of Sections 26(39)(i) and 46 of the Local Government Act.

Lastly, Sir, let me point out that in 1987 the Land Control Act, Cap. 302 of the laws of Kenya was amended to preclude issue, sale or transfer of shares of private companies or co-operative societies owning agricultural land within the controlled land areas. That removal from the ambit of the land control board was intended to remove that restriction so that companies can own shares in land and be able to transfer them without the consent of the land control board. So, it is proposed to return that restriction because it is necessary; it is proposed to provide that the consent of the land control board is necessary before such shares are transferred. This is important to avoid acquisition or ownership of land by foreigners through a device of forming a company. What I am ~~trix~~ trying to say is that under the Land Control Act, no agricultural land can be dealt with by way of sale, transfer or charge without the ~~entire~~ consent of the appropriate divisional land control board.

Mr. Speaker, Sir, there was also the proviso that even owning shares in a company that owns land does not license you to ~~g~~ transfer those shares to anybody without the consent of the appropriate land ~~n~~ control board. Unfortunately, through another miscellaneous amendment, that proviso was removed. We consider that this is very vital, that any shares in a company that owns land should be freely transferable. That would give a serious loophole because anybody, including a foreigner, can own shares in a company that owns land, and the foreigner can transfer those shares to another foreigner. So, what we are trying to do here is to reinstate that unfortunate omission whereby the shares transfer was removed from the control of the land control board. That is all what it means.

Sir, there are a few other minor amendments within the Schedule which may not need ~~x~~ elaboration, and I do not think that they are of such magnitude as to be discussed here. So, with those few remarks, Sir, I beg to move.

THE MINISTER FOR INDUSTRY (Mr. Anyango): Mr. Speaker, Sir, I arise to second this Bill, and also take this opportunity to make a few remarks.

First of all, let me point out that the establishment of the office of the Auditor-General (Corporations) was a very timely move, given that the Auditor-General (Corporations) deals with commercial parastatal bodies, the audit work of which requires quite an amount of specialisation and assistance to those corporations other than just checking the procedures under the accounting functions. The Auditor-General (Corporations) will need to develop an expertise that will assist the parastatal bodies in developing effective management on a profit-oriented basis as much as possible. So far, the office has been established and we hope that as it continues to get work from more ~~par~~ parastatal bodies, it will develop the expertise that will help the parastatal bodies to effectively manage the affairs of the various institutions.

Having said that, Sir, I would like to say something about consultancy in general. An auditor in a company is a unique consultant. In addition to auditing the books, auditing offers a lot of managerial advice. In this country, we have trained a lot of accountants and auditors, but it is still a pity that we still have to rely on too many foreign accountants and auditors. I hope that the office of the Auditor-General (Corporations) will quickly develop the kind of expertise that will enable us see more indigenous auditors become effective in this country. We have seen instances where a foreign venture or a foreign non-governmental organisation with foreign auditors did not quite act in the national interest, and we hope that we will develop our own expertise in this area. We look to the day when we will see management consultancy services also developed within the office of the Auditor-General (Corporations) so that it may increase its role in helping our parastatal organisations to be more effective.

Mr. Speaker, Sir, while commenting on the ~~xxx~~ amendment proposed to the Trade Disputes Act, I must congratulate Justice ~~Saad~~ Saad Cockar, who has ably managed the Industrial Court. I am glad that the Attorney-General has ~~xxx~~ seen it fit to bring this amendment so that Justice Cockar can be helped. I would also like to

THE MINISTER FOR INDUSTRY (ctd.):

congratulate our trade unionists for ensuring that labour relations in this country have proceeded in a very orderly manner. We hope that with the additional Industrial Court, this area will continue to be well handled.

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

(Question proposed)

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to comment on the Statute Law (Miscellaneous Amendments) Bill. The hon. Attorney-General has very well elucidated on the various aspects of the proposed amendments.

On the Law Reform Commission, we know that commissioners have been appointed from both the High Court and the Court of Appeal Judges, and it is only fair that they should be members of the Law Reform Commission while, at the same time, they carry with the the status of those judges still serving under the Judiciary.

Mr. Speaker, Sir, the amendment proposed to Section 36 of the Criminal Procedure Code is a well called for because ^{of what} this House ~~had~~ passed during the debate on the Constitutional Amendment Bill. In my experience, the police, when asked why they ~~have~~ have not produced a suspect before a court of law within 24 hours, would usually say that they did not have enough time to complete investigations.

Mr. Speaker left the Chair

The Temporary Deputy Speaker (Mr. Kabingu-Muregi) took the Chair

END..... L

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei)(Ctd.):

As you know, I was once a judicial officer, and I dealt with very many cases of this type. I find that 15 days is sufficient time for the police to complete their investigations. I hope that, after this time, they will not have no other excuses, such as saying that they have not completed their investigations.

With regard to the Trade Disputes Act, we know that our population has increased and the number of trade disputes coming from trade unions has also gone up. It is only fair that the Industrial Court gets additional judges to reduce the workload in this respect. In this case, justice will not only be done; it will also be seen to be done. As it is now, workers may feel that there is a lot of delay in dealing with these cases because the one Judge of the Industrial Court cannot process all the cases before the Court in time. The proposed amendment is a clear indication that will reduce the delay there is in processing these cases.

I have looked through the other proposed amendments and seen that, if they are agreed to, the accounts of our various parastatal bodies are now going to be brought before the Auditor-General, Corporations, instead of being loaded on the Controller and Auditor-General. It appears that these proposals are straight-forward and reasonable.

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

THE MINISTER FOR ENERGY (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I also rise to support this Statute Law (Miscellaneous Amendments) Bill. First of all, I would like to congratulate the Attorney-General on being so prompt in ensuring that our laws are brought up to date whenever we discover the need for an amendment or the introduction of a new law which will assist our society to regulate itself

THE MINISTER FOR ENERGY (CTD.):

properly for its own welfare. The Attorney-General, as the draughtsman of our nation, acts promptly in such cases.

I say this because when one looks at the proposed amendments, he notices that we have talked about and agreed upon most of them. They reflect the concern which the Attorney-General has about the welfare of our Civil Service, especially the Judicial Department. We see that the first proposed amendment relates to the Law Reform Commission. The Attorney-General has in mind the welfare of judges who, because of their efficiency and proficiency, are appointed to commissions which divert them from their normal court work. If these judges' welfare is not looked after, they are likely to be surpassed. In order to make sure that they enjoy the same privileges as the other judges who remain on the Bench, the Attorney-General has seen it fit to take care of the commission judges with the proposed amendment that he has introduced here.

In the case of the Criminal Procedure Code, the Attorney-General has, again, seen it fit to amend the main law because of the recent amendments that we recently introduced in this House. The amended law will now make it possible for our law-enforcing department to ensure that all suspects and criminals do not get away simply because of lack of time, especially when we consider the fact that security is the paramount phenomenon today. This is something to which we will have to give the greatest consideration and attention. Our people should be totally protected. The nature of the crimes that people commit these days is such that time is required from the moment a suspect is apprehended to the time he is brought to court. The 14 days' duration allowed by the Bill is the maximum, and not the minimum, period within which a suspect can be held without being produced in court. This provision will enable the police to ensure that all the suspected criminals who may have been acting together are actually brought to book before they can cause more

THE MINISTER FOR ENERGY (CTD.):

~~causing more~~ damage. This will enable us to look after our people securely.

The question of betting control is very interesting. I think the people who drafted the original Bill that was passed as an Act of Parliament may have had the interests of those who first took office at heart. This Act gave these officers an unlimited tenure of office. Hon. Members have noticed that this tenure was not specified. I think it is good that the Attorney-General has seen this loophole in time. After this amendment is passed, the people who occupy those offices will know exactly the time limit of their tenure of office. In this case, they will become more conscious and more responsible. When people are given jobs indefinitely, the problem of laxity is bound to crop in. By specifying these officers' tenure of office, the Attorney-General is enabling these officers to be conscious and responsible, bearing in mind that if their performance has not been good within their limited tenure of office, they will be retired. If, however, they will have performed well, they will be eligible for re-election. Like all other human beings, they will then tend to work hard as they will be seeking a re-election. I think the Attorney-General ought to be congratulated on this move.

The other proposed amendments, which touch on our universities, are merely meant to bring the currency of our auditing process into effect. They merely seek to substitute the Controller and Auditor-General who used to examine the accounts of both the Central Government and parastatal bodies. The new Auditor-General, Corporations will now adjudicate over parastatal bodies by taking up the duty of examining the accounts of these corporations, including our universities.

In the case of trade unions, I think the Attorney-General has done the right thing. He and the officers working under him deserve our

THE MINISTER FOR ENERGY (CTD.):

congratulations on having laboured to ensure that the law relating to trade disputes is carried out in true justice. The merit of the Trade Disputes Act is to ensure that the mwananchi who works is listened to and given his rightful share of the benefit of our economy through the Industrial Court.

What has been going on in this respect could not have gone on for long. The Industrial Court's volume of business is increasing, as is the number of companies in the country and the amount of their labour force. This means that the ability of one individual to cope with this volume of work was simply becoming impossible. I think the Attorney-General is right in trying to create a possibility of getting other judges to assist us in this regard. Although Justice Saeed Cockar has done a wonderful job, I think his human capacity alone cannot achieve everything that should be achieved, especially in these days when inflation is a phenomenon that all the economies of the world are concerned and worried about. As our population continues to increase, so does the possibility of disputes arise. These disputes need to be quickly disposed of. The proposed additional judges will, for example, expedite the Industrial Court cases so that wananchi may immediately know their fate.

End M 

THE MINISTER FOR ENERGY (ctd.):

Mr. Temporary Deputy Speaker, Sir, this will minimise industrial disputes and promote harmony and stability in our industries, and also promote industrial relations in the whole country. In fact, I ~~believe~~ believe that all the Kenyans will welcome this move, and I think the workers themselves, who have benefited from the work of Justice Saeed Cockar will see more justice being executed. This will mean that the workers will not be ~~not~~ caught by inflation again. The sooner the ~~the~~ court ~~expedites~~ expedites its powers, the less inflation the people will suffer.

Mr. Temporary Deputy Speaker, Sir, I have also seen that the Attorney-General has ~~introduced~~ introduced the Local Authorities Provident Fund and the Local Government Act. These are the sort of things that the wananchi would want to know. Most of all these bills are supposed to bring our Laws into line with the present daily realities, and we consider the things that the wananchi would like rectified very quickly.

~~Mr.~~ I would like to congratulate the Attorney-General, those people who have drafted this Bill and also the House for debating this Bill so that the wananchi can see us passing bills for their benefit.

With those few remarks, I beg to support.

MR. MAKAU: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me an opportunity to make a few comments on the Statute Law ^{Miscellaneous} Amendments Bill.

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I would like to start by congratulating the Attorney-General for deciding to amend some ~~the~~ ^{enacted} Laws which were made long time ago, and some have ~~been~~ had become inconsistent with the modern times. I would like to the Attorney-General to bear in mind that there will ^{be} need to educate the people on the amendments that we make, here. When we talk about ^{an} amendment or a revision of a bill, the people tend to think that a big change will take place. I would like the Attorney-General, and his officers to do a bit of public relations so that the people are taught that law is

MR. MAKAU (ctd.):

organic, that is, law is not a static thing which should be left the way it was made. Even in the Bible, the Pharisees used to think that the Mosaic law cannot ^{be} changed, but when Jesus came, he said that he came ^{to modernise} to ~~change~~ the law. If we look at the amendments which have been made of development in our laws, we see that a lot ^{has} been achieved, ~~through~~ ^{by} them. By the time we passed the University Act, ~~we~~ we did not have many universities. We welcome those amendments as far as the auditing of public funds is concerned.

Mr. Temporary Deputy Speaker, Sir, due to development in our country, work has increased, and so when we had only one Controller and Auditor-General for the Public Service, many corporations used to delay the auditing of their accounts. Recently, we received the the auditors Report and Accounts of the Post Office Savings Bank ^{for} of the Year ~~the~~ 1981/82. The fact that we have two ~~one~~ ^{two} ~~Controller and~~ Auditor-Generals, one for the corporations and the other for Public Service, ^{the amendment of the law} shows that ~~the~~ the Law is living.

(END..A)

MR. HAKAU (CTD):

That is one important thing and it is why I am stressing that a lot of misunderstanding that has resulted from amendment of the Kenyan Constitution has been due to the fact that people have not been educated to know that law ~~trust~~ is not static but changes with time.

Mr. Temporary Deputy Speaker, Sir, the other thing that I would like to mention is ^{on} the diamond industry, an area which has been mentioned by a lot of people. I can see that there is an amendment to raise the licence ^{fees} from Shs.1,000/- to Shs.10,000/-. This is in keeping with the changing times. Owing to increased income from the commodity, and the time we have taken to develop, it is necessary that we increase the licence fees, because this Shs.1,000/ might have been decided upon a long time ago.

The other thing that I can see, and which is very welcome, is an amendment on the question of the Investment Promotion Centre. This is a very important centre for foreign investment in this country, and, at least, it is keeping abreast of modern developments.

I would also like to ask the Attorney-General to look into all the Acts that have not been amended so that he can deal with areas that ^{need} to be amended. I have in mind the law relating to drugs. In view of recent developments and the current sophistication in drug trafficking, due to the way it is being financed internationally, I would like to urge the Attorney-General to look into how we could update the relevant law. This is because the sentences now imposed on drug ~~traffickers~~ ^{traffickers} are not deterrent enough. It is also high time we looked into the international ^{wave} ~~problem~~ of drug trafficking. ^{are} Now, we ^{are} having this problem - and I would like to congratulate the Commissioner of Police and the Director of Criminal Investigations Department for the steps they have taken to eradicate drug trafficking where drug traffickers have assumed very complicated international proportions. A number of banks have been involved in financing this activity internationally. If so, it is the right time for the

MR. MAKAU (CTD):

the other
 Attorney-General and concerned authorities to look into the law governing drug trafficking.

I know of a case which is being handled in the United States, where a very prominent bank worldwide has ^{been} implicated. If it is found guilty it is likely to lose all the ^{Property} ~~property~~ it has in that country because that is what the drug laws in the United States provide for. I would like the authorities concerned to investigate this bank as it also operates in this country. Recently this bank was involved in a big coffee scandal in this country, and now it is involved in a very big scandal in the United States because of financing drug trafficking. If found guilty that country's laws ^{provide} ~~provide~~ for a fine of about \$28 million in addition to the seizure of whatever property it owns there. What I am talking about is the Bank of Commerce and Credit International.

So, Mr. Temporary Deputy Speaker, Sir, I would like to urge the Minister ^{for Finance} and other concerned authorities to investigate - because that bank has already been involved in another scandal in this country of violating the foreign exchange regulations - ^{establish} ~~and~~ ^{see} whether this bank could be involved in the financing of drug trafficking that has become very complex in this country. It has been stated that it has been involved in scandals in many countries through its 23 branches, which include the one in Kenya. So, it needs to be investigated. I am stressing this because the law relating to drug trafficking ~~does~~ does not really provide for very deterrent sentences. So, while I am very happy to note the various amendments on the laws of this country which the Attorney-General has proposed, I would like him to look into this situation.

END

MR. MAKAU (Contd.):

I am merely stressing the fact ^{that} it is very important that the Attorney-General's Chambers should do a lot of public relations work before an amendment is brought here because when we are doing a good thing here in Parliament, the outsiders do not understand. However, when we bring an amendment here what we are trying to do is to make the law relevant to the situation. We need to let people know that we are doing that for the benefit of wananchi in this country. It is also important for them to be made to understand that law is organic; it is living. It is for the people. So, when an amendment is brought here it is for the good of the country.

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

MR. MALEBE: Thank you, Mr. Temporary Deputy Speaker, for giving me a chance to comment on this Statute Law (Miscellaneous Amendment) Bill.

I note that there are proposals for amending the Mining Act, Cap.306 Section 12. The proposed amendment seems to suggest that the liable fine for the offence of possessing or dealing with any minerals is too excessive. I do not agree with that. Even if you hold valueless minerals, ^{you will be fined heavily} unless we really come in and define what a mineral is because even a stone is a mineral, and also the little flickering things in stones are minerals and yet some of them are valueless, the fine for the offence is excessive. You might fall in wrong hands with the police who do not make a difference between what a genuine mineral is from a useless stone. Then you just get arrested as the definition of a mineral implies. Even if it is identified by a Government geologist or a private geologist as a mineral, then you are still fined for nothing. So, here the amendment ought to be more elaborative. What the meaning of a mineral which one should possess and then be fined KSh.20,000/- is. Here, I would propose that KSh.20,000/- is too excessive. We should come to a lower figure, say, even like KSh.5,000/- just to try to control the trafficking of minerals.

Again, also with the imprisonment term basically of two years is also too excessive because you might fall in a bad opportunity whereby the mineral you are possessing or dealing with is not very precious because even building sand itself is a mineral. Even some soils are also minerals. But I would think that the idea of bringing such an amendment it was really talking of precious

MR. MALEBE (Contd.):

minerals like gold or diamond and other gem stones. So, this Section ought to be thought of in depth before it is amended wholesale, as it was.

The other point is about the amendment involving trading in unwrought precious minerals. Here, I think the amendment, particularly those concerning gold smith jewellers is quite appropriate. It has really taken up a lot of time to come up to think there is a lot of unwrought mineral trading with the dukawallahs somewhere in the River Road, Nairobi, where we have very many jewel shops. They have been on a different Act which is the Brokers' Act, and it has been very difficult for the Ministry of Environment and Natural Resources or the Commissioner of Mines to control the dealing and the possessing of minerals by those jewellers. The amendment brought forward here is quite appropriate, and I support it fully.

The other point is about the banks which are dealing with minerals. I know that the bank might be holding unwrought precious minerals without the dealers licence. So, if this amendment was accepted this could stop. This is because I could possess minerals without a licence and the licence of the bank becomes the security and so on. This will be a good point for the bank itself to justify that the minerals are being held illegally by whoever takes them to the bank.

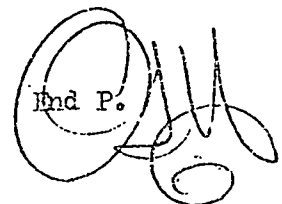
The other point on the Mining Act is that the Act itself is very archaic. The old sections of the Mining Act have never been amended and they all betray colonial practices. It is high time the whole of the Mining Act was amended and various sections repealed. For instance, you will find that there is a lot of powers in the Mining Act which are vested into the Commissioner of Mines while the Minister himself has very little powers even to overrule the Commission of Mines. I think it is high time ^{that} instead of having piecemeal amendments or pieces of amendments we looked at the whole of the Mining Act ^{because} whereby the whole of the Act has got sections which are very frustrating, particularly to the indigenous Africans. This goes as far as even in getting the mineral dealer's licence. I can see that even the fees for the mineral dealer's licence have been raised exorbitantly. This is prohibitive for the normal indigenous African. Even when he is walking around the bushes and he finds some minerals, he cannot be able to trade with them. He cannot benefit from a find, particularly from

MR. MALEBE (Contd.):

his own farm. Even the fees themselves which are not indicated in the amendment and which are within the main Act are also too high for the mining industry to go into the hands of indigenous Africans. So, I find that the amendments which have been proposed ought to be less punitive and should be looked at from all angles before we come and pick up a piece of or a section of the Mining Act and amend it because the entire Act requires to be amended.

The other point is about the Diamond Industrial Protection Act. I know in Kenya we do not have diamonds, ^{but} we have some minerals which are closer to them. The amendment also comes at the right time to point out that there is trafficking between the borders of diamonds and people enriching themselves unscrupulously. It is high time the regulation for dealing in diamonds was explicit although we do not have them here. If we can get licences even to import and export then, this should also be a section which should be brought in. I rose to talk to stress that the whole of the Mining Act, together with the other minor Acts like the Explosives Act, Prospecting Act and so on, should be up to date. At least, after 25 years we should have an Act which is compatible to our standards today so that the indigenous African in this trade should be able to benefit from the natural resources coming from their own lands.

Further, regarding the holding of the mineral dealer's licence, you find that it must be unified. For instance, you will find that the mineral dealer's licences are understood to mean licences to sit with the smaller shops in the streets here in Nairobi or elsewhere and deal in minerals, sell and buy. But if this amendment goes through, it will mean that even the person holding the mineral prospectors rights - whereby you have the permission through the Commissioner of Mines to carry a mineral you have obtained ~~from your claim or~~ from the bush somewhere - is liable to be arrested and then fined KSh.20,000/- which is stipulated here.

Ind P. 

MR. MALEBE (Ctd.):

So, my point here is that this amendment should be looked into. I know that it was suspected that jewellers have been exploiting our people and as a result this particular amendment was brought in. However, it did not look at the whole sphere of the people who may own the mines. Even the lecturers at the university own and possess mineral^s for the purpose of training the students and I am wondering whether they too will be liable for arrest and imprisonment for two years. So, I beg to differ ^{with} the proposed amendments to the Betting, Lotteries and Gaming Act and the ^{Protection} Diamond Industry Act.

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

MR. MANG'OLI: Thank you, Mr. Temporary Deputy Speaker, for allowing me to speak on the Statute Law (Miscellaneous Amendments) Bill which has been brought to this House by the Attorney-General. It is important that these miscellaneous amendments have been brought to the House now for debate before they become law. ^{we where we} ~~Where~~ we are dealing ~~with~~ with the Criminal Procedure Code, ^{and} we are deleting "24 hours" and inserting "14 days". All I am asking the Attorney-General here is to make sure that the officers who are going to execute this particular law, that is the police officers and other law enforcement officers, do not abuse it. Once such an amendment is passed, anybody to be fined will come under this clause. Therefore, the Attorney-General should make sure that when they are executing this particular clause, they are able to identify the person who has committed a criminal act. I am saying this because we should not find a case where somebody has been taken to court and sentenced and later when he appeals, he is freed, after having suffered as a result of this amendment. This is where I am asking the Attorney-General to make sure that when this clause is being executed, the officers concerned do not abuse the Act. I am saying this because under this Act, anybody can be picked up and later locked up only later on to be found innocent due to this particular amendment. I am sure that the Attorney-General will liaise with other departments related to this particular ~~an~~ amendment so that we do not find a situation where somebody

is arrested and put in for 14 days only later to be found not guilty of the offence. This person then suffers for 14 days for no fault of his own. We know that the Attorney-General is charged with drafting of the law, but the administration of the law lies in another department. So, the Attorney-General should liaise with that department and give them instructions that they should adhere strictly to this law so that the common mwananchi is not just picked up from the ^a bar, ~~intentionally~~ put in for 14 days without bringing him to court. If the Attorney-General can take a care of this particular clause, he would be assisting the common wananchi a great deal. I am saying this because it has been happening. Therefore, the Attorney-General should give strict instructions to the police officers to make sure that the common mwananchi is not just picked from the streets and locked up just because he has political differences with Mr. X or Mr. Y.

This Bill was passed in this House and it is very important that the Attorney-General has brought amendments to the Bill so that through the blessings of this House, they can be passed. The other amendment, Sir, is on the ^{Local Government} ~~Betting, Lotteries and Gaming Act~~ where we are deleting the whole section. Here the Minister has been given the powers to appoint as many councillors as possible. I donot know whether the Attorney-General is clear about this. I am saying this because when you remove a whole section to give the Minister the power to appoint as many councillors as he wants, you will find that in the long run the council will be run by nominated councillors rather than elected councillors. These councillors would continue to ^{be} nominated, particularly, if they have any influence in the Government. I am saying this because we are passing a law which is going to be administered in this country for many years to come. Therefore, in passing this amendment, we must focus ahead and ask ourselves, ^{an unpleasant situation arise} if ~~this or that question was asked,~~ ^{will take the} who ~~would~~ blame? I do not want anybody to ~~xx~~ tell me, "You were in Parliament when ^{this law was passed} ~~they were passing this law~~". I do not want anybody to blame me. We are here as a result of political appointments. If a for example, I am able to work together with my elected councillors, this is very good. However, you

will find that these councillors spend a lot of money during the elections. You may find that the man appointed mayor is just a mere nominated councillor. Therefore, there is no need of spending too much money in elections, but you will find that these elected councillors spend as much money as hon. Members of Parliament spend in elections. If we are going to have more nominated councillors than elected councillors, then the elected councillors are not going to benefit even when the appointments are being made in the council. They will decide within themselves who is going to be the chairman of the council, who is going to be the chairman of finance, land and so on. You will find elected councillors not being able to benefit since they are much less. This means that eventually, we shall be defeating the efforts of democracy. So, if the Minister would look at that anomaly for the purpose of the future, he would help us a great deal.

Mr. Temporary Deputy Speaker, I am not opposing these amendments, because this Bill was brought here and passed and I was part and parcel of this, but all I am saying is that something ought to be done within our legal system so that this clause is not abused. The Attorney-General should introduce another Clause to limit the powers of the Minister somehow so that ~~if~~ in future another Minister ^{does not} comes in and abuses ~~the powers~~ the powers we have given him. I am not talking about the present Minister and I would like to make this very clear. What we are passing here is for us all. We may pass a law here only tomorrow to find the same law working against us and this has happened many times here. So, all I am saying is that if we pass this amendment, the Attorney-General who is a technical man in this particular case should be able to give us the feedback on what action will be taken if this happens. This would help the nominated and the elected councillors so that they are held responsible for whatever they do.

Mr. Temporary Deputy Speaker, Sir, the other amendments in this Bill are quite procedural. For example, they are deleting, ~~"Auditor-General"~~ "The Controller and Auditor-General" and inserting in ~~the~~ place thereof, "Auditor-General Corporations". ~~This is quite~~ This is quite normal since ~~it has now changed the position.~~ ^{things have now changed} The Minister for Finance has now appointed...

MR. MANG'OLI (Ctd.):

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no other person to be in charge of the corporations. So, it is important for this amendment to come in to normalize ^{the situation} and I quite agree with it.

Mr. Temporary Deputy Speaker, Sir, with ~~it~~ regard to the Trade Dispute^s Act, the Attorney-General is now increasing the powers of puisne judges to appoint more judges and this is a very good job done by the Attorney-General and I hope he will continue looking at those big books. When we look at these books ourselves, ^{we} ~~we~~ do not like seeing them because we do not know what they are saying. So, ~~if~~ the Attorney-General should find out other anomalies ^{the powers of} where, ^{with} His Excellency the President are interfered/ ~~with~~ so that we do not come here all the time to amend laws. The Attorney-General should order his officers to review all the laws where the powers of His Excellency the President have been interfered with so that we can amend them. For example, we ~~have~~ have a case here where he was supposed to appoint only one judge but he has appointed more than two or even more than ten.

END Q

MR. HANGOLI (ctd.):

We would appreciate it if that could be done successfully as we go along. This is because we want the disputes between the workers and the employers to be ^{sorted} sorted out quickly so that these the workers can be paid their money as fast as possible. We do not want a situation where a worker has to wait for a long time before he is paid his money after a dispute has been settled.

For example, Mr. Temporary Deputy Speaker, Sir, when the ^{Pau Paper} Madhupaper International Limited ^{disagreed with its} ~~was put under receivership~~, the employees ^{they} were laid off ^{and} had to be kept waiting for a period of five years. You will find that during those five years due to ~~economic~~ ^{gene} economical changes the value of money would have ^{gone} ~~gone~~ down such that if these employees were to be paid Rs. 5,000/= it would be the same as being paid Rs. 2,000/= after those five years. So we hope with the amendment that the Attorney-General has brought such anomalies would be taken into consideration.

The Attorney-General should also do something about the powers of the Minister for Labour. For example, the Minister usually says that he has no powers to make employers do certain things. For example, when there was this dispute between the employers of Madhupaper International Limited and its employees, the Minister told the House that he had no powers to intervene between the two parties. If the Minister for Labour has no powers to do certain things then where do we go from here? As far as we are concerned, the Minister is in charge of that particular section that deals with labour disputes. If at all he does not have those powers then the Attorney-General should bring an amendment to that law to give the Minister those powers. This ^{is} because the anomalies that exist in the law affect the mwananchi. So we should always make sure that the mwananchi is protected and is given his rights.

MR. MANG'OLI (ctd.):

Mr. Temporary Deputy Speaker, Sir, during Question time today, the Assistant Minister for Labour indicated that there is class of worker^s called casual labourer. Why should we after 25 years after Independence we still have a class of worker^s called casual labourer^s? As to the law as we understand and as the Attorney-General has explained a worker after working continuously for 90 days automatically becomes a permanent worker. We get so much worried here in this House when we ask Questions and the Minister, replies indifferently to them while at the same time ^{he} implies that there is still a class of worker^s in independent Kenya. It worries us further when 25 years after Independence we still have Ministers implying that there is a class of better workers and another of worse workers who are not even protected by the law. I hope that the Attorney-General will work alongside the Minister for Labour to remove these anomalies that still exist in our law. We have for a long time been asking the Minister for Labour to bring amendments to this House, but although he has promised to do so, so far he has done nothing. We would like to urge the Attorney-General to instruct the Minister to bring such amendments to the House. This is because it seems that the people of the Ministry are not law-oriented, and, thus, would always ^{be} put us on the defensive when we ask Questions in this House. The Ministers treat us as if we are an opposition party. When we ask Questions here, it is because the answers are related to the mwananchi. We do not ask Questions here as members of an opposition side. We are one and the same Government and would like to see that everything that is done in this House to appear as something that is done by one united Government. We should not contradict each other all the time. The Questions that we ask are based on what is happening out there and what might continue to happen in future.

So, the Ministers and especially the Minister for Labour

MR. MANG'OLI (ctd.):

should bring amendments to the existing laws that affect the mwananchi so that we can debate on them. They should do this through the Attorney-General.

With those few remarks, I beg to support.

MR. KILITU: Asante sana, Bw. Naibu Spika wa Muda. Ninamuunga mkono Mkuu wa Sheria kwa marekebisho mbali mbali katika sheria zetu ambayo ^{hujelea} hujelea Bungeni ^{Bunge} hapa Bunge ili tuweze kuyajadili. Mungu Muumba ndiye aliyeanzisha haki kwa binadamu. Yeye ndiye aliyeanzisha sheria ya kwanza ya haki kwa binadamu. Kwa hivyo, kama mwanadamu hatafanyiwa haki huo utakuwa ni upinzani hata kwake Mwenyezi Mungu. Haki kwa binadamu ni umuzi wake Mwenyezi Mungu na mtu anayepinga haki kwa binadamu basi anampinga Mungu. ambaye anaweza kumwagamiza.

Hii ndiyo sababu ninaunga mkono Mswada huu. ^{shulrani} Nina ^{furaha} ^{nyingi} sana kwa Mkuu wa Sheria kwa kuleta marekebisho katika The Trade Dispute Act (cap. 234). Hata hivyo, ninaona kuwa marekebisho haya yamecholewa kwa sababu kesi za wafanyakazi huamuliwa na jaji mmoja tu wa Industrial Court. Hii ^{hugabishwa} ^{hugabishwa} wakati mwingine umuzi juu ya kesi fulani kutolewa baada ya miaka miwili au mitatu hivi. Wakati mwingine katika umuzi wake huu baada ya miaka miwili hiyo, huyo jaji anaweza kumfichua kuwa mfanyakazi arudishwe kazini. Hapo mfanyakazi huyo huwa yeye pamoja na familia ^{yake} ^{yake} wameteseka sana. Hii hutokana na kuwa kuna jaji mmoja tu wa kusimamia kesi za aina hii. Kulingana na huu mpango wa kamati ya maendeleo wilayani (D.D.C.) inafaa kesi zote za aina hii zipelekwe wilayani. Ingefaa kama katika wilaya ^{Court} kungekuwa na Industrial/Judge badala ya kuzileta kesi zote hizi huku Nairobi. Ikiwa hivyo basi hakutakuwa na kucheleweshwa kwa kesi. ~~Wafanyakazi~~ Wafanyakazi wameteseka vya kutosha. Hii ni ndiyo sababu ninamuunga mkono Mkuu wa Sheria kwa kuleta marekebisho ya The Trade Disputes Act (cap. 234) ili wafanyakazi watendewe haki.

The Local Government Act (cap. 265) si iungi mkono. Sheria

MR. KILIKU (ctd.):

inataka kumpatia Waziri uwezo wa kuwateua madiwani kulingana na idadi anayotaka mwenyewe. Ikiwa hivyo, wakati mwingine madiwani hawa ndio wanachagua mameya, basi mameya hawa watakuwa waaminifu zaidi kwa Waziri kuliko kwa Rais au kwa konsali. Watakuwa wao wanamwagalia Waziri tu kwa sababu yoye ndiye aliyemchagua. Kama Waziri atapewa uwezo huu, ina maana kuwa madiwani walioteuliwa watakuwa wengi kuliko wale waliochaguliwa. Sasa mameya watakuwa wakichaguliwa kulingana na idadi ya madiwani walioteuliwa. Hii nxi ina maana kuwa meya atakayechaguliwa atakuwa amechaguliwa kwa sababu ya Waziri na wale si kwa sababu ya wale watu waliochagua madiwani. La. Sasa huyu Waziri atakuwa na powers nyingi sana. Powers zikiwa nyingi kwa binadamu huwa ni makosa na hatari kwa usalama ^{wa} / nchi.

Ingawa, Bw. Naibu Spika wa Muda, minaunga Mswada huu ~~na~~ mkono, lakini siungi mkono clause hii ya The Local Government Act. Hii clause hi ninaipinga. Waswahili husema ni vizuri utahadhari kabla ya hatari. Kuna hatari moja hapa. Waziri atakuwa na ^{Uwezo} power ^{nyingi} sana. Ni kama juzi wakati madiwani wengine waliambiwa kuwa wameteuliwa. Kabla ya kwenda kujiandikisha wengine walikuwa tayari wameshoherekea uteuzi wao. Lakini walipofika huko wengine wao walia- mbiwa kuwa hawakuwa wamechaguliwa. Hiyo ilitokana na Waziri kutumia uwezo wake. Sasa akiendelea kuongezewa uwezo wa kuwateua madiwani wengi basi hii itakuwa ni hatari sana kwa Waziri mmoja kuwa na powers nyingi hivi. Si vizuri mtu mmoja kuwa na uwezo mkubwa kama huu. Ikiwa Waziri atapewa uwezo wa kuwachagua madiwani katika mabaraza wananchi watakuwa wamepokonywa ~~haki~~ haki yao ya demokrasia na katika kufanya ~~hizi~~ hivyo tutakuwa tunaua demokrasia. Sisi Wabunge tulicha- guliwa ~~kat~~ kidemokrasia.

END R.....

MR. KILIKU (Ctd.):

Bw. Spika, ni vizuri nchi hii ina a Serikali ya kidemokrasia na si vyema demokrasia iwe mikononi mwa mtu mmoja pekee. Wananchi wamepewa mamlaka ya kuwachagua waheshimiwa Wabunge na madiwani siku mmoja. ~~Hakikararakuwa madiwani waliochaguliwa na wananchi~~ Madiwani hao waliochaguliwa na wananchi ndio huenda kumchagua meya ambaye husimamia nji mzima. Hii humanisha kuwa wananchi wenyewe ndio wanasinamia niji kupitia kwa meya kwa sababu amochaguliwa na madiwani waliochaguliwa na wananchi wenyewe. Lakini ikiwa Waziri wa Serikali za Wilaya na Mipango ya Miji atapatwa mamlaka ya kutua nambari yoyote ya madiwani apendayo na halafu wao ndio watakuwa wakisema meya atakuwa fulani, itakuwa wananchi y hawana nguvu na sauti katika ^{mabaraza} ~~baraza~~ ya miji. Waziri ndiye atakuwa sasa akiamurisha vyovyote atakavyo.

Haya ni makosa makubwa. Mabaraza ya niji yanapewa pesa na ^{wanazitumia} ~~wanaitumia~~ vile wapendavyo kwa sababu wanajua Waziri atakuwa akiwalinda. Napinga sehemu hii vikali; Waziri asipewe uwezo huu. Gazeti moja hapa nchini ilimtaja mhe. Mudavadi kama mtu mwenye nguvu nyingi Chamani. Tunajua mtu mwenye mamlaka mengi katika nchi hii ni Rais Daniel arap Moi na wengine ni lazima tuwe nyuma yake. Mhe. Mudavadi alitajwa kama mtu mwenye mamlaka au "King of Mululu". Hii ilikuwa kwa sababu aliwachagua madiwani apendavyo na sasa ^{kama} ~~tunataka~~ kumuongezea mamlaka hayo, sisi nasi tutaenda wapi? Itakuwa sasa meya havezi kufanya kazi yake inavyotakikona kwa sababu anajua wazi kuwa hata asipofanya kazi yake sawa sawa, bado atachaguliwa na madiwani ambao waneteuliwa na Waziri kwa sababu Waziri ni rafiki yake.

MR. KILIKU (Ctd.):

Uwezo huu kama huo ukipatiwa Waziri ni hatari sana kwa sababu siku moja akiutumia uwezo huo vibaya, anaweza kuiangamisha nchi hii. Madiwani sasa watakuwa mfukoni mwake na atakuwa akiwaamurisha atakavyo. Waziri anaweza kuwa mzuri leo na kesho apinduke na kuwa msaliti kwa sababu ni binadamu. Akipinduka kuwa msaliti, ataisaliti nchi hii kupitia kwa madiwani. Hii ndiyo sababu nasema kuwa ni hatari kumpa Waziri mamlaka kama hayo. Namuomba Mkuu wa Sheria aangalie sehemu hii ili madiwani wasipewe mamlaka yasio na mwisho kama ya Waziri. Waziri atakuwa akizurura tu. Badala ya kvenda Mombasa, kwanza awaone wahoshimiwa Wabunge wa huko na kumueleza ametembelea Mombasa, atakuwa akienda moja kwa moja kwa meya ^{na kusema} ametembelee Mombasa nzima. ~~Ametembelea Mombasa~~ Akienda kulala Travellers Beach Hotel ni kusema ametembelea Mombasa wapi? Atafanya hivyo kwa sababu ya uwezo huu ambao ninasema hii ni hatari.

Ikiwa Waziri ndiye atakuwa na mamlaka ya kuwateua madiwani, ^{asiwe} asilawe akiliteawa majina na mtu fulani. Kwa mfano, kutoka Mombasa, aletewe na mwanasiasa fulani aambiwe k awateue madiwani. Hiyo pia ni hatari. Ni lazima aangalie kulingana na ripoti kutoka kwa kila mawakilisho nchini. Kila mawakilisho ni lazima ipate madiwani wa kuteuliwa, sio aletewe majina na mhe. Mbunge fulani amwambie "Nataka uwateue hawa kuwa madiwani". Kama yule mhe. Mbunge ushawishi na wale amesaidia kuwa madiwani wa kuteuliwa nao wachague meya, sasa itakuwa yule meya na huyo mhe. Mbunge ndio wao wenyewe tu wanaoweza kuamurisha kila kitu huko. K.

Kama Waziri atapatiwa mamlaka ya kuwateua madiwani, ni lazima apewe mamlaka ambayo yanatosha na aambiwe kuwa ni lazima

MR. KILIKU (Ctd.):

madiwani wateuliwe kutoka kila rawakilisho na rekodi ya mwenye kuteuliwa itaangaliwe ajulikane ako namba gani. Sio kupelokewa watu ofisini mwake tu. Hayo ni makosa.

Waz. ^{Maiba} Shirika wa Mada, The Agricultural Produce - Marketing Act (Cap.338), naona kuwa hii ni nzuri na naiunga mkono lakini naona kuna imchelewa. Auditor-General (Corporation) ^{aliteuliwa} ~~ni wazee~~ ^{aliteuliwa} ~~ambayo~~ ^{aliteuliwa} ~~zaliwa~~ kitarbo sana na sijui kwa nini Mkuu wa Sheria ameichelewesha kuilete hapa. Sijui ni kwa nini ameandika juu ya mashirika ya Serikali ambayo yanamhusu tu ~~x~~ na tunajua mashirika hayo ni mengi. Sioni Shirika la Posta na Simu hapa; sioni zile zote ~~ji~~ ^{nyimnie} ~~zilizoteuliwa~~. Sijui kama ataendelea kuzileta hapa au huu ndio mwisho. Tunataka tuangalie kwa mfano, Shirika la Posta na Simu ^{vipi} ~~limafanya~~ hesabu yao ya mwaka ~~page~~. Mimi ni mwanachama wa Public Investment Committee na nitakuwa mojawapo wa wale watahusika na kuangalia vitu kama hivyo. Ningependa pea tuangalie hesabu ya mwaka ya mashirika mengien kana Agricultural Finance Corporation. Naunga mkono ^{sehemu hii} lakini ni lazima Mkuu wa Sheria alete ripoti ya mashirika hayo mengine kwa sababu tutauliza ni kwa nini ripoti zimeletwa chache hivyo na tunajua mashirika ni mengi nchini. Kwani hesabu ya mashirika mengine itaangaliwa namna gani; ama tutawaacha wafanye vile wapendavyo?

Pia, ~~kama~~ ⁿⁱ hesabu ya mwaka ambayo imesemekana iwe ikipelekwa kila mwaka kwa wakaguzi wa hesabu ^{ni lazima ipelokwe}. Sio baada ya ya kufanya makosa ndipo wanapeleka hesabu zao. Wakati umefika ^{kuwa} ~~ka~~ sasa ^{Kuangalia} ~~likuu~~ wa Sheria ~~ambayo~~ ⁿⁱ ~~angaliwa~~ ni hatua gani atakuwa akichukua baada ya Public Accounts Committee au Public Investment Committee kutoa ripoti ya zao. Kama, kwa mfano, kamati imeleta ripoti kuwa kuna shirika la Serikali ambalo lineturia pesa

LR. KILIKU (Ctd.):

vibaya, tungetaka kujua ni hatua gani itakayokuwa ikichukuliwa kwa wale maafisa ambao wamefanya makosa hayo ili kwamba pesa za umma zikapotea. Lakini unaona ~~ya~~ kwamba ripoti ya kamati inayochunguza pesa za serikali inaletwa hapa, mwenyokiti... anaisoma na waheshimiwa Wabunge wanatoa maoni yao lakini hakuna hatua inayochukuliwa. Hii ndiyo sababu inasababisha pesa za umma kutumiwa vibaya kwa sababu hakuna hatua inayochukuliwa.

Joginda Sing alikimbia kutoka nchini na Sh. ~~30~~⁴⁰ milioni baada ya kupatiwa jina ya "Simba wa Kenya". Kambe tulikuwa tukizita Simba wa Kenya ili atoroko na Sh. ~~30~~⁴⁰ milioni. Moi International Sports Centre ilipoteza pesa nyingi sana baada ya Michezo ya Ine ya Afrika. Hachukuru Mtukufu Rais kwa ^{kulazimisha} ~~ku~~ mambo hayo yachunguzwe. Kila wakati, tutakuwa tukingojee Mtukufu Rais k agundue makosa ili nasi tuanze kuunga mkono badala ya kuzungunzia mambo kama hayo mbeleni. Sasa, kama pesa kama zile nilizotaja zimepotea na turezoca katika nchi hii kupoteza pesa na hakuna hatua yoyote inayochukuliwa. Sijui kama hawa maafisa huwa wamezunguzwa na Waziri? Kwa nini baada ya ripoti kama hiyo kutoka ambako pesa za umma ~~zimepotea~~ zimepotea ~~na~~ hakuna hatua yoyote inayochukuliwa?

^{Kampuni ya Metares}
~~Metares~~ kule Kisumu ilipoteza pesa na mpaka leo hakuna hata mtu mmoja amechukuliwa hatua. Kule Chaani, Chaani katika mawakilisho yangu walipoteza pesa na ripoti ikaletwa hapa na hakuna hatua iliyochukuliwa. Sasa hii itakuwa ni kama mtindo wa kusoma ~~karipoti~~ ^{ku} hapa lakini hakuna hatua yoyote inachukuliwa. Ni kwa nini Waziri wa Fedha pamoja na Mkuu wa Sheria hawawezi kutueleza ni hatua gani itakayokuwa ikichukuliwa baada ya watu ~~ku~~ kusitunika pesa za umma vibaya? Kila nara sisi tunakopa pesa na tusipojihalhari, nchi hii itakuwa na madeni nengi ambayo ^{hatawa} ~~hatawa~~ kulipa.

END S.4...1.11.88

MR. KILIKU (Ctd.):

Juzi Waziri wa Fedha alisema kwamba sisi hatutaenda katika Paris Club kuomba pesa na mimi ninakubaliana naye hapo. Lakini baadaye huenda tukaenda kwa Paris Club na kupiga magoti chini ili tusiatiwe kwa sababu ya kushindwa kulipa ~~Madeni~~ ^{Madeni} ~~katika setu~~. Hii ni kwa sababu kama tukiomba pesa zinaenda k ndani ya mifuko ya watu fulani badala ya kutumiwa kwa njia ya maendeleo basi hii ni hatari kubwa sana. Hizi ripoti kuhusu wale watu ambao wanatumia pesa za utama vibaya zinatoka lakini hakuna hatua ^{ambayo} inachukuliwa. Hii ni kusema kwamba Waziri wa Fedha atakuya akiomba pesa—

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is in order to tell us the specific person who was the ^{beneficiary} ~~beneficiary~~ of that money which came from outside and he took it himself because he has made that allegation here.

MR. KILIKU: Ninasema hivyo kwa sababu pesa zilipotea wakati wa All Africa Games na kuna Waziri ambaye anahusika lakini kama hatuambii ni kina nani valichukua hizo pesa basi ni lazima tutaendelea kuzilawau.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe the hon. Member is not addressing himself to the point of order that I have raised. The hon. Member did make a categorical statement to the effect that money comes from outside and somebody uses this money and it is because of that reason that soon or later this country is going to go to the Paris Club. He has made a major allegation.

MR. KILIKU: Naibu Spika wa Muda, sijui kama utaniruhusu ^{niongele} ~~kuzinga~~ kwa lugha ya Kingereza kwa sababu ninaona kama hatuelewani na Waziri?

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu Muregi): Mhe. Kiliku, ^{unayejua ulijalima} ninafikiri ni ni wewe ~~unayejua~~ ^{unayejua} kama ulisema maneno hayo. Hii ni kwa sababu pengine hayo maneno yalinipita kidogo. Sikuelewa kama ulisema pesa ambazo zinatoka nje hazitumiwi vizuri. Yaani badala ya kutumiwa katika mipango ya maendeleo, zinawekwa mifukoni ya ~~watu~~ ^{watu} fulani. H kwa hivyo ^{inajulikani} ~~his statement~~ ^{haya hayakwasi} ~~haya hayakwasi~~ na zile pesa ambazo za All Africa Games ambazo zilitumiwa vibaya. Hii ni kwa sababu pesa zile ambazo zilipotea wakati wa Michezo ya All Africa

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi) (Ctd.):

Gabas ni zile ambazo zilikuwa wimepififiwa wakati wa kutangaza hiyo michezo.
^{hiyo ni mwanasuli mwa kazi}
 Kwa hivyo, ~~hii ni serious allegation~~ kama kuna jamba kama hilo. Ikiwa ulisema hivyo sioni kama kuna shida yoyote kwako inayoundea hayo maneno.

MR. KIBITU: Kiliposema hivyo nilikuwa nilimazisha kwamba ni wajibu wa kila Waziri kuona kwamba anachunga pesa ambazo ziko chini yake. Pia niliendelea kusoma kwamba kama ripoti inatoka na inasema ni hakina nani waropotea pesa za Serikali na Waziri hachukui hatua yoyote, basi yoyote ^{ndiye} anafaa kulazimwa. Kama nilisema kuna mtu ambaye anavuka hizi pesa za Serikali mfukoni wake, basi hayo maneno inayoundea. Kwa hivyo niliendelea kusoma kwamba Waziri wetu wa Fedha ataendelea na kukopa pesa kutoka nchi na nyuma. Kiliposema hapa wiki jama kwamba nchi hii inadaiva chilingi 100 bilioni ambazo ni kama 96.4 of Gross National Product (G.N.P.), Waziri hakukamisha. ^{hata} Hata hivyo, alisema kwamba hata tukionba pesa kiasi gani ^{tuna vurezi} tena hizi wa kulipa. Mimi nikasema, kama tunavua kulipa basi ni sawa sawa lakini wakati mwingine huenda tukashindwa na kulipa. Hii ni kwa sababu kama pesa zinatuniva vibaya na Public Accounts Committee inatoka ripoti yake lakini hakuna hatua yoyote inachukuliwa basi hii ni hatari kubwa sana. Ingefaa ^{tujihakari} kujikandelea kabla ya hatari hi hii kutuingilia.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think for the purpose of accuracy, I would like the hon. Member to substantiate the statement to the effect that this country owes shs. 100 billion outside which he claims to be equivalent to 96.4 G.N.P. For his own information, he should know that G.N.P. is not a static figure; it is a dynamic figure which continues to rise. So can he substantiate that because the total indebtedness of this ^{country} is about \$3.7 billion dollars.

MR. KILIKU: Sijwi nitathibisha mara nyapi kwa sababu hii ripoti ilitoka kwa Gazete la Financial Review, ^{iliwa ni hivyo} ~~hii ni mwanasuli mwa kazi~~ hizi na nitaita ^{ripoti hiyo} hapa. Nilipoisema hapa, Waziri hakukamisha wakati huo.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have given an actual statement and it is up to the hon. Member to say whether he bases his facts on non-governmental documents.

THE MINISTER FOR FINANCE (Prof. Saitoti) (G11):

This is because if he wanted to state a statement here which he knows he can stand by, he should base his own statement on the Government statistics. I would like to state here that the total indebtedness of this country is 3.7 billion dollars and that is not shs. 100 billion.

MR. KILIMU: Mimi nikimwambaza wakati uliopita ambapo nilisoma Financial History na Wasizi alikuwa akisema hayo. Pia alisema kwamba tunajwezo wa kulipajikwa dani na akamwambia kusasa kwamba tunatumia asilimia 30 ya pesa zetu na kutoka nje kwa kulipa madini yetu. Pia alisema kwamba we are not prepared to go to the Paris Club to borrow more. Nilikuwa nikimwambuzia juu ya kazi ambayo imepita, lakini sasa alikuwa alikuwa na Wasizi juu ya vile mambo yaliyoye sasa.

THE ASSISTANT MINISTER FOR MINISTRY DEVELOPMENT AND EMPLOYMENT

(Mr. Otware): On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that the hon. Member has accepted that he was referring to an earlier situation, can he now take the correction from the Minister and let the House continue accused that he has withdrawn his allegations. Since the Minister has corrected, let him accept the correction then the House stands properly.

MR. KILIMU: Nilikuwa nikimwambuzia juu ya mambo ya awali na si kuongea juu ya vile mambo hali ilivyo sasa. Lakini Wasizi aliposimama aliongea juu ya vile hali ilivyo sasa na hapa ninaluhabiana naye kabisa. Kusena kweli sioni kitu chochote cha kuomba hapa.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of information, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is ^{driving} making a point which must be corrected in this House. Firstly, it must be clearly understood that our debt position has not been worse. If this is because when he says that at that time the total ^{external} indebtedness of this country stood at shs. 100 billion, and ^{that} now I am stating today, the effect to be drawn from that is that we are in a much worse position. Let it be clearly understood that our position right now is at 3.7 billion dollars. The position has never been worse and I also repeat this one because it is something that all hon. Members need

THE MINISTER FOR FINANCE (Prof. Saitoti) (Ctd.):

to know and they know it. Those well informed know this fact. This country has not over-borrowed; at the same time, this country is one of the very few countries in Africa which meets its obligations as far as ~~its~~ external obligations are concerned. This fact is itself acknowledged internationally and we should be proud of that instead of trying to ^{float} ~~create~~ abstract ideas or problems which do not exist.

(Applause)

THE TEMPORARY DEPUTY SPEAKER (Mr. Mbingu-Njaregi): I think I better try and stop this kind of a situation. The Minister seems to be satisfied that you are talking about the prob. However, the Minister has the right to demand substantiation and you tried to say that you are ready to bring ~~me~~ some documents to prove that he had agreed that the country had a debt of shs. 100 billion. But since the Minister is not willing to pursue that, I think the position is okay and there is no need of pursuing that issue any further.

End t.ooo

MR. KIKUKU!

Bw. Naibu Spika wa Muda, nakubaliana na Waziri kuhusu alivyosema kulingana na hali ilivyo sasa. Lakini tusipojihadhari na kuangalia mambo ya pesa, tutaendelea na hali hii. Nilisema kwamba tujihadhari na pesa za umma ili zikija, tuzilipe vizuri. Hakuna haja ya kuwaachilia maafisa wengine kuzitumia watakavyo na hali tukiletwa ripoti hapa kuhusu vile pesa hizo zilivyotumiwa, hakuna hatua yoyote inayochukuliwa kwa maafisa hao waliozitungia pesa hizo vibaya. Ingefaa kama maafisa wangokuwa wakichukuliwa hatua ili wajihadhari. Namshukuru Waziri kwa kazi yake nzuri anayofanya, lakini kwa kazi yake itaharibiwa na walanguzi wanaofuja mali ya umma.

Bw. Naibu Spika wa Muda, jambo lingine baya ni kwamba tunailinganisha nchi yetu na nchi nyingine ambazo uchumi wao umezorota. Kama unakimbiz, usijilinganiche na mtu aliyelala. Ikiwa sisi katika Kenya tunafanya vizuri kiuchumi, hatutakiwi kujilinganisha wa wale ambao ~~uki~~ uchumi wao umezorota. Ni lazima tujilinganiche wa nchi nyingine zinazoendelea ili tuweze kukiwbia zaidi. Nasama hivi kwa sababu tukiona kuwa tuko katika hali nzuri ki-uchumi, tutalegeza juhudi zetu na baadaye, mambo huenda yakawa mabaya kwetu. Kwa hivyo, ingefaa kama Bunge hili lingetafuta hatua ya kutachukulia maafisa waliotumia pesa za umma vibaya, kulingana na ^{Ripoti ya} Public Accounts Committee au Ripoti ya Public Investments Committee.

Serikali inachoka sana kwenda kutafuta mikopo katika nchi za nje. Hatupewi pesa hizo bure; tutazilipa baadaya hata kama ni baada ya miaka 50. Je, tutaendelea kukopa? Kwani sisi hatuwezi kukopesha siku moja uchumi wetu ukiwa mzuri? Je, miaka nenda miaka rudi, tutakuwa tukikopa pesa? Mkopaji hana heshima. Je, tutakuwa tukikimbia kizi kukopa kila mara? Hatuwezi kuwa na

MR. KILIKU (ctd.):

maarifa ili nasi pia tuweze kukopesha wakati mwingine? Hii ndiyo shida moja imayozikabili nchi zinazoendelea - ni lazima tukope pesa. Lakini pia, ni lazima tukopesheji apewe heshima. Lakini kama tubaureka uchumi wetu katika hali nzuri ----

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT

(Mr. Kitele): Jambo la nidhamu, Bw. Naibu Spika wa Muda.

Tunakubaliana na vile zhe. Mbunge anavyosema, lakini, je, anauzunguzia Mwada ulio mbele ya Bunge? Anasema kwamba ni lazima tujihadhari; ni kweli kuwa maofisa wetu wa Serikali wanafanya kazi vizuri. Kama anavyojua, sisi watungaji wa sheria katika Bunge hili are responsible people, pamoja naye. Yeye anechaguliwa kuwa kiongozi. Kwa hivyo, akiona jambo baya yafaa aliseme. Aseme kuna mabaya yaliyofanyika ili yasifanywe tena. Kwa nini anaogopa, si aseme. Anasema Waziri anafanya kazi nzuri, lakini pia anasema kuna mambo mabaya yanayotendeka. Kama kuna mambo mabaya yanayotendeka, si aseme wazi ili mambo hayo yaachwe. Hakuna haja yake kutwambia tuwe careful. Akisema tuwe careful anajiambia yeye mwenyewe kwa sababu yeye ni Mbunge wa Changanwe. Tunavyojua sisi ni kwamba maofisa wetu wanafanya kazi nzuri, lakini kama anajua jambo baya linalofanyika, ingefaa aliseme na aseme ni k akina nani wanaolifanya, ili liachwe kufanywa.

MR. KILIKU: Bw. Naibu Spika wa Muda, sijui Waziri huyu alisimama kwa jambo la nidhamu kwa sababu nilisema kwamba ripoti kuhusu kiwanda cha M mollases kilicho Kisumu, kuhusu Chemelil Sugar Factory na nyingine inayohusu kiwanja cha michezo cha Moi, Kasarani. Vile vile, Public Accounts Committee italeti ripoti yake hapa - hata imeandikwa hapa katika Orodha ya Shughuli za Bunge. Ingefaa Waziri wa Fedha alisome Ripoti

haya

MR. KILIKU (ctd.):

hiyo ili aone vile pesa za umma zinavyotumiwa vibaya. Minge-
pendelea kama hatua zingechukuliwa mlik kwa wale watu wanao-
husika na utumiaji mbaya wa pesa za umma.

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT

(Mr. Kitele): On a point of order, Mr. Temporary Deputy Speaker,
Sir. Are we discussing the Public Accounts Committee Report
or the ~~Miscellaneous~~ Statute Law (Miscellaneous Amendments)
Bill?

MR. KILIKU: We are discussing the Statute Law (Mis-
cellaneous Amendments) Bill.

MR. MAHIHU: Jambo la nidhamu, Bw. Naibu Spika wa Kuda.
Nini nakielowa Kiswahili cha Mhe. Mr Kiliku. Alisema kwamba
'mkopaji hana heshima'. Maneno hayo si mazuri hata kidogo.
Unaweza kukopa kama una heshima yako. Kama unaweza kupata
mkopo, wewe ni mtu nzima; mwenye heshima kila mahali. Lakini
kama huwezi kukopa, huna heshima.

MR. KILIKU: Sijui ninjibu mhe. Kitele au mhe. Mahihu,
au mmoja baada ya mwengine, au niendeleo. Mitaendeleo.

Bw. Spika, ix ingefaa kama tungeendelea kumzunga
mkono Mkuu wa Sheria.

MR. MAHIHU: Jambo la nidhamu, Bw. Naibu Spika wa Kuda.
Ingefaa kana mhe. Kiliku angeuondoa ule msemu wake kuwa 'mkopaji
hana heshima'. Sisi tunaoelewa mambo ya biashara tunajua kwamba
ikiwa huwezi kupata mkopo kutoka mahali popote, umekwisha.
Sisi hatujafilisika. ~~Kwa kwamba~~ Sisi tukiwa jamii ya Kenya
tuna heshima kila mahali na ndiyo sababu tunapata mikopo.

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-^{Mwenge}):

Order! Sitakubali uendeleo kuongea juu ya jambo hili, Bw. Kiliku.
Hivi majuzi, kama ujuavyo, Itukufu k Rais wetu pamoja na Kawaziri
kadhaa walienda katika nchi ya nje na mlik unajua kwamba ripoti

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi) (ctd.):

tuliyotipata kutokana na ziara hiyo ni nzuri. Kwa hivyo kusema kwamba mkopaji hana heshima, na unasema juu ya nchi ziki uzima ya Kenya ni vizuri; kuna hatari hapa. Ewa hivyo, ingefaa uyaondoe maneno y hayo bila masharti.

MR. KILIKU: Bw. Naibu Spika wa Mada, hawa waheshimiwa Wabunge ndio wanaoheshimwa maneno yangu vitaya. Hini niliongea juu ya mkopaji na wala si juu ya nchi ya Kenya. Si vizuri kwa mtu kuwa akikopa kila wakati kwa sababu ni tunaweza kukopesha, na kama tustipokopesha ---

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi):

Order! Nilisikia vizuri uliyosema kwamba 'mkopaji hana heshima' Niliyasikia maneno hayo mimi mwenyewe kwa nasikio yangu kutoka kwako; sikuyasikia kutoka kwa wazaki waheshimiwa ni Wabunge. Ewa hivyo, ili tuweze kuendelea, yafaa uyaondoe maneno hayo.

MR. KILIKU: Je, Bw. Naibu Spika wa Mada, nitakuwa nikiondoa kwani maneno hata kama ni maneno ya kweli kama huo? Ukweli utadumu. Kwa vile sasa hivi tunaendelea kukopa, sisi hatuwezi kukopesha wakati utoge?

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Kachila): Jambo la nidheru, Bw. Naibu Spika wa Mada. Tungependa mhe. Kiliku kumwa ayaondoe maneno 'mkopaji hana heshima', na kama hayaondoi, adhibitishe kwa kutwarbia ni nani asiye na heshima kwa kukopa.

MR. KILIKU: Bw. Naibu Spika wa Mada nimesema ---

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi):

Nakuuliza uyaondoe maneno 'mkopaji hana heshima' kwa sababu unazungunza katika Bunge linaloheshimiwa, na unayozungunza ni juu ya nchi. Tafadhali yaondoe maneno hayo kwa sababu wewe mwenyewe uliyasema. Kama hutaki kuyaondoa, nitawachia Bw. Spika jambo hili, ayaangalie maneno hayo katika HANSARD, na kama

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingga-Muori) (etd.):

yatapatihana, itakuna vibaya. Kwa hivyo, ni heshima kwako kuyaondoa kwa maneno hayo.

MR. KILIKU: Ev. Naibu Spika wa Muda, nayaondoa maneno hayo. Lakini tutakona tukizoa vibaya kama tutakubaliana hapa tuwe tukandelea kulopa kila mwaka. Hayo si mafikiria mazuri.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. If the hon. Member is honourable - he is an hon. Member, we accept the fact - he should withdraw unconditionally. Nowhere has it been implied that it is ^{our} intention to keep on borrowing without the possibility ^{of repaying}. It must always be understood that any country, such as ours, knows what we are borrowing for. We also know we are going to repay our debts.

End

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[Handwritten signature]

MR. KILIKU: Bw. Naibu Spika wa Mada, ninatoka maoni yangu na Waziri wa Fedha akipata nafasi, atatokaye pia. Haya ni maoni yangu.

THE MINISTER FOR FINANCE (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The views of the hon. Member are contemptuous to this country.

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): Order! Ninafikiri mhe. Mbunge aliyetokaye yale mambo makali aliyotumia kuamba mtotoji hana koshika. Mhe. Mbunge amendelea kusema kwamba ni vibaya kukopa miaka nenda miaka zudi. Why do you not desist from those kind of statements? Kama utascha kuyatumia mambo hayo, sitakawa na taabu kwako. Kwa hivyo, jaribu usiendeleo na mazunguzano ya aina ^{haya} hii.

MR. KILIKU: Bw. Naibu Spika wa Mada, mimi kama Mbunge wa Changamwe nitatilia mkazo maoni yangu. Nitatoka maoni yangu leo na hata kesho. Si vizuri tuendeleo kukopa kwa njia hii. Ingefaa uchumi wetu pia ukue ili tuwe tukikopesha nchi nyingine pesa. Je, ni vibaya kusema kwamba nasi pia tukopeshe nchi nyingine pesa? Sijui ni kwa nini Waziri wa Fedha anakusirikika kwa sababu sina kitu chochote kibaya naye. Hapema kwamba ni vizuri---

MR. BARNETT: Jambo la nidharu, Bw. Naibu Spika wa Mada. Mhe. Mbunge anataka kuliambia Bunge hili kwamba nchi hii isikope pesa. Kwanza angawaambia wananchi hivyo ili asikie maoni yao kwa sababu tunajua wanapendelea mtindo wa kukopa pesa na kuzilipa baadaye. Je, mhe. Mbunge anataka kusema kwamba kuna watu wengine ambao walikopa pesa na bado hawajazilipa au ana njia nyingine ya kutuwezesha kukopa pesa? Ingefaa atueleze kikamilifu.

MR. KILIKU: Bw. Naibu Spika wa Mada, inaonekana kama mhe. Mbunge hakunielewa sava sava. Nilisema kwamba ninaiomba nchi hii ili uchumi wetu uendeleo zaidi na ufikie kiwango cha kutuwezesha kuzikopesha nchi nyingine pesa. Si lazima tu tuwe tunakopa pesa kutoka nchi za nje bali hata na sisi tuwe tukizikopesha nchi nyingine pesa.

Katika upande wa Auditor-General (Corporations)---

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Kachila):

On a point of order, Mr. Temporary Deputy Speaker, Sir. Sijui kama mbe. Mbunge aliyeondoa matanishi yake karaba kukopa hakuna heshima bila masharti yoyote. Ingefaa afanye hivyo halafu aendelee na mazungumzo yake.

HON. MEMBERS: Aliyaondoa.

MR. KIMBU: Niliyaondoa matanishi hayo na Bw. Naibu Spika wa Muda alitoshoka. Sijui kama nini.

Public Investments Committee ilirata wanachama wanya hivi majuzi na ingefaa wakae chini waanne karaba ^{Kuchimuriza} matumishi ya pesa za mashirika ya Serikali. Eodi wakati huu, Kamati hii haijazanza kufanya kazi. Ingefaa wasenze kazi na mkutano ili waitishe vitabu vya akaunti na mkutano na wakuu wa mashirika haya ili wajue vile pesa za umma zimetunika. Hii itawawezesha kupata ripoti kamalifu juu ya matumishi ya pesa hizi. Ripoti kuhusu matumishi ya pesa za umma na mashirika ya Serikali haitaletwa na Public Accounts Committee. Ripoti hii italetwa na Public Investments Committee. Kamati hii ndio itakuwa ikikutana na Auditor-General (Corporations). Ajabu ni kwamba Kamati hii haijazama kuketi.

Ingefaa Kamati hii ianze kuketi mara tu Bunge hili litakapokwenda kwa maguziko. Tunataka waketi ili waitishe vitabu vya akaunti na walete ripoti katika Bunge hili kwa sababu Public Accounts Committee zikaitakawa ikifanya kazi hii. Ingefaa ripoti hii iletwe karaka izezekanavyo.

Kama pesa za umma zitatumika vibaya, Bunge hili litatafuta hatua itakayochukuliwa kwa wale z watu wanaotumia pesa hizi vibaya. Ikiwa pesa zitapotea, ripoti iletwe hapá na wananchi waisome na wajue kwamba hatua yoyote haichukuliwi, basi tutarajia kwamba pesa zitakuwa zikipotea kwa njia hiyo. Ikiwa hatua yoyote haitachukuliwa, maofisa wa mashirika haya watakuwa na mtindo wa kuzichukua pesa hizi kwa sababu hawafanyiwi chochote. Pesa za umma zinatokana na kodi inayolipwa na wananchi na ni makosa kuzitumia vibaya. Nitasea maneno haya leo na hata kesho. Kuna sheria katika nchi hii lakini wanaotumia pesa za umma vibaya hawachukuliwi hatua.

Mkuu wa Sheria alilota marekebisha hapa kuhusu wale watu wanao-shikwa na polisi. Hapo mbeleni ilikuwa kwamba mtu akishikwa na polisi, ni lazima aletwe mahakamani katika muda wa masaa 48. Sasa muda huu umeongezwa na ukawa siku 14 kwa wabaliifu latari.

Dk. Maibu Spika wa Kada, ningependa kusema machache juu uhaliifu wa kiochi cha chini. Polisi umerooa kuhusika watu siku ya Ijumaa kwa sababu wanajua kwamba korti haikazi siku ya Jumatasi na Jumatili. Ikiwa kama huyu anapoteza kortini siku ya Jumatatu na anaambiwa kwamba kesi yake itasikizwa baada ya siku nne. Ingefaa Mkuu wa Sheria amasaidie wafanyakazi ambao wata-poteza kazi zao kwa njia hii. Wajiri wengine wana sheria inayosema kwamba ikiwa mtu hatakwenda kazini kwa muda wa siku nne au saba - hata ingawa anapoteza kazi - atafutwa kazi. Mtu huyu anaambiwa kwamba anitoroka kazini. Ajabu ni kwamba mtu huyu anapoteleka kortini, inagunduliwa hana hatia na akienda kule kazini, anaambiwa eti atafutwa kazi.

Tunamwomba Mkuu wa Sheria alete Mswada hapa wa kusema kwamba ikiwa mtu hatakwenda kazini kwa muda fulani na kama haijulikani kule alipo, asifutwe kazi. Watu wengi wamepoteza kazi kwa njia hii. Mtu akienda kule anapofanya kazi na karatasi za korti zinazobitisha kwamba hana hatia, anaambiwa: "You are a deserter". Ingefaa Mkuu wa Sheria alete Mswada hapa ili watu wasi-futwe kazi.

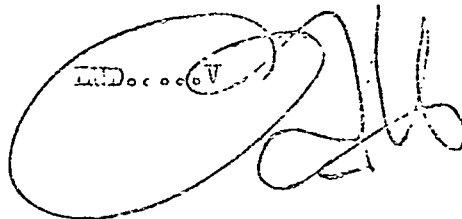
Sina mengi ya kusema bali nilikuwa tu nataka kuunga Mswada huu mkono. Mkuu wa Sheria amefanya kazi nzuri ya kuleta Mswada hapa kulingana na mahitaji ya nchi hii. Ninamshukuru sana Mkuu wa Sheria na ninamwomba aangalie sheria nyingine zinazohitaji marekebisha. Kwa mfano, ni vizuri aangalie sheria inayopatikana katika Chapter 226 ya Employment Act. Schemu hii inasema kwamba ikiwa mfunyikazi atakuwa akilipwa kwa siku, basi kazi hii itakuwa kibarua tu. Ingefaa Mkuu wa Sheria alete Mswada hapa ili sheria kama hizo zirekebishwe.

Tuna sheria nyingine za nchi zamani sana na hazifahi kwa wakati huu. Sisemi kwamba ni lazima turekebiche sheria zote. Kama sheria zinatufaa,

basi tulazitumia lakini nile ambazo hazitafahi, tutasitupilia mbali. Wakati wa ukoloni, kulikuwa na sheria za kumafahidi Wazungu pekee yao.

Mama wa Sheria anamnia kutoka Mowada hapa wa kusema kwamba wagoni wanaumia wali hapa ndiini. Mowada huu ukija hapa, tutamunga mkono. Siwezi kumunguza jum ya Mowada huu sasa kwa sababu nitaambiwa niko nje ya nidhamu. Sheria za kumsaidia wata, ndizo zinatakiwa.

Ikiwa tatakiwa na sheria za kumafahidi wata, basi itakuwa tunayamunga mkono mapenzi ya kunga moja kwa moja. Ingeona pia Mama wa Sheria alete Mowada hapa kutana sheria za uchuguzi ili tuweze kumsaidia ya wata. Ikiwa sheria hazitafahiriwa, wata wataumia, kutamunguza na kuteseka.

A handwritten signature in black ink, appearing to be 'M.D. ... V', is written over a circular stamp. The stamp contains the text 'M.D. ... V' in a smaller font, matching the signature above it.

MR. KILIKU (cta.):

Hii ndiyo sababu tunacmba sheria itambulikane kule Afrika Kusini ili Wafrika wapate uhuru kwa sababu ndio wengi. Matatizo yaliyoko katika Afrika Kusini ni kwamba makaburu walio wengi hawatafiki sheria. Sheria inayopaswa kuweko ni ya kuwapatia Wafrika walio wengi uhuru ili wawe kama sisi, yaani "For the Welfare of Society and the Just Government of Men". Hapa kwetu katika Wimbo wa Taifa tunasema "Haki iwe Ngao na Mlinzi", na bila haki tutakuwa hatuna mlinzi. Ukimnyima mtu sheria utakama unakiika amri za Mungu kwa sababu Mungu alipowumba binadamu alisema, "Nime-mwumba binadamu kwa mfano wangu", na akoweka sheria. Hii ndiyo sababu nasema kwamba ukimnyima mtu sheria utakama unemnyima ule mfano wa Mungu. Hata tumeona vile nchi zilizokosa sheria zinaong'aa. Nchi hii inaendelea kama jinsi inavyoendelea kwa sababu tuna sheria tunayofuata ohini ya uongozi wa Mtukufu Rais. Ni kwa sababu tuna sheria tumeweza kufika kiwango tulichofika sasa, na ikiwa sheria haiwezi kutekelezwa vizuri, basi marho hayo yatakuwa mabaya.

Bw. Naibu Spika wa Muda, ni kwa sababu ya kufuata sheria wawindaji harau wameingia misituni na kuwanalisa wanyama wetu wa porini. Kumewekwa sheria kwamba hakuna mhusa mtu yeyote kuingia katika mbuga za wanyama wa porini na kuwaua wanyama wetu. Tunataka uchunguzi konili ufaavye ili watu walioasi sheria na kuingia msituni kuwanalisa kifaru na ndovu wetu wajulikane kwa sababu hivi karibuni tutakuwa hatuna wanyama wa m porini, jambo ambalo litatufanya kupoteza pesa za kigeni zinazotokana na utalii.

Tumesona katika magazeti hivi majuzi kwamba kuna sabuni inayoitwa "Mpenzi" ambayo haikuruhusiwa kuuzwa madukani mwetu, lakini kwa sababu ya kutofuata sheria watu wengine wameanza kuiuza. Je, watu wanaofanya kazi na Kenya Bureau of Standards walikabaliana nama gani mpaka sabuni hii inayoziharibu nyuso za wasichana wetu na watu wote kwa jumla ikafika madukani? Je, watu hao kweli walifuata sheria? Sijasikia lolote kutoka katika Wizara inayohusika kutuambia ni hatua gani inayochukuliwa kuwaadhibu watu ambao walioiruhusu sabuni hii kuuzwa madukani mwetu, na hivyo si kufuata sheria. Ukiloca sheria utaweza hatu kuwa unatukana watu ovyo ovyo bila sababu yoyote.

W. 1. 1.11.68. Bw. Naibu Spika wa Muda, ninauunga Mswada huu mkono.

MR. WASIKE-KDOMBI: Ahsante z sana, Bw. Naibu Spika, kwa kunipa nafasi hii ili nami niseme machache juu ya Mswada huu.

Nataka kuanzia mazungumzo yangu ukurasa wa kwanza, mahali inaposemekana kwamba wahalifu wawe wakivuka korokoroni kwa muda wa siku 14 kabla ya kufikishwa mahakamani. Ninakumbuka kwamba tulipojadiliana juu ya Constitution of Kenya (Amendment) Bill, Mkuu wa Sheria alisema kwamba wahalifu watakaotakikana kuwekwa korokoroni kwa muda wa siku 14 ni wale ambao watashukiwa kuwa wamehusika na capital offences. Alitaja mambo matatu, yaani murder, treason and robbery with violence. Sijui kama ni lugha yangu ya Kiingereza ambayo si nzuri sana, k lakini katika Mswada huu inasemekana "... other than...", jambo ambalo kwangu linamaanisha kwamba mtu ambaye hakuhusika na uhalifu kama mbe. Mkuu wa Sheria hakutaja atakuwa akiweka korokoroni kwa muda wa siku 14. Nafikiri labla Mswada huu ulichapishwa bila kuangalia vile tulivyosema hapa katika HANSARD wakati tulipojadiliana juu ya Constitution of Kenya (Amendment) Bill. Kwa hivyo, ninamwomba Mkuu wa Sheria alichunguze jambo hilo na alirekebishe wakati unaofaa.

THE ATTORNEY-GENERAL (Mr. Muli): On a point of information, Mr. Temporary Deputy Speaker, Sir. I do not know whether hon. Wasike-Kdombi has looked at the proposed amendments which are contained in today's Order Paper, dealing with the same section of the Criminal Procedure Code. The amendment to Section 35 is contained in page two of today's Order Paper. What was published was a little bit erroneous and will be rectified when we get to the Committee Stage.

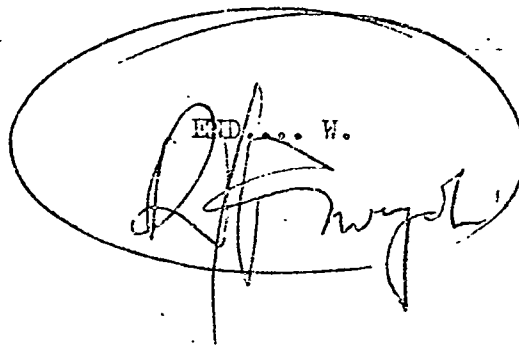
MR. WASIKE-KDOMBI: Bw. Naibu Spika wa Muda, namshukuru sana Mkuu wa Sheria kwa kunipasha hiyo habari. Nilikuwa nimeshangaa kwa sababu mabadiliko yaliyo katika Mswada z wenyewe yanaongea juu ya siku 14 kwa kila mhalifu aliyeshukiwa.

Kuhusu Mahakama ya Viwanda, ninamshukuru Mkuu wa Sheria kwa mabadiliko anayodhamiria kufanya kwa sababu tangu mahakama hiyo ilipoundwa mwaka wa 1963 tumekuwa na hakimu mmoja tu ambaye imekuwa vigumu kwake kuenda hata k likizoni. Mkuu wa Sheria z amelileta jambo hili kwa wakati unaofaa kabisa kwa sababu binadamu anapofanya kazi anastabili kupumzika. Hakimu wa Mahakama ya ~~Viz~~ Viwanda ~~z~~ aliyeko ~~ti~~ huu anapofanya kazi kwa bidii sana. Wakati ~~z~~ mwingine unapata kadiri

MR. WASIKE-NDOMBI (cta.):

ya kesi 32 kutoka kwa vyama vya wafanyakazi ambavyo viko chini ya Cotu, na wakati huo huo unapata kama kesi m kama 64 kutoka kwa matajiri ambazo zote zinatakiwa kusikizwa na hakimu huyu. Hiyo ndiyo sababu hakimu huyu ~~hupaswa~~ hulazimika kufanya kazi tangu tarehe mosi Januari hadi tarehe 31 Desemba bila kupumzika. Kwa hivyo, ninamshukuru sana Mkuu wa Sheria kwa kulifikiria jambo hili ambalo litamwezesha Justice Cockar ~~kwenda kwenda~~ angalao kwenda likizoni.

Dw. Naibu Spika wa Kuda, ni matumaini yangu kwamba katika kuwachagua wanachama wa Mahakama ya Vivanda watakaomsaidia hakimu, itafikiriwa kuwachagua watu ambao wana ujuzi wa kukaa na watu katika sekta mbali mbali za maisha.

EMD. W.


MR. WASIRE-NDOMBI (C/O.):

Bw. Haibhi Spina la Ndaa, kufanya kazi ambayo inahusu tajiri na wafanyakazi kunahitaji roni ya kujinyima kabisa kwa sababu tajiri ni muni kwa kuwashawishi hasina kando ya sheria. Jambo kema hili haifanyi kupenda katika Mahakama ya Vivanda yetu ya Kenya. Mahakama haya yafanya kazi kamili kabisa bila upendeleu wa wafanyakazi au kwa matajiri. Tunependa yule ~~atajiri~~ ^{atajiri} kuwa hakimu wa pili katika mahakama haya au kuwe mfano wa masimamo huu huu wa kutopendelea upande huu au ule. Hakimu huyu upya anfaa kuchukua jumumu la kusoma mamba ya uchumi wa nchi hii nata kabla hujachukua hatua ya kuongeza mishahara ya wafanyakazi au kuwanyima nyongeza hii. Akifanya hivyo, atajue kutoka mwanzo vile uchumi utakavyolwa akiondoka hatua anayokusudia kuchukua. Tunafurahi kwa kuwa huu wa Sheria anependelea baaliko hili.

Utacua kwamba, katika uchumi wetu, bei ya bidhaa kama vile unga, mkate, njama, sabuni, na kadhalika, inazidi kupanda bila kuwa na upandishaji wa mishahara wa kimo kile kile. Hafikiri huu wa Sheria, akisimama na Mawaziri wa Fedha na wa wafanyakazi, wataona kwamba, badala ya kufanya revision ya mishahara kila wakati, gharama ya maisha ikipanda, mishahara pia inepandishwa kwa kimo kile kile. Nikisema nivi ninamamisha kwamba pale mbeleni tulikuwa na Cost of Living Allowance Order. Hingependa Mkuu wa Sheria pasoga na Mawaziri wenzake walifikirie jambo hili katika collective agreement ili gharama ya maisha ikipanda, kutokana na kupandishwa kwa bei ya bidhaa, mishahara pia ipandishwe kwa kimo kile kile. Ikiwa bei ya bidhaa haipandishwi, mishahara haifai kupandishwa. Mishahara ya wafanyakazi huwa eroded na upandaji wa gharama ya maisha. Jambo hili litasaidia ule mwenendo uliofanywa na Serikali yetu wa kuondoa usimamisi wa bei ambao unaweza kuzifanya bei zipande wakati wote kufuatana na gharama ya uzalijaji mali. Hii ndiyo sababu tunasema kwamba ingofaa gharama ya maisha ikipanda, mishahara nayo ipandishwe.

MI. WASTRE-MO. PEI (CTD.):

Juu ya nayo, Sw. Neibu Spika wa Mada, ningependa kusema kwamba ile regulation iliyopo, eli kwamba mishahara haiwezi kupandishwa kwa zaidi ya thuluthi mbili za index ya gharama ya maisha, inafaa kuondolewa kwa sababu matajiri na wafanyakazi wa nchi hii wanauielewa uchumi wa nchi hii ulivyo. Wenyewe wanataa kukoaliana ni kiasi gani kitachopewa mifanyakazi na ni kiasi gani kitachobaki kwa tajiri. Ni rahisi sana kwa tajiri kupata faida kucokana na josno la mifanyakazi. Ikiwa mifanyakazi wanamendesha josno lake, huku akiliona vizuri, na tajiri anepata faida, tajiri anrudisha faida hiyo kabaka biashara yake ili wafanyakazi zaidi wasaidie kuajiriwa kazi. Faida anrudishwa katika biashara wafanyakazi wengi wataajiriwa kazi kabaka wana inayokusika. Mendo wa matajiri wengi ni kupata faida na kuitia mifanyakazi. Ninafikiri ^{ingefaa} Hkuu wa Sheria, ambaye anayajua mambo haya barabara, afikirie ni kwa njia gani ataliangalia jambo hili naani ili tajiri akipata faida anrudisha katika biashara yake naipo wafanyakazi zaidi wazidi kuajiriwa kazi. Ukuliza leo ni matajiri gani ambao wanepata faida na kurudisha katika biashara zao tangu tupate waga guidelines mwaka wa 1973, na ni wafanyakazi wengine zaidi ambao wataajiriwa kazi tangu wakati nuo, kando ya regular employment growth, utawna ni vigumu kupata majibu. Ninafikiri Hkuu wa Sheria ataliangalia jambo hili na kuona kwamba, kwa kuwa ukosefu wa kazi katika nchi hii umezidi na matajiri wanazidi kuchukua faida na kuiweka kando badala ya kuirudisha katika biashara zao. aneusaidia uchumi wa nchi yetu na kuongeza idadi ya wafanyakazi.

Katika badiliko hili ambalo limeletwa hapa, ningefurahi kama Hkuu wa Sheria atafikira workman's Compensation Act. Sheria hii ni ya zamani kiasi kwamba tulipounyakua Uhuru, tulikuwa nayo tayari. Ninaishukuru Law Reform Commission. Ningetomba ilifikirie jambo hili ili sheria hii ibadilishwe na kuweka katika hali ambayo Kenya imeifikia sasa, miaka 25 baada ya kuonyakua Uhuru wetu. Kiasi cha mishahara ambayo

MR. MASIRE-NDOOBI (C/O.):

inatajwa sheria hii ya Workmen's Compensation ni kile kile cha zama za ukoloni, na ukijaribu kukilinganisha na hali ya leo, utacna kwamba hakifai. Hivi majuzi tulizunguma hapa juu ya mfunyakazi ambaye ^{alikuwa} ~~ambaye~~ alikuwa aliye kazi. Utaona kwamba ile ridhaa anayolipya ni kama Sh.236/= haitoshi. Gharama ya kidole cha mwananchi mtukufu wa Kenya ni Sh.236/= kweli? Ninachosema kwa ufupi ni kwamba zile sheria ambayo zinazidi kuwa outdated na hazianziani ^{na} ~~ni~~ ustawi wa nchi yetu, kulingana na ustaarabu tunazidi kupata, zinafaa kuongalwa na kubadilishwa ili ziwe katika hali tunayonyo sasa.

Bw. Naibu Spika wa Muda, hivi majuzi tulibadilisha sheria hapa kuhusu uwezo wa tajiri anayekuajiri kazi kukufuta kazi. Tajiri ana uwezo wa kukujiri na kukufuta kazi. Maalambiko ya likuja watu wakiuliza ni kwa nini Bunge lilipitisha badiliko hili kwa dakika mbili tu. Ikiwa jambo li wazi, ni lazima tuongee tu eti kwa sababu tunacata kuongea? Ikiwa jambo li wazi, na inajulikana kwamba tajiri anayekuajiri kazi ana uwezo wa kukufuta kazi, ni lazima tuzungume juu yake kwa siku nzima ndipo ujulikane kwamba Bunge limelipitisha kwa njia kamili?

Nikisema hivi, narikiri juu ya yule hamu aliyekataa kuhamishwa kazi na kupelekwa Meru akisema eti kwamba Meru ni eneo lililobaki nyuma. Huyu alikuwa hakimumu wa Korti Kuu ya Kenya. Ukiangalia sheria zetu, utacna kwamba hakuna kifungu kinachoweza kutumiwa kusia hakimumu huyu adabu. Tulileta badilisho hapa ili hakimumu wa aina hiyo aweze kutiwa adabu. Wale ambao hawakuwa wamechukua nafasi ya kusoma ha kuona jinsi sheria yenyewe ilivyokuwa, walianza kutushambulia sisi wameshirikiwa wabunge wakiuliza ni kwa nini tulipitisha badilisho la namna hiyo.

Ninachosema, Bw. Naibu Spika wa Muda, ni kwamba sisi pamoja na maafisa wa Idara ya Mkuu wa Sheria tunafaa kumbadila Mkuu wa Sheria to ^{ya sheria} ~~wabunge sheria zetu~~ kuleta mabadiliko yanayojitajika hapa. Mkuu wa Sheria akiyandokeza mabadiliko haya hapa, tutaweza kuyapitisha ili nchi yetu iwe na sheria zinazofuatana na hali yetu ya kisasa.

MR. WASIKE-NDOMBI (Contd.):

Bw. Naibu Spika wa Mada, tumevungunza hapa mambo ya pesa ^{ya} umma kupotea. State corporations ni ^{ya} Serikali; civil service ni Serikali; local authorities ni Serikali na kadhalika. Nahimiza kwamba sisi ambao tuko katika state corporations, civil service, local authorities na kadhalika tufanye kazi kama wale ambao wako katika private sector ili tutoe mazao, yaani we must be productive. Hekuna mambo ya kusema eti Serikali itafanya na uwe ni civil servant ama unafanya kazi katika state corporation, local authority na kadhalika. Unasema eti "Serikali itafanya". Serikali ni nani? Kwa hivyo, nahimiza kwamba sisi ambao tuko katika ^{Public Sector} private sector tufanye kazi kwa bidii namna wafanyakazi hawa ambao wako katika private sector wanavyofanya. Ikiwa kila mfanyakazi katika civil service anafanya kazi namna mtu anavyofanya kazi katika state corporation, namna mtu anavyofanya kazi katika kampuni ya East African Industries na kadhalika nchi hii itakuwa Kenya nyingine.

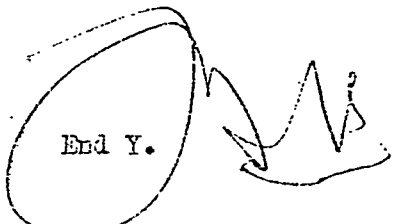
Jambo lingine ni kwamba wale watu wanaofanya kazi katika public sector kazi yao ni kukaa tu na kungocjea wakitambinia kwamba kazi itafanyika. Je, kazi itafanywa na nani? Kwa hivyo, hili jambo la pesa kupotea katika state corporation ni mbaya sana. Kuna mkubwa katika state corporation kama hiyo. Utakuta kwamba mkubwa ambaye anabusika na kupotea ^{kwa} pesa katika state corporation fulani tena anahamishwa na kupeleka mahali pengine. Tena anazidi kutoa mali kutoka kwa state corporation moja na kupeleka kwa nyingine. Nahimiza, hawa watu ni ambao wale/Mtukufu Rais alisema kwamba ukikosa hapa basi mwisho usiubebe uchafu ule ambao ulitoa pale na kupeleka mahali pengine. Kwa hivyo, wale ambao ndio wakubwa wa state corporations, local authorities, civil service na kadhalika yafaa wajue kwamba akikosa amekosa, na kazi inayofuata ni kurudi nyumbani lakini siyo kurudi nyuma na kufanya lobbying halafu tena mtu huyo apewe kazi mahali pengine. This looks like promoting inefficiency.

Kwa hivyo, Bw. Naibu Spika wa Mada, haya mambo ambayo yako mbele yetu, mimi namshukuru Mkuu wa Sheria sana. Ninahimiza azidi kuleta mabadiliko ya aina hii. For instance, the amendment he has brought on local authorities is essentially good, but ^{its} practical approach will be difficult. This is because Clause 26 says that the Minister will nominate councillors not exceeding one-third of the elected councillors. That is the provision.

MR. WASIKE-NDOMBI (Contd.):

So, the Minister will have to operate within that provision. Sasa tunaiondoa sheria hiyo na hatuweki kivango kingine. We are just signing a blank cheque. Today we might be having hon. Mwalimu who will be exceeding the number of nominated councillors by one or two members, and we corrected this, but tomorrow we do not know who will be there. Kwa hivyo, tukipendekeza namna hii yafaa tufikirie local authorities zitafanya kazi namna gani. Ikiwa uchaguzi unakuja na konseli ya Mombasa inajulikana itawachagua watu 48, sasa katika hesabu tunajua theluthi moja ya 48 ni 16. Kwa hivyo, ninajua konseli ya Mombasa itakuwa na madiwani 72. But I think this provision, we are going to wait until we come to Committee Stage. At least, there should be some kind of limit. If it is not one-third of the elected councillors, it is good to increase by a certain figure, maybe three-quarters. But there should be some kind of limit.

End Y.



MR. WASING'NDORINI (Cbi.):

Hata katika Bunge hili, tuna Kabunge ^{maalum} wachache tu na jambo hili limeandikwa katika Katiba yetu. Sheria ya Local Government Act ndiyo inaongoza Serikali za Wilaya. Tunapozamgunga kuhusu jambo hili, hatuzunguzi jua ya Waziri aliyoko kwa wakati huu, lakini tunaangalia vile sheria yenyewe/ ^{inyoyosimara kwa wakati huu} kwa hivyo, tungenzomba kuanu wa Sheria aangalie jambo hili ili kuhakikisha kwamba ~~ingizirika~~ hali ya fedha katika Serikali za Wilaya itakuwa kamili. Tusijaribu kuyaingiza mambo ya kisiasa katika Mswada huu kuhusu kuondolewa kwa theluthi moja ya madiwani ambao watateuliwa katika Serikali za Wilaya.

Pia, Bw. Naibu Spika wa Muda, katika jambo hili la madiwani woteule, ningetaka kuhiriza Waziri afanye uchunguzi kwa sababu utaona kwamba diwani mteule anaweza kuwa mfanyakazi katika Konseli fulani. Mtu kama huyo anaweza kuteliwa katika kazi ya kusinania pesa katika konseli hiyo. Tunahiriza Waziri afanye uchunguzi na kuhakikisha wale madiwani ^{woteule} ~~katika~~ ni watu ambao wako na heshira; watu ambao wanaweza kutoa mfano mzuri hata kwa wale madiwani ambao wamechaguliwa.

Kwa hayo machache, naunga mkono.

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabinga-Muregi): It is now time for the Attorney-General to reply.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Temporary Deputy Speaker, Sir, I rise to reply.

AN HON. MEMBER: Why? Why?

THE ATTORNEY-GENERAL (Mr. Muli): Sir, no one stood to speak. Mr. Temporary Deputy Speaker, I would like to thank all the hon. Members --

MR. MANG'OLI: On a point of order, Mr. Temporary Deputy Speaker. Is hon. Jalang'o really in order to speak to sister Grace Ogot in the House when the hon. Attorney-General is replying.

MR. JALANG'O: Mr. Temporary Deputy Speaker, Sir, I am an hon. Member of this House and ~~the~~ hon. Grace Ogot is an hon. Member of this House too.

MR. HANG'OLI: Yes, but was the hon. Member really in order really while ^{intending} to be talking ^{to} the gracious lady when the hon. Attorney-General - - -

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): Yes, he was quite in order. He can stand from the Back Bench and talk to the gracious lady if he chooses to. In any case, she is not a sister but ^{an} hon. gracious lady.

MR. HANG'OLI: Mr. Temporary Deputy Speaker, Sir, I am not disputing your ruling but my quotation of "sister", came from the House.

HON. MEMBERS: Which House?

MR. HANG'OLI: From the hon. Minister.

MR. FILIKU: On a point of order, Mr. Temporary Deputy Speaker. Hon. Hang'oli referred to the gracious lady as "sister", did he mean to call her a real sister or a sister in Christ? I want to know.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): On a point of order, Mr. Temporary Deputy Speaker. Hon. Hang'oli said that he was quoting ^{an} Assistant Minister ^a Minister when he was referring to the gracious lady as a sister. Does he want to say that his mouth is the mouth of the Minister and the Assistant Minister? What does he want to say? Can he tell the House where this title of sister came from?

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): I think that was a mere joke but he actually did say it. I myself heard him saying it and I corrected him and told him that she is an hon. gracious lady and not a sister.

ADJOURNMENT

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): Hon. Members, it is now time for the interruption of business and the House is therefore adjourned until tomorrow, Wednesday, the 2nd of November, at Nine o'clock.

(The House rose at thirty minutes past Six o'clock)

END 2

H A N S A R D

Wednesday, 2nd November, 1988

The House met at Nine o'clockMr. Speaker in the Chair

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 416

MR. SPEAKER: Mr. Malebe not here? We will leave his Question until the end then. Next Question.

Question No. 391

MR. SPEAKER:

MR. SPEAKER: Mr. Lewa not here? We will leave his Question until the end then. Next Question.

Question No. 425

MR. SPEAKER: Mr. Tarar not here? We will leave his Question until the end then. Next Question.

Question No. 405

MR. BIDU asked the Minister for Labour:-

(a) how much money Mr. Bora Mweru, F.M. No. 322 537 215, who is a former employee of Kwale County Council, was paid as N.S.S.F. benefits; and

(b) whether he is aware that Mr. Mweru was underpaid and if so, when he will be paid the remaining amount.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Bora Mweru, F.M. No. 322 537 215, has been paid a total of Sh.15,156/- as N.S.S.F. benefits.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei)(ctd.):

(b) I am aware that due to unavoidable circumstances, Mr. Mwero was originally underpaid, but he has now received his full payment.

MR. BIDU: Mr. Speaker, Sir, may I know from the Assistant Minister when Mr. Mwero received that payment?

MR. MIBEI: A cheque for KSh.3,125.05, representing Mr. Mwero's contributions, was made to him on or about 1st September, 1987. A further cheque for Ksh.12,030.95, was posted to him care of Kwale County Council, P.O. Box 4, Kwale, on or about 16th May, this year.

Question No. 410

MR. KILIKU asked the Minister for Labour:-

(a) why Mrs. Margaret Odoyo was not paid her terminal benefits by African Cotton Industries of P.O. Box 90324, Mombasa, since her services were terminated on 27th August, 1984; and

(b) when she will be paid her terminal dues.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir, I beg to reply.

(a) The delay in payment of Mrs. Odoyo's terminal benefits was because instead of reporting her problem to the Mombasa Labour Office, she referred the matter to her lawyers, who took the matter to court. My Ministry could only handle the matter after the court had made a ruling on it.

(b) Nevertheless, I am now pleased to inform the hon. Member that the lady's terminal benefits are with my labour office in Mombasa, and the same can be collected from there on any working day.

MR. KILIKU: Mr. Speaker, Sir, while appreciating the Assistant Minister's reply, I would like to inform him

MR. KILIKU (ctd.):

that Mrs. Odoyo's services were terminated on 27th August, 1984, and she has been going to her fo_rmer employer without any success. That is why ~~it~~ she consulted her lawyers on the ~~the~~ matter. However, since the Assistant Minister has said that Mrs. Odoyo's terminal benefits are lying in the Labour Office, Mombasa, could he now tell us how much the money is; is it in form of cash or cheque; and if it is in form of a cheque, could he tell us ~~the amount ~~is~~~~ and the number of the cheque?

MR. MIBEI: I do not ~~it~~ think it is necessary to reveal the figure. What I have said ~~is~~ is that ~~it~~ the money is there, ~~it~~ and she can collect it on any working day. It appears like the hon. questioner does not trust ~~the~~ my Ministry.

MR. KILIKU: I do trust the Assistant Minister and the Ministry, but I would like to know how much this lady is going to get. I think I should know this so that I may know whether the terminal benefits were paid according to the Employment Act.

MR. MIBEI: The total amount is Ksh.4,224.25. The breakdown is also available. This, she can be shown at the Labour Office, Mombasa.

Question No. 428

MR. WAMBUA asked the Minister for Water Development:-

(a) whether he is ~~it~~ aware that many areas in Mwala Constituency, especially Wamunyu and Mbiuni Locations, have been experiencing an acute shortage of water for a long time due to the low pressure in the water pipes;

(b) what immediate steps he is taking to alleviate this problem; and

MR. M. AMBUE (KOTTER), is

(c) since there is a major water project in Mbiuni location from Athi River, whether the Minister could consider building huge storage water tanks to supply water to all the needy areas of the constituency.

MR. SPEAKER: Anyone here from the Ministry of Water Development? We will leave that until the end then.
Next Question.

Question No. 424

MR. SPEAKER: Mr. Ang'elei is not here? Okay, we will leave his Question until the end then. Next Question.

Question No. 427

MR. A.I. MOHAMMED asked the Minister for Transport and Communications:-

(a) whether he is aware that all the 14 locations in Wajir West Constituency have no telephone facilities; and

(b) when these facilities will be installed at least in the divisional headquarters, that is, Bute, Buna and Giriftu.

MR. SPEAKER: Anybody here from the Ministry of Transport and Communications? We will leave that until the end then. Let us now go back to Mr. Malebe's Question.

Question No. 416

MR. SPEAKER: Mr. Malebe is still not here?

dropped
(Question referred)

Question No. 421

MR. LEWA: Mr. Speaker, Sir, a p apologize for
coming late.

Question No. 391

MR. LEWA asked the Minister for Energy:-

when the Ministry is going to supply
Shariani Trading Centre with electricity as
recommended by the District Development Com-
mittee of Kilifi District.

THE ASSISTANT MINISTER FOR ENERGY (Mr. M'Mukindia):

Mr. Speaker, Sir, I beg to reply.

Shariani Trading Centre will be supplied with
electricity under the rural electrification programme during
the 1989/90 Financial Year.

END

MR. LEWA: Mr. Speaker, Sir, this project was passed by Kilifi District Development Committee way back in 1986. I wonder why it has taken this long to be put on the relevant programme, considering that it was in an area that merited electrification.

MR. M'MKINDIA: Mr. Speaker, Sir, the Kenya Power and Lighting Company (K.P.L.C.) carried out a design of the electrification of about 37 domestic applicants, one primary school, a mosque, six shops and three posho mills in January, 1987. A firm quotation was given by the K.P.L.C. to the Chairman of Kilifi County Council after that evaluation was done, vide the letter of 6th March, 1987. Kilifi District Development Committee considered the matter after that quotation was given and decided that it was a bit too late to include the project in the 1988/89 electrification programme. So, it was not included in our estimates for this financial year because of the delay involved.

MR. MAKAU: Arising from the answer given by the Assistant Minister, and while thanking the Ministry of Energy for the good work it is doing under the Rural Electrification Programme, I would like to ask him whether he could ask the K.P.L.C. to speed up the projects it has embarked on with regard to which there is a delay in implementation. The company has done a good job, but there is some delay involved in project implementation. You will find that the company puts up beacons and then ~~st~~^{taxes} about three or four weeks before it comes back. Could the Assistant Minister ask the company to be consistent and speed up its work?

MR. M'MKINDIA: Mr. Speaker, Sir, we will try to encourage what the hon. Member has suggested. Meanwhile, the K.P.L.C. is doing the very best it can within the limited resources of manpower, especially skilled manpower, that it has.

MR. SPEAKER: Let us go on to the next Question, Mr. Tarar.

Question No. 425

MR. SPEAKER: Is Mr. Tarar not yet here?

(Question Dropped)

MR. SPEAKER (CTD.):

Let us move on to Mr. Wambua's Question.

Question No. 426

MR. WAMBUA asked the Minister for Water Development:-

- (a) whether he is aware that many areas in Mwala Constituency, especially Wamunyu and Mbiuni Locations, have been experiencing an acute shortage of water for a long time due to the low pressure in the water pipes there;
- (b) what immediate steps he is taking to alleviate this problem; and
- (c) whether, since there is a major water project in Mbiuni Location from Athi River, he could consider building huge storage water tanks to supply water to all the needy areas of the constituency.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu): Mr. Speaker, Sir, I beg to apologise for coming late.

I beg to reply.

(a) I am aware that a number of areas in Mwala Constituency, especially Wamunyu and Mbiuni, have not been getting enough water, but they have not been having an acute water shortage. This has been caused by the overstretching of the supply especially in Wamunyu. However, Mbiuni has been getting water although not in sufficient quantities.

(b) As for Wamunyu Water Supply, the Ministry is in the process of putting up an extra composite filtration unit in order to increase water project by between 15 and 20 cubic metres per hour. This will improve the supply. As for Mbiuni, the Ministry has purchased a new pumping unit which will soon be installed. The existing rising main will be turned into a distribution main when a new rising main to the storage tank has been laid. Trenching for the pipeline is already in progress. This will improve the flow of water to consumers.

(c) There is no major water project being undertaken in Mbiuni Location from Athi River as implied by the hon. Member. What is

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu)(Ctd.):

happening is that the Ministry is carrying out the rehabilitation and augmentation of the existing water supply to install new equipment and pipes in the existing 20,000-gallon water tank. No new huge storage water tanks are envisaged to be built.

MR. WAMBUA: Mr. Speaker, Sir, my Question indicates that there is a shortage of water in the locations I have mentioned and even in some other locations in this constituency. My point here is that I do not mind whether there is a major water project there or not. What we need is just water. There is already an on-going project near Kabaa Secondary School, and this is where these storage tanks are being built. My question is whether before the building of these storage tanks is completed, they can be lifted up so that this project may supply water to all the areas of Mbiuni Location, instead of building something that will not be able to give adequate water to these areas.

MR. MWEU: Mr. Speaker, Sir, if the assurance I have given to the House and the hon. Member has not gone into his ears, I have said that the existing rising main in Mbiuni will ^{be} turned into a distribution main when a new rising main to the storage tank has been laid. What has been happening is that between the intake and the storage tank, people have been getting a supply of water from the rising main. As a result, the pressure in the main has been reduced. As a Ministry, we are planning to build another rising main which is not going to be interfered with by anybody, and water will be pumped from the source to the storage tank, from where it is going to flow down to the surrounding areas. The present rising main is going to be used as a distribution line. That will improve the supply of water there as the hon. Member wants.

MR. WAMBUA: Mr. Speaker, Sir, while still on this question, I am not satisfied with the hon. Assistant Minister's reply because, for one thing, people in that area are experiencing a lot of problems as far

MR. WAMBUA (CTD.):

as water is concerned. Water is life. The year 2000 is also very close. If this project and all other similar projects in the country are not speeded up, there will be no sufficient water by the year 2000.

MR. SPEAKER: As your question, Mr. Wambua.

MR. WAMBUA: My question, Mr. Speaker, Sir, is with regard to how soon these projects are going to be completed. People are suffering. As the hon. Assistant Minister has indicated, there is already a project in Wamunyu. I remember visiting the water offices there in May and talking to the Water Officer, telling him that there are Miondoni, Wakaela and Yathui which had not got any water for the previous six or seven months. I asked him how soon this work was going to be completed. The following week, there was water, but after two days, there was no water. The wananchi there have laid pipes all the way through, which exercise cost a lot money, and yet they do not have water. How soon is this water problem going to be solved?

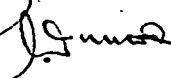
MR. MWEU: Mr. Speaker, Sir, perhaps you will help me to get this point clearly. If I listened to the hon. Member well, he mentioned a town called Miondoni which is not a part of the Question here. We are dealing with Mbiuni and Wamunyu. I know where Miondoni and Wamunyu are. The water that is supplied to Wamunyu also goes to Yathui and Lema Secondary School which are in a different direction from that of Miondoni. Is the hon. Member asking a different Question about Miondoni, and not about Wamunyu and Mbiuni, which are under the Question now before us?

MR. WAMBUA: Mr. Speaker, Sir, while still on this point, let me say that Miondoni and Yathui are both in Wamunyu Location. Are these areas visited by the Ministry officials or does it mean that when we put a Question here, that is the end of the matter? I would like the Assistant Minister to accompany me to these areas. Could he assure me that he will come and go round the areas with me? Without seeing what is

MR. WAMBUA (CTD.):

on site, we will continue to get answers to our Questions here without the projects in question being effectively implemented.

End B

A handwritten signature in cursive script, appearing to be 'J. M. ...', written in black ink.

MR. MNEU: Mr. Speaker, Sir, with due respect to the hon. Member, I would like him to put a Question with regard to Miondoni Water Supply and the Ministry will handle it as a different entity. The current Wamnyu Water Supply covers areas like Lema and Gatu. That is why the water is not enough and it is not that we are unable to supply the water to the people. This water is not enough because it is being used beyond the planned area.

If the hon. Member brings a Question here with regard to Miondoni Water Supply as a separate entity, we will be able to answer it.

MR. SPEAKER: Next Question.

Question No. 424

MR. CHEPKOK, on behalf of Mr. Ang'elei, asked the Minister for Public Works:

- Kapedo*
- (a) whether he is aware that Lokichar-Lokori-~~Kapedo~~ Road in Lokori Division was seriously damaged by the recent rains and that this situation is adversely affecting the transport services in this area;
 - (b) what steps he is taking to repair this road; and
 - (c) the steps he is taking to make this road an all weather road.

THE MINISTER FOR PUBLIC WORKS (Mr. J.K. arap Koéch): Mr. Speaker, Sir, I beg to reply.

Kapedo

(a) Yes, I am aware that the Lokichar-Lokori-~~Kapedo~~ Road in Lokori Division was seriously damaged by the recent rains.

(b) I have already given instructions that the necessary repairs and grading of the road be carried out to ease the normal transportation services in the area.

(c) My Ministry has no immediate plans to gravel or tarmac this road in the near future owing to the shortage of funds.

MR. CHEPKOK: Mr. Speaker, Sir, while thanking the Minister for his good answer, can he direct his field officers to ^{repair} the road because it is impassable at the moment?

MR. J.K. arap KOECH: Mr. Speaker, Sir, yesterday, I directed my officers to study the grading of this road and they are now preparing to embark on the job.

MR. SPEAKER: Next Question.

Question No. 427

MR. A. I. MOHAMMED asked the Minister for Transport and Communications:

- (a) whether he is aware that all the 14 locations in Wajir West Constituency have no telephone facilities; and
- (b) when these facilities will be installed at least in the divisional headquarters, that is, Bute, Buna and Giriftu.

MR. SPEAKER: Anyone from the Ministry of Transport and Communications to respond to this Question?

(Question deferred)

Let us move on to the next Order.

QUESTIONS BY PRIVATE NOTICE

(Mr. ^{J.}N. MUNGAI) to ask the Minister for Water Development the following Question by Private Notice.

- (a) Is the Minister aware that Molo town has had no water for the last three months?
- (b) In order to temporarily alleviate this problem, could the Minister urgently consider despatching a water tank to supply water to Molo District Hospital, Molo Academy, St. Mary's Girls' School, Molo Township School, Mugumo Secondary School and Molo Police Station?

MR. SPEAKER: Mr. ^{J.}N. Mungai is not in? Let us move on to Mr.

Chepkok's Question.

MR. CHEPKOK: Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that Mr. Chebogey has not been paid his claim No. CND/18/1/14/1 dated 12th November, 1983?

(b) What has delayed this payment?

(c) When will Mr. Chebogey be paid?

MR. SPEAKER: Is there anyone from the Ministry of Tourism and Wildlife to respond to that?

Next Order.

POINTS OF ORDER

MR. KILIKU: Jambo la nidhamu, Bw. Spika. Nilipokuwa nikiwasilisha Hoja hapa kuhusu Chaani na Mikindani, nilisema kwamba watu ambao walitarajiwa kupata Shs.36,000/= - wote ambao walikuwa wamepatiwa ploti huko - wengine wao hawakupatiwa pesa hizo. Pia nilisema kwamba nitathibitisha ~~kwa~~ jambo hili kwa kuleta karatasi hapa Bungeni. Nilitaka pia uchunguzi ufanywe ili ijulikane kule pesa hizi zilipelekwa kwa sababu watu hawakupatiwa. Watu wengine walipewa Shs.2,000/= au Shs.4,000/= na hali wengi wao hawakupewa chochote. Kwa sababu majina ya hawa watu ni mengi, siwezi kuyasoma yote kwa sababu nitachukua muda mwingi wa Bunge hili tukufu. Ninaomba kuweka makaratasi haya juu ya Meza ya Bunge hili ili mhe. Mbela ayasome. Hapo ndipo ataona kwamba yale niliyokuwa nikisema yalikuwa ukweli mtupu.

(Mr. Kiliku laid the documents on the Table)

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): On a point of order, Mr. Speaker, Sir. When I read the Kenya Times newspaper this morning, I was very surprised to see that I had ~~been~~ been referred to as the Assistant Minister for Transport and Communications. This newspaper attributed to me some answers which I never gave yesterday. I urge the Kenya Times to be more responsible and try to identify hon. Members properly.

MR. SPEAKER: I ~~had~~ hope that they are going to correct that.
Next Order.

MOTIONS

THAT, in view of the fact that vast sums of money have been poured into the country for use by Non-Governmental Organisations (N.G.O.s) including religious organisations, and experience having shown that such funds intended for complementing development projects have in the past been diverted for use against the interests of the nation; this House calls upon the Government to monitor all funds brought into the country and to ensure that all N.G.O.s projects are sanctioned by the District Development Committee.

(Mr. Galgallo on 26.10.88)

(Resumption of debate interrupted on 26.10.88)

MR. SPEAKER: Where is the Mover? Did he conclude?

(Mr. Speaker consulted with the Clerk)

Mr. Galgallo has not responded to the ^{Proposed amendment} ~~Motion as amended~~ and since there is nobody wishing to contribute on the Motion, I will put the Question of the ~~Motion as amended.~~ ^{amendment.}

(Question of the first part of the amendment that the words to be left be left out, put and agreed to)

(Question of the second part of the amendment that words to be insterted in place thereof be inserted, put and agreed to)

MR. SPEAKER: Since the Mover is not here and nobody wants to contribute on the Motion as amended, I will put the Question.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, in view of the fact that vast sums of money have been poured into the country for use by Non-Governmental Organisations (N.G.O.s) including religious organisations, and experience having shown that some of the funds intended for complementing development projects have in the past been diverted for use against the interests of the nation; this House calls upon the Government to monitor all funds brought into the country and to ensure all N.G.O.s projects are sanctioned by the District Development Committee.

MR. SPEAKER: Next Order.

END....C 

MR. SPEAKER: Okay. Let us now move to Mr. Jalang'o's Motion.

(MR. JALANG'O) to move the following Motion:-

THAT, in view of the Government's committed policy to provide piped water to wananchi by the year 2000; this House urges the Government to undertake to provide water in Rarieda Constituency before June, 1990, as follows:-

- (a) Rehabilitate the Uyoma Water Project by laying new steel pipes and increase pumping power of the engine.
- (b) Avail funds from domestic and/or donor agencies for the Asembo Water Project.
- (c) Intensify the drilling of wells during the interim period to reduce problems experienced during the dry season.

MR. SPEAKER: Mr. Jalang'o not here. Next Motion, Mr. Malebe.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. What is the fate of this Motion now? Has it "died" or is it deferred?-

MR. SPEAKER: Since it has not been moved, I am sure you cannot expect anything to happen to it apart from deferring it to ~~do it~~ next year.

MR. MALEBE: Mr. Speaker, Sir, I wish to move a Motion on the Ministry of Lands and Housing. The Motion reads as follows:-

While appreciating the efforts made by the Government to ensure that wananchi throughout the country are issued with title deeds for their land portions in order to secure loans to intensify agricultural development;

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): On a point of order, Mr. Speaker, Sir. I heard the hon. Member say that the Motion "reads" when he was moving it. Would it not be proper that you should tell the hon. Member that he should say, "I beg to move the following Motion":- ---?"

MR. MALEBE: Thank you, Mr. Chairman, for that correction.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu): Jambo la nidhan Bw. Spika. Ni sawa mhe. Malebe kukuita "Chairman" ^{na bado} ungali wewe ni Spika?

MR. SPEAKER: Si sawa hata kidogo.

MR. MALEBE: I apologise, Mr. Speaker, for that slip of the tongue.

MR. MALEBE (Contd.):

Mr. Speaker, Sir, I beg to move the following Motion:-

While appreciating the efforts made by the Government to ensure that wananchi throughout the country are issued with title deeds for their land portions in order to secure loans to intensify agricultural development; and noting that there are some areas in the Republic where demarcation of land has been relatively very slow especially in Igembe Division in Meru District; this House calls upon the Government to accelerate land demarcation, land registration and issuance of title deeds, in order to improve the standards of living of farmers wishing to develop their land and construct permanent houses.

Mr. Speaker, Sir, what made me raise this Motion is ~~due to~~ the fact that ~~for the last 24 years,~~ in my Division of Igembe, land consolidation started way back in 1965/66, and until today, the survey and demarcation of land exercise has never been completed. The Government has spent ~~large sums of money or a~~ colossal amount of money in my Division on land consolidation. In fact, the amount of money spent for those 24 years is so much that it would have been used elsewhere to develop the less developed parts of this country.

The whole idea of the Motion, Mr. Speaker, is to request the Government to accelerate and give a deadline or specific time ^{as to} when they will be able to complete land demarcation in Igembe and other parts of the country. I know ~~that~~ ~~using or in the land laws~~ we have two conflicting land laws. One of them is Chapter 283, which is Land Consolidation Act, and the other one is Chapter 284 which is the Land Registration Act. The Land Consolidation Act was used during the colonial time, particularly during the emergency, and it is a very complicated Act because it deals with collection of all the land fragments held by people and then all of them are consolidated into one piece. Then after that there are lot of cases and complications, and then all those fragments are put together and form one piece of land which might be many acres. That land has been mapped down on the ground somewhere, and the method of putting that land on the ground somewhere causes a lot of concern to the people because it even pushes people away from their developed areas. Some are taken on top of the hills; others are put on the marshy grounds and others are put on areas which are completely unarable. A lot of disputes arise ^{then} ~~which~~ ~~causing~~ ^{the} delays in ^{the} issuing of the title deeds. During the emergency it was

MR. MALEBE: (Contd.):

possible to use this Act because people were detained and their land was apportioned in their absence. They also applied the Chief's Authority Act to be able to complete the land consolidation in time. But, today, that ^{action} ~~force~~ of forcing people to ^{be where} ~~where~~ what they do not ^{be} ~~want~~, snatching their land and giving them land where they do not want to settle cannot happen ~~today~~ because this is a free Kenya. Every citizen has a right to claim ~~a right~~ ^{piece of} of his own ~~land~~ ^{land} and live in an area where he can benefit most. With the present development ^{because} even without the title deeds the ancestral land is developed ^{some parts of it} ~~is developed, and so on, it~~ becomes very difficult to remove somebody from his permanent development and push him to areas where development is nil. So, the only easy way today is to change the ^{land} consolidation law, but, since it is not possible to do so ~~as~~ where it has been applied already, the other way is to ^{desist} ~~change~~ from using the Land Consolidation Act and move to the ^{land} Registration Act, Chapter 284 which is fast. This is because Chapter 284 necessitates you to have as many title deeds as the number of land portions that you have. Any public land is set aside, roads are also set aside, and then it is easier to apportion each fragment owned by people and issue as many title deeds as possible. ~~With the new Chapter 284, it is possible to do so.~~

End D.

R/Jmb

JMK

MR. MALEBE (ctd.):

With the new Cap. 284, it takes as short as nine months or one year for one to obtain a land title deed to enable him to develop his piece of land and construct nice permanent houses. The Land Consolidation Act, Cap. 283 of the Laws of Kenya has been applied in Igembe Division but has been found impossible. In fact, it is now inconceivable as to when the ~~pp~~ people of Igembe will get their land title deeds. The Government can post as many land officers as possible to Igembe, but that will not help because of the constraints of the law. So, my request to the Minister for Lands and Housing is the acceleration of land demarcation in Igembe so that land title deeds can be issued to the respective owners.

Mr. Speaker, Sir, one way of accelerating land demarcation is by increasing the number of surveyors and land adjudication officers and, at the same time, increasing the necessary equipment. The existing land cases ~~xx~~ should also be reduced quickly so that the people can get their land title deeds faster. One way of reducing land cases is by getting land adjudication officers and the administrative staff to do what they are supposed to do. They should do the Government assignments and also advise the wananchi on the benefit of quick registration of land. Unless the wananchi are educated on the benefit of selecting the right land committee members, land registration and demarcation exercises will continue to be slow. Committee members should be people who understand the meaning of quick registration and demarcation of land. Although the land committee is an independent committee as far as land adjudication is concerned, it should play the role of educating the wananchi on the necessity of land title deeds. The land committees should not favour the tycoons when it comes to land cases so that they deprive the poor man of his property. This has been the main problem in Igembe Division where you find that a poor man is deprived of his arable land where he has lived for a long time. This problem has been enhanced by the fact that the land committee does not see itself as a separate entity from the land adjudication committee. Although the land committee in Igembe Division makes its decisions independently, there is still a complication, particularly between the land adjudication officers and the recording

2.11.88.

MR. MALEBE (ctd.):

officers of the Ministry of Lands and Housing. Sometimes they assure the wananchi that they have placed them somewhere, only for the wananchi to find that they have been settled in remote areas. That is where the disputes start. So, it is upon the Ministry of Lands and Housing to do just supervision of land adjudication.

Mr. Speaker, Sir, I must commend our land surveyors because they do their work very fast. It is only when it comes to land adjudication when complications start, thereby prolonging the period within which land title deeds are supposed to be issued. If the staff of the Ministry of Lands and Settlement in Igembe Division worked independently from the divisional land committee, then land registration in that division would be faster than it is now.

Sir, there are areas in Igembe Division, such as Athiru Gaiti and Lower Amunenti, which adjoin the Meru National Park and which have a very high potential agriculturally. These ~~places~~ places can produce a lot of food, and if that land was demarcated and put into proper use, we would not be going outside this country to look for food. The land around that area is very good for both pasture and agriculture, and unless it is declared an adjudication area and title deeds issued, some outsiders may be tempted to grab it. In fact, already there is a Mzungu who has grabbed about 10,000 acres of land in Igembe Division near the Meru National Park. I do not know whether the Government is aware of this Mzungu's action. He has now put up a small lodge in the bush, and I wonder whether that is legal or illegal. I understand that a Mzungu cannot own land in Kenya today unless he is a registered citizen of this country. There is that Mzungu in Igembe Division who has grabbed that piece of land, and I think that has happened because the Minister for Lands and Housing has not declared the area in question an adjudication area so that people can go in and demarcate the land. I call upon the Ministry of Lands and Housing to demarcate and adjudicate the remaining part of Igembe Division. This includes areas such as Kirindini in Akachi Location, ^{Lower} Kangeta Location and the area which borders with Isiolo District. That area also needs to be adjudicated. We request the Ministry to accelerate the exercise and issue the title deeds as fast as

E.3.

2.11.88.

MR. MALEBE (ctd.):

possible. When the Minister comes up to reply to this Motion, I would like ~~to~~ him to tell the House exactly when land title deeds are going to be issued to the people of Igembe Division.

END.... E.

MR. MALEBE (Ctd.):

Mr. Speaker, Sir, I would request the Minister to desist from using Cap.283 of the Land Adjudication Act because it is very complicated and there is no way in which you can get title deeds by using Cap.283. I understand that ~~also~~ in the district where the Minister for Lands and ^{Housing} Settlement comes from, that is Taita-Taveta District, they also use this Cap.283 of the Land Adjudication Act. I am therefore sure that Taita-Taveta District is in the same boat as Meru District. In Meru District, we have places like Tigania, Tharaka and ^{Ntongiri} ~~Wakere~~ in addition to Igembe where Cap. 283 of the Land Adjudication Act is being used resulting in the non-issuance of the title deeds.

With those few remarks, I would request hon. Makau to second this Motion.

MR. MAKAU: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to second this very important ^{Motion} [as far as this country is concerned. I say so, Sir, because as we debate this Motion in the House this morning, His Excellency the President is supposed to be in Rumuruti for the purpose of issuing title deeds to farmers. This clearly shows that the President is very much concerned about the issuance of title deeds to the people of this country so that they can have the legal ownership of the land that they possess. I would like to urge the Minister for Lands and Housing to take a cue from His Excellency the President who is so concerned about the issuance of the title deeds to our people that he has visited so many places to make sure that farmers are issued with title deeds. Recently, Mr. Speaker, Sir, His Excellency the President directed that people in Kibwezi be issued with title deeds. This goes further to show that the issuance of title deeds to the farmers is a very important thing.

Mr. Speaker, Sir, if you look at the Sessional Paper No.1 of 1986, it is stated quite clearly that the issuance of title deeds is one of the things that those concerned should try to speed up. This is the Sessional Paper which guides development in this country. The Mover of the Motion has ^{sets} ~~sets~~ which govern the issuance of title deeds in this country,

and that is the Land Consolidation Act and the Land Adjudication Act, Cap.283 and Cap.284. Mr. Speaker, Sir, there has been a lot of delay in the issuance of title deeds in this country. Siting the example of Meru District which the Mover of the Motion has given, I would also like to include Machakos District in this. Mr. Speaker, Sir, Machakos District was declared an area for adjudication under Legal Notice No.100 of 1965 and it is now 23 years since the declaration was made and this land adjudication is still going on. The officers who were appointed to do this work have been living in Machakos for the last 15 years. In Mbooni Constituency officers were posted there 15 years ago and up to date, they have not completed the work which they were sent there to do. Some of these officers have ended up by buying land and have married and lived there. This is because for the last 15 years, they have been living there doing nothing.

So, Mr. Speaker, Sir, this Motion is asking the Minister for Lands and Housing to make ^{SURE} ~~should~~ that the exercise of land adjudication and the subsequent issuance of title deeds is speeded up. One of the ways of doing this is by looking into the two existing Acts with a view to amending them. One of the two Acts, namely, the Land Consolidation Act is obsolete because it calls for a lengthy exercise before finalizing the issuance of title deeds. So, if the Ministry of Lands and Housing could consolidate the two Acts and come up with an Act which would allow the exercise of land adjudication to be done and completed within a period of three years, this would help our people a great deal. I am saying this because at present, and here I refer to Machakos District, it has taken 23 years for the ^{adjudication} work to be completed due to the technicalities involved.

Mr. Speaker, Sir, the importance of the title deeds to farmers or to anybody else who owns land is very important indeed. This is because you cannot get a loan to develop that land if you do not have a title deed for it. I have referred to Sessional Paper No.1 of 1986 which emphasizes the importance of farmers being able to intensify agricultural development. In the same Sessional Paper, the importance of creation of urban centres has been emphasized. Therefore the issuance of title deeds is very important

because if a farmer, for example, wants to acquire a loan from the Agricultural Finance Corporation to develop his land, there is no way in which he can be given that loan without having a title deed for his land. Recently, the Agricultural Finance Corporation has been a little bit more lenient than they have been any time before in that they have been giving loans to farmers as long as a farmer proved that he had a piece of land. However, today, unless a farmer produces a title deed, he cannot be given any loan. Most farmer^s in Machakos District in general, and in particular in Mbooni Constituency, ~~they~~ cannot develop their land because they do not have title deeds. When they apply for loans to the Agricultural Finance Corporation, they are asked to produce title deeds but these people have no title deeds because the land~~s~~ has not been adjudicated.

So, Mr. Speaker, Sir, to be able to intensify food production in this country, it is necessary to pass this Motion so that the Minister concerned is able to speed up the issuance of title deeds so that farmers may have legal ownership of the land they possess. This would enable them to secure loans to develop their land. Mr. Speaker, Sir, a lot of Questions have been brought to this House regarding the issuance of title deeds in various market centres. These market centres are included in the land adjudication areas that have ^{been} declared for land adjudication or land consolidation. However, for many years the plot owners in these market centres have remained ~~ix~~ without title deeds which means that they cannot get loans to develop their plots within those market centres. This is quite against the Government policy of intensifying development as is contained in ~~the~~ Sessional Paper No.1 of 1986. This is why we are urging the Minister concerned to look into this matter. The Government has issued this Sessional Paper as a framework or a guide towards faster development. However, we have these two Acts which have brought hindrance to the achievements of the goals that have been set in Sessional Paper No.1 of 1986.

Mr. Speaker, Sir, another aspect as far as the issuance of the title deeds is concerned is that when a farmer is not issued with a title deed,

this creates a lot of problems to the whole family, particularly when the rightful owner of the land dies. Those days, we have seen so many cases involving land disputes in various parts of this country and it becomes very difficult to identify who are the rightful heirs of the land. This is because without a title deed, you cannot say that so-and-so used to be the owner of the land. So, this Motion is urging the Minister for
land
Lands and Housing to speed up/adjudication work in the country so that the farmers in this country may get legal ownership of the land they possess. I would like to stress the point that while we are discussing this Motion, His Excellency the President is giving us the factual aspect of the application of this Motion. This is because today, he is in Rumuruti issuing title deeds to farmers showing his concern about the legal ownership of land in this country. Those who have used a lot of money to purchase land should have title deeds to secure loans to develop the land or carry out other businesses. So, the delay in the issuance of title deeds has in many ways affected land companies in this country. Many people went around asking wananchi to contribute money to buy land and after buying this land these people have stayed for many years without getting the title deeds for the land. The land is jointly owned by this group of people, but they have been exploited by the managers appointed to manage the land.

END F.

MR. MAKAU (ctd.):

Mr. Speaker, Sir, recently, the Government decided that those people who had contributed money to purchase land should be issued with individual title deeds. By ~~xxxx~~ passing this Motion, we shall be asking the relevant Ministry to speed up the ~~x~~ process ^{of} land adjudication, and ^{that of issuing} ~~the issue~~ of title deeds. While moving the Motion, the Mover ~~refer~~ referred to his Constituency where people have not yet been issued with title deeds, for many years. The average time taken to consolidate and adjudicate land is 15 years. ^{When} people in a certain area have ^{apply} ~~applied~~ for land adjudication, it takes very many years for them to be issued with title deeds. I would, therefore, ask the Minister concerned with consultation with the Attorney-General, who has been of late very active in bringing some amendments ^{to the old} ~~and changes~~ ^{of} the Acts, to consolidate the two Acts so that we have an Act that states clearly that land adjudication, and the finalisation ^{of} ~~for~~ the exercise should not take more than five years. It should not take 15 or 25 years.

Mr. Speaker, Sir, in Machakos District the notice for land adjudication was given in 1965, and ^{up to} ~~upto~~ to date, some people have not been issued with title deeds. In my Constituency, and especially farmers in Mbooni Location ^{who} ~~which~~ produced some of the best coffee in this country, have not title deeds. Therefore, the farmers cannot go for any ~~tax~~ loans.

Mr. Speaker, Sir, with those few remarks, I beg to second the Motion.

^{Proposed}
(Question/Proposed)

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): Thank you very much, Mr. Speaker, Sir, for giving me a chance to support this Motion.

Mr. Speaker, Sir, I am sure that the ~~Minister~~ Ministry of Lands and Housing cannot refuse to support and perhaps implement it. The Minister

NNP

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri)(ctd.):

may, perhaps, want to do ~~some~~ ^{be move some} amendments, but I am sure he will not oppose it.

Mr. Speaker, Sir, let me start by congratulating His Excellency the President for his efforts in this case. Today, as we are talking, the President is issuing title deeds at some place in this country. He has issued title deeds in ~~many~~ many parts of this country, where he has seen ~~it~~ it fit to ask the Ministry of Lands and Housing to hasten the exercise of issuing title deeds to ~~the~~ ^{the} people. I wish to congratulate the hon. Member for ~~g~~ bringing this Motion to this House, because by doing so he is alerting every body else ~~about~~ ^{to} what is happening in their places, because ~~the~~ land demarcation has not only been delayed in Igembe, ^{also} but/in various parts of our country. I ~~do~~ believe what is happening in Igembe is what has been happening in my Constituency and in many other constituencies where title deeds have ^{not} been ~~is~~ availed to the people.

~~Many~~ Mr. Speaker, Sir, in my own Constituency there has been a lot of physical fighting because many people are disputing land ownership cases. The cases are ~~taken~~ taken to the land committees, but they are not settled fast, and this ^{has} caused a lot of instability and in fighting among our people as they try to determine who is the rightful owner of a piece of land. ~~The~~ Land demarcation started in 1966 in Tigania, Igembe and the rest of Meru District, but the land at Tigania has ~~is~~ not been demarcated ^{land} ~~is~~ until today. The officers concerned with/demarcation have been quite slow, but today, I ~~am~~ must commend them because they are trying to work faster ~~than~~ ^{they used to.} than previously, and we must tell the Ministry of

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri)(ctd.):

Lands and Housing why there is delay. I do not know whether the situation has ~~xx~~ changed, but previously, the land demarcation and adjudication officers were employed on contract terms, so none of these officers was in a hurry to see the completion of the land demarcation because they wanted to continue earning their living. If the contract was for three years, and the officers completed the adjudication exercise, then they would lose their jobs because there would be no job to be done. I am happy that some of these officers have been converted to permanent employment, but there are still many of them who are still working on contract terms. I would like to request the Minister for Lands and Housing to see to it that everybody working as a land officer is given the same ~~ix~~ terms of employment as any other officer in any Ministry so that they do not feel that they are working on contract terms.

Mr. Speaker, Sir, the officers carrying out the land demarcation and adjudication exercises are partly to blame for the delay. A lot of money changes hands during these exercises. There are some people who had very good fertile land, but during the demarcation ~~xxxx~~ ~~xxx~~ exercise, they were given barren or ~~slimy~~ sloppy land which they did not accept. When they refuse to accept it, they file objections with their district land adjudication officers and this causes delay. Why can the land officers not be straightforward and honest? If somebody is allocated land in a swampy area, barren, rocky or fertile, he should be given land in a similar area after the exercise is completed by the adjudication officers because he is used to ~~xt~~ working on that kind of land. In any case, the Land Act states very clearly that if your land lies on a fertile ground, you should be given land in the same area, or in an area which is equally fertile. A person whose land lies on a very fertile area should not be moved to a barren area because it will cause objections which would delay the demarcation exercise.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri)(ctd.):

Mr. Speaker, Sir, our own people who are ^{to sit} elected in the land committees to listen to land cases also cause delay. Some of them are old people who do not have any ~~an~~ other source of income. I am sure that ~~it~~ some people with land cases go to see the land committee members before their cases are heard. Some of the money given to the land committee members has been ~~ligalised~~ ^{members} so that both parties concerned contribute something ~~before~~ ^{sits} to the committee before it ~~sits~~. Considering that the members of ~~the~~ land committees ^{of} may not be having any other source ~~of~~ income, they are like_ly not to be in a hurry to complete the cases, because by doing so, it would mean denying themselves something that they have getting as members of the land committee. The Minister should look into all these problems, and perhaps find a solution to ~~it~~ ^{with} them. If He should be strict ~~to~~ the land committees and his officers, so that a committee which hears a case today, and has heard all the ~~with~~ evidence, does not postpone the judgement to another day. The ~~the~~ land committee should not ~~it~~ tell the concerned parties, ~~in that~~ "now you can go home; and we shall call you another day for judgement". If they have heard both sides and are satisfied, and know the truth, they should deliver the judgement, there and then. ^{Why} ~~They~~ should ~~not~~ ^{They} delay the judgement.

(END...G)

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri) (Ctd.):

The Ministry of Lands and Settlement has to include in their Development Vote some money for buying equipment. I am saying this because—

MR. KILIXU: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister has referred to the Ministry of Lands and Settlement. I would like to remind him that we have no such Ministry, but we have the Ministry of Lands and Housing.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): We were used to the Ministry of Lands and Settlement but I agree with hon. Kiliku that now we have the Ministry of Lands and Housing. Thank you very much, hon. Kiliku for correcting me.

What I was saying is that the Ministry of Lands and Housing has now to vote some money in their Development Vote ~~to bring to this House~~ ^{has been presenting} for buying equipment. Part of the delay in the adjudication exercise has been caused by lack of the equipment such as the compasses, chains and other equipment that are required for the exercise. Year after year the Ministry of Lands and Housing ~~perhaps brings~~ ^{perhaps brings} to this House a Vote that does not include money for buying the equipment so that when they lack the equipment they do not where to get the money from. ^{adjudication} If perhaps land in Baringo or in Kwale has been delayed, they wait for the equipment to complete work in Meru so that it can be taken there or vice-versa. I think they should vote money for this.

Everybody realises that without title deeds, the sections of the country that do not have them will not catch up with other parts of the country that have title deeds. This is because those who have their title deeds are able to prove ownership of their land and can borrow money from the financial institutions and from banks to develop that piece of land that they have. But those who do not have including myself and my constituents will remain behind for quite sometime because while others have those facilities to borrow money, we do not have them. Consequently that means we cannot improve our livelihood; we cannot build good houses, we cannot improve our farms and we cannot do what others are doing. In that case some areas appear to be more intelligent by

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri) (Ctd.):

improving themselves, but ~~he~~ that is not the case. The case is that they have the means of borrowing.

Sir, the Ministry of Lands and Housing has to be more strict with their officers. Some of them send reports to Nairobi saying what they have done per week when in actual fact they have not done anything. This is because I know they are supposed and ~~x y~~ they are required by the Ministry to submit a weekly report on their progress of demarcation but some of them do not go there. Some of these officers go to work at 11.00 o'clock on Monday and perhaps leave work at 4.00 o'clock and they go home over the weekend and come back perhaps on Tuesday. Therefore, since the officers must give reports, the Ministry must have a way of ensuring that the reports being given from the ~~the~~ field are correct reports.

With those few remarks, I beg to support.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mveu): Asante sana, Bw. Spika. Mimi pia ningetaka kuiunga Hoja hii mkono na kumtolea shukrani Mbunge wa Igembe, mhe. Malebe kwa kuiwasilisha Hoja hii ambayo ni ya maana sana kwa wakati ~~ambao~~ unafaa. Ningetaka kujiunga na wale waliozungunza hapo awali na kusema ya kwamba Hoja hii ni ya maana sana. Kama Wizara in itaweza kuyatekeleza mapendekezo yaliyomo katika Hoja hii, basi itaweza kuwasaidia wananchi kote nchini Kenya. Ni matumaini yangu kwamba Mbunge mwenzangu ataweza kukubali kwamba tatizo hili halihusu sehemu ya Igembe katika Wilaya ya Meru peke yake, bali liko kila ~~gh~~ pahali katika nchi yetu ya Kenya. Kwa hivyo, tatizo haliko kule Igembe katika Wilaya ya Meru au Kitui peke yake bali liko katika nchi yote ya Kenya ambapo matatizo ya upimaji wa mashamba na utoaji wa hati za kumiliki ardhi na kadhalika havijamalizika.

MR. MALEBE: On a point of order, Mr. Speaker, Sir. I would like to make a clarification regarding the two Acts that is Cap 283 and 284. The one being applied in Igembe is Cap 283 but ~~at~~ elsewhere in Kenya, Cap 284 is being applied and it is faster.

(Mr. Malebe spoke from the Front-bench)

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member who is neither a Minister nor an Assistant Minister to speak from the Front-bench?

MR. SPEAKER: Order! In fact, Mr. Malebe, that was a point of clarification and not a point of order.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu): Bw. Spika hapo awali mwenzangu alipewa dakika 20 na atapata nyingine na hivyo sijui ni kwa nini anataka kunipotezea wakati wangu. Kama ana jambo lolote, ataweza kulitaja baadaye atakapopewa nafasi ya kuijibu Hoja yake.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. I seek your guidance in connection with hon. Karauri's point ~~of~~ of order, whether it is in order for a Back-bencher to speak from the Front-bench or whether hon. Malebe has promoted himself to a Minister or an Assistant Minister. We actually want to know whether it is in order for him to speak from the Front-bench.

MR. SPEAKER: Mr. Malebe was not in order to speak from where he spoke.

(Applause)

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mweu): Ninatumaini kwamba mhe. Mbunge wa Igembe amefahamu hayo. Nilikuwa nimeanza kusema kwamba tangu upimaji wa mashamba ulipoanza katika Wilaya ya Kitui, hii kazi imekuwa ikiendelea pole pole sana. Ni kama miaka 15 iliyopita kama vile mhe. Makau alivyosema ambapo upimaji wa mashamba ulianza kote nchini na hii kazi imeendelea pole pole sana. Wilaya ya Kitui ~~xi~~ ina lokesheni zipatazo 34 na kati ya hizo ni lokesheni tisa tu ambako upimaji umefanywa. Hata hivyo, huu upimaji haujakamilika. Mpaka sasa katika sehemu kama Changwithya, Mulango and Matinyani ambako walianza hii kazi, hati za kumiliki ardhi bado hazijapatikana. H Kwa hivyo, tatizo si kwamba hawajaanza kupima ardhi ili wananchi waweze kujipatia ~~xi~~ vyeti lakini wananchi hawajaweza kupata vyeti kwa wakati unaofaa. Jambo hili limechukua muda mrefu sana. Ingefaa litiliwe mkazo zaidi. Ni matumaini yangu kwamba Waziri Msaidizi kutoka Wizara ya Ardhi na Nyumba ataweza kulitia hili jambo maanani na kuona kwamba wamefanya marekebisho na kuweza kuliharakisha hili ili utaji wa vyeti uweze kufanywa haraka iwezekanavyo.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu) (Ctd.):

Ukweli ni kwamba, katika Wilaya ya Kitui, na unajua hiyo ndiyo taabu katika kila wilaya, upimaji wa mashamba haujafanywa. Katika Mawakilisho yangu ambayo ni Mutito, hakuna hata lokesheni ~~katika~~ moja ambako mashamba yamepimwa. Kwa sababu hii hakuna mtu ambaye anaweza kukopa pesa kutoka kwa benki au shirika lolote la pesa ili aweze kuendelea na kuifanyia kazi ardhi yake akiwa amepata mkopo. Hakuna mtu ambaye ana ~~ka~~ hakika kwamba ile sehemu ambayo anasema ni yake ni yake kweli kwa sababu hana hati ya kumiliki hiyo ardhi. Taabu hii haiko ~~x~~ katika Mawakilisho yangu peke yake bali pia hiko katika sehemu ya Kitui South ambayo inaitwa Mutomo Constituency na vile vile katika Kitui ~~North~~ North ambayo inaitwa Kyuso na kadhalika. Hakuna kazi yoyote ambayo imeanza katika lokesheni zipatazo 24. Kwa hivyo, ningetaka kutoa mwito kwamba ikiwezekana yafaa kuwe na ofisa ~~ambaye~~ ambaye anaendesha upimaji wa mashamba katika kila tarafa badala ya kuingojea unit moja ambayo iko katika makao makuu ya wilaya. Jambo ambalo limekuwa likifanyika ni kwamba maofisa wanatoka lokesheni moja kwenda nyingine katika Kitui Central na kutoka pale wanakwenda Tarafa ya Mwingi. Badala ya kufanya hivyo, kwa nini Wizara isiwe na crash programme ili ~~tuweze~~ tuweze kuwa na maofisa katika kila ~~na~~ tarafa ambako kuna mkuu wa tarafa ili ~~x~~ tuweze kuwa na usambazaji wa upimaji wa ~~mashamba~~ mashamba.

END H...

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu)(Ctd):

Tunataka upimaji wa mashamba ~~kiwazi~~ uwe ukiendelea katika tarafa mbili katika wakati mmoja. Hii ikifanyika tutaueneza upimaji wa mashamba katika wakati mfupi. Jambo hili ni bora kuliko kuwa ^{na} kundi moja la maofisa ~~kiwazi~~ ambalo sharti limalize upimaji katika kata moja ndipo liende katika kata nyingine. Kama inawezekana inafaa kuwe na mpango huo wa dharura. Pengine wale waliokuwa wakipima mashamba katika settled areas wameimaliza kazi hiyo. Kwa hivyo, maofisa hao wanaweza kupelekwa, ^{kusaidia} upimaji mashamba katika sehemu nyingine. Kama jambo hili haliwezekani, kuna maofisa wengine ambao wanaweza kutumiwa. Jambo hili lilifanyika wakati tulipokuwa na kesi nyingi sana. Wakati huo wakuu wa wilaya wa zamani waliokuwa wamepelekwa katika maofisi ya Wizara na kuwa manaibu wa makatibu walitumiwa na kumaliza ~~ka~~ kesi za mashamba. Kwa hivyo, mpango wa dharura kama huo unaweza kutumiwa ili kumaliza upimaji wa mashamba katika sehemu nyingi. Hii itatuwezesha kupata hati za kumiliki mashamba.

^{Riwezi}
Bw. Spika, wakati huu ~~sigeze~~ ^{si} kukopa pesa kutoka katika benki. Ingawa kule kwetu ardhi ni kubwa sana, haina maana. Hii ni kwa sababu hata iwe kubwa namna gani si ^{ya} mwenyewe kirasmi, maana hana hati ya kumiliki. Ni kwa sababu hii tunataka wananchi wapimiwe mashamba yao na kupewa hati za kumiliki mashamba ambazo wanaweza kutumia, kama anavyotaka mwenye kuileta Hoja hii.

Tumesikia mengi kuhusiana na mashamba kama vile mtoto kumwua baba yake, au baba kumwua bibi yake au mtoto wake. Haya yanatokea kwa sababu ya kung'ang'ania mashamba. Kama kungekuwa na hati za kumiliki mashamba, mambo kama haya hayangeweza kutokea.

— Siku hizi watu wanauza mashamba bila ya kuwaeleza jamaa zao, kama vile ndugu. Wiki jana tulisoma habari ya mtu aliyeuza shamba bila ya kumweleza baba au ndugu yake. Jambo kama hili likifanyika, mnunuzi huwa hajapeana pesa zake kwa njia inayofaa, na hii inasaba-
Kwa hivyo, ni kwa njia ya kuwapimia watu mashamba

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu)(ctd):

ambapo tutaweza kumaliza taabu hii: ya kupigania mashamba: watu wasio na hatia wanauwawa; watu wasio na hatia wanapigana; watu wanachukiana, na mambo mengine kama haya. Siku ^{hizi} hata mabibi wanawachukia mabwana zao kwa sababu wanajua kwamba ^{waifai} bwana ~~hawezi~~ kuuza sehemu ya shamba lao bila ya kumweleza bibi na watoto wao. Ni sharti wasikizane ndipo waweze kuuza shamba. Kwa hivyo, si bibi tu ambaye ana haki ya kutetea shamba la bwana ~~x~~ yake, bali kila mtu ana haki ya kuelezwa wakati sehemu ya shamba lao inapouzwa.

Bw. Spika, kwa hayo machache, ninaiunga Hoja hii mkono.

MR. KIPKORIR: Thank you, Mr. Speaker, for allowing me to support this Motion. I should ^{like to} congratulate the hon. Member who brought this Motion, and say that it is high time that Kenyans were allowed to enjoy their rights. Now, it is about a quarter a century since we attained our Independence; our President has been advising various Ministries on their functions.

This Motion is good because it urges the ~~xx~~ Ministry of Lands and Housing ~~xx~~ to help Kenyans speed up development. This development will not take place until land has been demarcated. But now people are complaining throughout the country. Wananchi need to be helped, and the Minister for lands and Housing should ensure that his personnel in the ~~xx~~ country is increased. Since 1983, when I was elected to this House, people have been ^{requesting} for demarcation personnel to demarcate a place ~~called~~ in my constituency called Mokili, but nothing has happened upto now. Since 1984, ~~the~~ demarcation ~~work~~ work has been going on in Sabrili Location, but so far the officers have not finished demarcating even two sub-locations. So, we feel that this Ministry should increase its personnel at the divisional level. We should ~~xx~~ have an officer in charge of demarcation work at the divisional level so that this work is speeded up in various parts of the country.

MR. KIPKORIR (CTD):

Mr. Speaker, Sir, let me now turn to the problem of selling land, which has become so serious that wananchi should be very careful. The Government and the land control boards should ensure that community land is not sold. This is because ^{our population} is increasing generation after generation. There is also this situation where one person takes ^a family land title deed and uses it to get a ~~loan~~ loan for his personal benefit, and yet some of them may not be able to repay the loan. This matter should be ~~not~~ properly looked into, so that family land is not sold because a loan has not been repaid. ~~this~~ this matter is becoming a sensitive one in this country, and it is my request ^{that} land should be protected for the interests of the family. We should not entertain cases like the one that took place in Machakos, where land was sold without the family being consulted. Cases like this one must ~~be~~ not be allowed to occur, and I congratulate the Minister for Lands and Housing for taking a swift step to protect the interests of the family.

So, we need land demarcation and protection of the interests of Kenyans. Some of us, hon. Members, would like to put up permanent houses, but we cannot do this until land demarcation has ^{not} taken place.

END

I

MR. KIPKORIR (ctd.):

Imagine this situation of an hon. Member of Parliament who ^{wants} ~~wanted~~ to put up a good house and set ~~out~~ a good example to his k people ^{cannot} ~~could not~~ do so since he does not have a title deed as the land has not been demarcated. I would like to request the Minister for Lands and Housing to take the necessary action on the issue of divisional officers to ensure that these officers are posted in every division i_n the country.

Mr. Speaker, Sir, 95 per cent of the land in my area has not been demarcated. In fact, for the ^{last} ~~past~~ 25 years the Ministry has managed to demarcate only five per cent of the land in my area. There must be something wrong in the Ministry. When the Minister comes to reply to this Motion, I hope he will give a statement on the officers of the Ministry at divisional level. We would want him to ^{tell us} ~~know whether and~~ when he is going to act. This is because what we want is developments. We have heard His Excellency the President saying that Kenya is on the ^{run} ~~run~~. If the Ministry ^{has managed} ~~manages~~ to demarcate only five per cent of the land in my area, in the last 25 years, are they really on the ^{run} ~~run~~? I do not think that they are on the ^{run} ~~run~~. It is time for people to know that in this country people consider ^{the} ~~welfare~~ of the other people first. If one is a leader or a Minister appointed by the President to look after the welfare of the wananchi, he should put the welfare of the people ^{he is} ~~you are~~ supposed to serve ^{first his} ~~before your~~ own welfare. This is very important. I hope that the Ministry will consider this point.

If one went to ~~sm~~ some areas in this country, he would find that in some settlement scheme areas the land is demarcated but the p_eople have not been issued with title deeds. It takes many years ~~in~~ before people whose land has been demarcated ~~can~~ get their title deeds. There is, for example the Eseworu Settlement Scheme in my area which was started in 1982. Since that year these people who

MR. KIPKORIR (ctd.):

settled on this scheme have not been issued with title deeds. What has caused this delay when people have fulfilled all the conditions that would warrant their being issued with title deeds? People need these title deeds to develop their land. Without these title deeds they cannot secure loans with which to develop their land. I would like to urge the Ministry to look into this and issue these wananchi with title deeds so that they speed up their developments. It is not good to keep people waiting for a long time for the title deeds. In fact, due to this long delay the people have started ^{getting} ~~becoming~~ impatient. We do not intend to entertain any more delays. This is the ultimatum and the Ministry should take immediate action on this issue. This is for the development and welfare of the Kenyans.

With those few remarks, I support the Motion.

MR. MCHARO: Thank you very much, Mr. Speaker, Sir, for this opportunity to enable me to support this very important Motion. I would like to first congratulate the Mover of the Motion for moving this Motion which concerns the ~~whole~~ country as a whole. As we all know land matters are very important for the development of our country. The land problem that exists in Igembe, is one that exists all over the country. This is because ⁱⁿ many areas in the country, my Constituency Mwatate included, land is still owned in the traditional fashion. ~~Fika~~

Mr. Speaker, Sir, title & deeds are vital ⁱⁿ ~~for~~ the development of our country. As it has been said before by other speakers, we cannot secure loans from the financial institutions without title deeds. Therefore, we would like to ask the Ministry of ~~x~~ Lands and Housing to do a bit of homework so that they can speed up the demarcation of land in the country to enable farmers to secure title deeds. Because of lack of title deeds in various places in the country, we usually witness a situation where the development of this country is ^{lopsided} ~~lopsided~~.

MR. MCHARO (ctd.):

~~sided~~ in that some people whose land was demarcated or consolidated 20 years ago, have had an opportunity to secure loans and ^{have} developed their areas and are miles and miles ahead of the other areas. In the areas where demarcation has not been done, people cannot secure loans since they do not have title deeds.

In this regard, Mr. Speaker, Sir, if it is becoming so difficult for people to secure title deeds, I would like to request that people who own permanent assets on land which is traditionally owned-- An effort should be made to consider the actual ownership of land and the assets that exist there so that people can secure title deeds on the strength of the existing assets in those areas. In my own case, my land has not been demarcated although I have a permanent house on it. The banks have been telling us that they have money to lend to us but they cannot do so because we do not have the title deeds. We would like to request that situations such as these should be examined and looked into so that wananchi can acquire title deeds to enable them secure loans for developing their land and thus assist in the production of food in this country and in the development of the country as a whole.

We would like proper planning of towns to be made. We are at the moment ~~not~~ witnessing a situation where the ^{boundaries} ~~boundaries~~ of towns are being extended to promote and develop these towns. This situation is creating problems to wananchi whose land is falling within these ~~new~~ new extended ^{boundaries} ~~boundaries~~. They are being told that since they do not have title deeds, ^{their} ~~their~~ land is subject to being taken over by the new municipal ~~by~~ councils or town councils. Our people should be informed of the implications of the extension of the ^{boundaries} ~~boundaries~~ of these municipal councils and town councils on their land. But our people can only understand these implications if they are told: "This ^{is} your land and you are not going to lose it". This, of course, ~~is~~

—MR. MCHARO (ctd.):

means that demarcations has xto be speeded up.

The other point that I want to mention here, Mr. Speaker, Sir, is x the squatter issue that exists in various parts of this country. Squatters are entering into and occupying pieces of land because apparantly they see that nobody owns those pieces of land. This problem also exists in my own R District of Taita/Taveta. There w_{as} some land that had been traditionally set aside for cattle ranchin but a group of people have come from other areas and taken this land f_{or} cultivation. This has caused clashes with the local people. Had the Ministry of Lands and Housing made an effort to issue title deeds or to plan the allocation of land in these areas, the x squatter issue would not be x there.

END J.....

JAC

MR. MEHARO (ctd):

With this regard, I would like to request that squatters, who have settled on a piece of land, that was traditionally set aside for a specific purpose like ^a grazing area for cattle and other livestock, to be evacuated. Every effort should be made so that such squatters could be removed from such areas to avoid any possible future conflict between the squatters and the traditional owners of the land.

Mr. Speaker Sir, the whole question revolves around our Government coming forward, ~~and assess~~ ^{and} the efforts of giving the people what is due to them; that is giving them ~~the~~ title deeds so that they can legally own the land. I would like to join my colleagues ^{who have spoken before me} in stressing the point that the Ministry of Lands and Housing should recruit more people to assist Government ^{in the} demarcation of land. We have observed that the current number of officers assisting in demarcation of land is not enough. We have so many wananchi ~~who~~ who are unemployed and I am sure if these people were employed, they ^{would} assist Government in this exercise of a land demarcation.

I would like to stress one point that was made by a fellow colleague earlier on that when demarcating land, we should look into the question of giving people what is due to them. We should not arbitrarily exchange fertile land with poor land. When giving title deeds, we should not move somebody who has been occupying some productive land to another piece of land which is unproductive. This irregularity has been done in the past and has caused a lot of ^{land} disputes in this country. Some of these disputes ~~have~~ have been brought to us, as Members of Parliament, by K wananchi hoping that we will be in a position ^{to} ~~to~~ sort out or ^{settle} settling such disputes. These irregularities were done by responsible committees and we feel that they should be supervised properly. Perhaps, this kind of situation arose because of some kind of corruption that was going on there. We would like the officers concerned to look into this issue so that when demarcation of land is being done, ^{and} before they ^{people} get title deeds, problems like this one ^{do} should not arise. ~~the title~~

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

MR. MAKHANU: Thank you Mr. Speaker Sir, for giving me this opportunity to contribute to this very important Motion. In supporting this Motion, I would like to first of all thank the Mover, who has given us the opportunity to review the whole exercise of land adjudication, which, indeed is a national issue. This issue is not only confined to Igembe, but it is spread countrywide. I am sure when the Minister will rise to reply, he will not need to amend the Motion because it is straightforward. Due to time factor and since I am sure my colleagues would also like to contribute to the Motion, I am going to summarise my views on this Motion.

Mr. Speaker Sir, I think this Motion is essentially calling for fairness and speed in the land adjudication exercise. It is sad to note that a large portion of our land is not fully adjudicated 25 years after Independence. We know the benefits of land adjudication. As all of us know, most of our people depend on land and that most of our people live in the rural areas where the only basic property that they are proud of is land. When land is adjudicated, it gives the owner the opportunity to be proud of owning some property in this country and feels happy to be part of Kenya and consequently develops himself. This Motion also calls for even development and equitable distribution of income. I say this because once a farmer gets a title deed, he is able to use it to acquire some loan from a bank and develop himself by building a house or expanding his business. This exercise will contribute to even distribution of income and development throughout the country.

Mr. Speaker Sir, we know that most of the ~~six~~ districts which are comparatively better off in terms of development were adjudicated at the turn of this century. Therefore, the importance of ~~an~~ adjudication cannot be overstressed. I also feel that this Motion is straightforward because it is calling for a better land use. We have large tracts of land in this country which are not very well managed. Areas like Kitui district, North-Eastern Province and so forth are not fully demarcated. We know very well that if a piece of land is not adjudicated, nobody wants to claim it. Consequently, the land lies fallow; it is open for grazing and nobody can come and claim it. We are calling for a better land use, and that can only be done through land adjudication. This Motion also reminds us that we should be in a ~~partisx~~ position to review the size of land that one should own in this country.

MR. MAKHANU (CTD):

We have taken over some pieces of land that were owned by white settlers. Some of our fellow Kenyans own large tracts of land ranging from 6,000 to 10,000 acres and so forth. Most of these large tracts of land are particularly located in high potential areas. Unfortunately, this land has been converted into hunting grounds; horse racing courses and so forth although some parts of this country have a shortage of food. However, I must compliment the Government for ensuring that there is adequate supply of food in this country. Where there has been a shortage, people have been receiving food from other areas in the country. I believe that by putting a ceiling on how much land one can own, we shall be able to put our land into proper use. If this is done, we shall be able to produce enough food in this country.

Mr. Speaker Sir, the time has come when we should find a solution to idle land. We should probably tax the owners of the arable land that is left fallow and idle. Such kind of land is scattered all over the country. There are some parts of this country which are arable and which have already been demarcated and those concerned issued with title deeds. However, you will find that the owners are telephone farmers. Their pieces of land are idle and fallow. I think Government should have a free hand in taxing these people on the basis of acreage. They should be taxed on every acre of land that is left fallow. Some of this land should be used for keeping livestock and wild animals. We should be able to review that issue.

Mr. Speaker Sir, I feel that this Motion has unearthed a few things about some of our laws—

MR. MWENJE: On a point of order, Mr. Speaker Sir. The other day, we agree that hon. Members should not bring newspapers to the House. Is hon. Moku in order to be reading a newspaper instead of listening to what hon. Makhanu is talking about.

MR. MOKHU: Mr. Speaker Sir, I was looking at the Order Paper and not a newspaper.

(Applause)

MR. MAKHANU: Mr. Speaker Sir, I was saying that we have too many law chapters on the issue of land. I think it is the high time that we brought them under one Act. For instance, ~~we~~ the Land Control Act, Lands Act and Land Adjudication Act. I think ~~these~~ these laws should be reviewed now so that they can form one law pertaining to the ~~a~~ management of land in this country.

END K....

MR. MAKHANU (contd.):

Finally, I have two problems arising from this Motion. The first one is that land problems as related to the population growth in this country. It is high time we leaders supported Government efforts in telling our people to plan their families. As you know, land never expands, but the population does. Around 1948, we were only about 5 million Kenyans, but now we are about 21 to 22 million people, yet the land has not expanded. We should, therefore, be able in our day-to-day work, as leaders to impress upon our people that we should be able to control our population. In other words, we should support the efforts of family planning bodies in this country which are managed and co-ordinated by the Office of the Vice-President and Ministry for Home Affairs and National Heritage.

I believe that if we continue to allow our people to give birth at the rate we are doing now, we are likely to have problems with land in the very near future. The same issue has been raised by my colleagues here that there are so many family feuds and killings arising from land problems. I had the opportunity to work in certain districts where land constraints were so high that most of the murders were related to land problems. Sometimes in a month 20 such murders would be reported. This was as a result of the high population growth. We should, therefore, be able to give the Government effort in controlling the population.

The second and final problem is related to my constituency, Kaduyi. While the Government does a lot on one hand, there are certain Government agencies which are not doing a good job to support it. I am particularly referring to the Agricultural Finance Corporation which has loaned some money to farmers. The farmers surrender their title deeds to the corporation, but when the farmers default to repay the loans, the corporation sells

MR. MAKHANU (contd.):

the land at throw-away prices. I am, therefore, calling upon the Agricultural Finance Corporation to be a little bit more understanding when dealing with the farmers.

I would also like to touch on our local banks. In Bungoma District, land is so valuable, but the banks do not give you the much you deserve for your land because the local banks under-value ~~xxxx~~ your land.

With those few remarks, I beg to support.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot):

Thank you very much, Mr. Speaker, Sir, for giving me an opportunity to contribute on this Motion.

First of all, I would like to thank the Mover of this Motion. It is a Motion which touches on the overall development of this country. I think if all the hon. Members had a chance, they should have contributed to this Motion since it touches on the development of our people. I have seen in my own area that land development be it when it comes to the issuing of title deeds, demarcation or adjudication or registration, differs from one place to the other. In areas where title deeds have been issued as opposed to where they have not been issued, the pace of development is very different. I am saying so because in my constituency, all the matatu owners - I know more than 40 people who have very ~~well~~ clean and well-run matatus - have mortgaged their title deeds in order to secure loans to buy those matatus. Owners of very big lorries, say, ten-tonners up wards, could not have acquired them had they not mortgaged their title deeds.

It is, therefore, very important that the Ministry for Lands and Housing seriously considers what they should do to be able to issue title deeds fairly. I am saying so because there

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot):

have been a lot of complaints and hon. Members here have talked about the conflicts which result in people killing each other. In fact, there are some areas where people say that if you want to die fast, then all you have to do is to interfere with somebody's boundary, and you will die as quickly as you wish. This is to show that land question is very sensitive. It, in fact, intensified the struggle for the Independence of this country. After we got Independence many years ago, the second struggle was to ensure that the land you are owning is your own property which you can mortgage and develop. There is no way you can develop the land, if you are not very sure that it is your own property.

I would like to thank the Minister for Lands and Housing because of the way they demarcated land settlement schemes. The only problem that there is is that they have ~~not~~ not yet issued title deeds. The demarcation has, however, gone on very well. We are very worried because in areas where demarcation has continued and no title deeds have been issued, there is no development.

This Motion, in fact, is very close to what hon. Angatia was moving when he was trying to plead with the House that the Article of Associations of Financial Institutions be amended in such a way that the people can get loans in^a/fairly easier way. If there was a way of equating share certificates to title deeds, people would get loans easily. I know that at the moment it is not possible. It is, however, the only way that people living in Uasin-Gishu, Trans-Nzoia, and newly settled areas, including Laikipia, could get loans. It is not so easy for these people to sell whatever properties they have and develop the land.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot) (contd.):

It is so bad that the slow rate of development is going to be so big and glaring that people will be left wondering why some areas were favoured while others were not. I am saying so because I have had the opportunity to talk to people and even visit places like Tanzania and Zambia. In those areas, there is nothing like title deeds. This is because in those countries it is believed that no land can belong to an individual. The reason they give is that ~~xx~~ land ~~belongs~~ has been there for generations and, therefore, no individual has a right to own it. Although we do not want to go into politics and the development of ~~to~~ other countries, there is a very big difference between those countries and Kenya. In those countries, it is believed that only the building, which an individual has put up, belongs to him; the land does not. This, therefore, means that an individual cannot develop the land since his neighbour will not ~~&~~ allow him to do so because the land belongs to their ancestors. ~~We are not going to do that in Kenya because it is a very bad practice. If we do that, then we are not going to develop.~~

I want to ~~xx~~ thank the Mover for moving this Motion. What we are requesting the Ministry of Lands and Housing to recruit more staff in order to speed up development. On their side, they should ask for more funds. In my ~~&~~ own constituency, there are areas like Chebara and Kapkangani, where people have been waiting for title deeds since 1974. As you know, the Ministry of Lands and Housing delays cases for as long as nine years after someone has lodged an objection. This makes me wonder whether it is the objection which has given them a break to ~~buy time and say~~ be able to buy time and say, "Now look, there has been an objection in this case and, therefore, we

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot):
cannot do anything until that case has been settled by the
administration".

I would also like to appeal to the administration
to do something here. This is because the district officers
and some elders in some areas are also party to some of the
delays. If somebody has objected to a case, and has lodged
an injunction - not to the high court, but one in the sense
that ~~the~~ he is disputing a case, the Ministry instead of
delaying ~~the~~ the issuance of title deeds to the extent that brothers may start killing
each other.

With those few remarks, I beg to support.

End L.....

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso):

Thank you, very much, Mr. Speaker, Sir, for giving me this opportunity to respond to this very important Motion.

Before I go on, I must say that we are actually very grateful to the hon. Member who has brought this Motion to the House. Land, and particularly title deeds, or ownership of land, is one of those very important matters in any developed country and Kenya is geared to achieving that status of becoming a developed nation. I would like also to say that the hon. Member for Igembe thought it very well to table this Motion especially at this time. By so ~~doing~~ doing, it has given us an opportunity to explain quite a few things the Government has been doing throughout the country. Many things can be happening, or the Government can be doing a lot of work all over the country and very few people will appreciate it, or know exactly what the Government is doing. This is an opportunity for me to enlighten the hon. Members of this House and the wananchi throughout the country to know precisely what the Government has or has been able to do since the achievement of Independence in this country.

When hon. Malebe was moving his Motion, he complained that the progress of land adjudication and demarcation has been relatively very slow in Igembe Division. I want to say that it has not only been so in Igembe Division but it is a process which is happening ~~there~~ all over the country. I want hon. Malebe to think more nationally and know that this is a problem affecting every hon. Member of this House because I know that there are only very few places throughout the Republic which have completed land adjudication, demarcation and registration. Majority of the divisions throughout the country are on the

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(Ctd.):
 process of achieving this status.

One thing I would like to say on the outset is the problem we encounter in applying the law as it stands. The law ~~is~~ affecting land, particularly Cap.283 requires a very lengthy process of sorting out the ownership of land. This is why it looks as if it is ~~very~~ the Government is not doing anything because the process entails a lot of information and a lot of evidence to ensure that every mwananchi who claims ~~is~~ the ownership of a particular parcel of land is given an ample opportunity to air his view or to launch his claims. By so doing, you find that the process is not ~~fast~~ fast enough. Since we, as a Ministry, started operating under that law, Cap.283, particularly in Meru and some ~~in~~ other areas in Rift Valley, until we finish the areas which were declared under that particular application of the law, we have to follow that channel ~~until we complete the whole process of registering~~ land. After that, then we can apply a different law.

Mr. Speaker, Sir, presently, the areas which have not been declared, and are now being declared, will operate under Cap.284 which does not allow this long process. I am quite sure that hon. Malebe knows what we have been able to do in that area, and particularly the whole of Meru District. We have even taken measures of transferring the members of staff who were found not to be moving fast enough and were seen to have been ~~very~~ influenced by some of the local people. This is one problem we are having not only in the Ministry of Lands and Housing but in many other sectors of Government where you find there are some corrupt people who would like to influence Government officers for a very genuine case to do something contrary to the law. We have that problem and this ~~is~~ has

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso) (CTD):
made us to change some of our members of staff in Meru District.
I was glad to hear hon. Karauri accepting ^{that} the process is
now moving a little faster than it has ~~some~~ previously been.

Before I deal with individual hon. Member's comments,
let me say that the Ministry so far has managed to ~~demarcate~~ ^{demarcate}
1,255,614 parcels of land comprising of 6,632,244 hectares
of land throughout the country. This is since the time when
this process of land demarcation, adjudication and registration
started soon after ^{the attainment of} Independence. You can see the way the
Ministry has moved in comparison to the total acreage that
remains to be done, ~~has not shown~~ ^{and this shows} that with that kind of speed
we can complete it in the next 10 years or so. We need to
increase the speed of operation if we are to complete the
process all over the country. In between, there are many other
problems which need to be ~~solved~~ ^{Solved}.

There is one hon. Member - hon. Kipkoriri [?] - who mentioned
one very peculiar x problem which we are facing in some areas.
The Government is considering how to go about that problem
whereby you find that there are communally owned lands and some
very clever people can go about and get title deeds from such
communal lands. When they get that title deed they are able
to make use of it. The Government is looking into this problem
and I want to assure the hon. Member that ^{in respect of} the sentiments that
he expressed - fear of allowing particular individuals to get
title deeds in such areas - the Government is looking into how
it can be solved.

END M....

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(ctd.):

Mr. Speaker, Sir, ~~I would~~ I would like to show what the Government has done in the areas I have mentioned. I have a list here of the districts in which the Government has completed some work, and which shows that the Government is moving very fast. We have, for instance, ~~areas like~~ districts like Kiambu, Murang'a, Kirinyaga and Nyeri in Central Province; Bungoma, Kakamega and Busia in Western Province; Laikipia District in ~~the~~ the Rift Valley - this is where the President is today, issuing title deeds ~~to~~ to wananchi in that area. In these areas, demarcation^{and} registration have been completed, and except for Laikipia District, the ~~the~~ wananchi in the other districts have been issued with title deeds. Demarcation and registration of land in the following areas are at an advanced stage of completion. These areas are Kisumu, ~~and~~ Siaya ~~and~~ South Nyanza in Nyanza Province; Kericho, Nandi, West Pokot, Baringo, Elgeyo Marakwet, Samburu, Kajiado and Narok Districts in Rift Valley. In Eastern Province, we have Kitui, Machakos, Embu and Meru, where progress is going on very fast and soon or later, we will reach a stage in which a ~~a~~ certain percentage of wananchi in those areas can ~~claim to~~ have title deeds. Other districts whose land is under demarcation and registration are Taita/Taveta, Kwale and Kilifi Districts in the Coast Province.

Mr. Speaker, ~~sz~~ Sir, it is evident from ~~the~~ what I have said that the Ministry is prepared to spare no time in doing what it is charged to do by wananchi, ~~and~~

MR. MWENJE: On a point of order, Mr. Speaker, Sir. The Assistant Minister has mentioned several areas in which demarcation and registration of land is in progress. Is he not aware that all the plots belonging to the Nairobi City not demarcated and so have no title deeds?

MR. SPEAKER: That is not a point of order.

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso):
Thank you, Mr. Speaker, Sir. The hon. Member should know that there is a difference between urban centres and rural areas where ~~land~~ there is agricultural land which is not —

MR. MWENJE: On a point of information, Mr. Speaker, Sir.

THE ASSISTANT MINISTER FOR LANDS AND SETTLEMENT
(Mr. Mutiso): I already have that information. If the hon. Member could be patient, I could tell him what is happening. In fact, the survey of ~~land~~ plots is done by the Director of Physical Planning who is in the Ministry of Local Government and Physical Planning. This is in process in several areas, and, therefore, the hon. Member should be patient and allow the Government to do what is required through its organs.

Mr. Speaker, Sir, we have experienced a lot of difficulties in achieving our aims on time due to financial constraints. One problem which the hon. Members have ~~mentioned~~ mentioned, and which we have experienced, is the lack of staff and equipment. Land is a very technical thing when it comes to surveying. There are special equipment which we must have in order to accomplish our tasks. We also require vehicles and trained staff. This has been our constraint and if this honourable House could vote for ~~me~~ much money for the Ministry of Lands ~~and~~ and Housing, to facilitate these operations, we would only be too glad to apply that money effectively.

Mr. Speaker, since I can see that time is rushing very fast, I want to say that the Government accepts this Motion because it does not conflict with the policies of the Ministry.

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(ctd.):

The only thing I can mention is that M hon. Malebe should know that the problem he is facing ⁱⁿ ~~in~~ his ~~own~~ constituency is applicable to many other constituencies throughout the country and it is our wish that the feelings he has should be spread throughout the country so that his, ~~and~~ and every constituency can receive equal treatment. In fact, some areas in the Central Province are advantaged because demarcation in those areas got completed, but we see a peculiar problem in Meru. But as I said, the Ministry is taking very keen interest to ensure that those problems are ~~x~~ finished. As soon as we complete the exercise ~~in~~ under Cap. 283 in the areas we have declared, those which are coming up now will be dealt with under Cap. 284, which does not require this tedious collection of information and the other detailed things, as the hon. Member knows. We, ~~the~~ as the Government, feel that ownership of land is very important for the matters that the hon. Members have expressed. Hon. Members ~~xx~~ have expressed their views concerning land in relation to national development. As Kenya is a country which follows the policy of African ~~x~~ socialism, it is our view that the wananchi ~~of~~ ^{of} this country should have the right of owning their own pieces of land so that they ~~x~~ can have security for themselves and families; they can borrow money using those title deeds, and the land can then begin ~~to~~ to have its history. When a piece of land has been demarcated and has been registered, ~~and~~ and the owner has been issued with a title deed, that particular piece of land begins to have a history of its own.

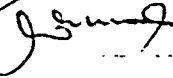
Therefore, Mr. Speaker, Sir, this Motion is quite

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THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(ctd.):
agreeable as it is in line with Government policy. We, therefore,
see no conflict with the sentiments expressed by the Mover and
all those hon. Members who contributed to the Motion.

With those few remarks, I beg ~~leave~~ to say that the
Government accepts the Motion. Thank you.

END N.

A handwritten signature in cursive script, appearing to be 'J. Mutiso', written over a horizontal line.

MR. MALEBE: Mr. Speaker, Sir, it is a very great pleasure that the Government has accepted this Motion. I thank the hon. Assistant Minister greatly for his response because the problem he has responded to has been with us for the last 25 years. I am sure that the people of Igembe will now be very happy and accept this response from the Government with great jubilation. In the second Nyayo Decade, the people of Igembe will be able to reap the fruits of independence. I also thank all the hon. Members who spoke on this Motion.

The problem mentioned here is not localised only in my constituency; it affects the whole country. I would like to add that the Government should desist from applying Chapter 283 of the Laws of Kenya forthwith so that the remaining parts of the country that have not been demarcated may be demarcated faster since the process provided by Chapter 284 is short. If the ^{latter} ~~former~~ law is applied, wananchi will benefit more quickly and improve themselves both economically and agriculturally. I thank all the hon. Members for their sentiments. I am sure that, as the Government accelerates land adjudication in Igembe, it will likewise continue to accelerate it throughout the country. The points that have been raised here in brief show that the Ministry of Lands and Housing should rearrange itself so that crash programmes may be effected, as I heard hon. Mweu say. At one time, His Excellency the President appointed a commission of district commissioners, under-secretaries and other officers to complete land adjudication cases in most of the areas of the country so that wananchi there may get their title deeds. I am sure that it is high time that Igembe had a similar crash programme because the single Adjudication Officer we have there is not able to listen to all the cases quickly enough and, at the same time, administer the Ministry's operations. It will be good if the Ministry now looks into the question of accelerating land adjudication in Igembe and elsewhere in the country.

In his response, the Assistant Minister requested that we vote more money to the Ministry in future. I would definitely give him a lot

MR. MALEBE (CTD.):

of support in this regard if his officers come out with a realistic budget. I am sure that if all the hon. Members here will bear with me, we will support the Ministry of Lands and Housing fully if its staff come out with a good budget that has determination and targets of enabling every person in the country to own land. As it is now, Igembe is like an egg that has no entrance. Until the people there get land title deeds, they cannot develop their land, settle down in decent permanent houses, fence off their areas or improve food production in the country. Igembe is the granary of Kenya. We produce a lot of bananas, maize, potatoes, tea and coffee. When demarcation is completed, some of us will not continue to own that tea or coffee because this demarcation might deprive me of the tea in my small holding as I will no longer occupy that land. The Government has agreed to accelerate land adjudication and let everyone have his own piece of land where he can settle down peacefully. This will help the Government in increasing food production in order to feed the growing population of this country.

Mr. Speaker, Sir, once we get the Ministry of Lands and Housing preparing a good budget, it will be possible to have increased means of transport for its staff in the field. I think their progress is currently slow because they have to walk long distances to carry out demarcation exercises because they have only one Land-Rover which is not sufficient. I am sure that if the Ministry increased the means of transport in my area, its officers would work for the maximum amount of time, that is from 8.00 a.m. to 5.00 p.m., and thereby do more work than they are doing today.

The other issue is that the Ministry should ask for more money in their budget for the purchase of survey equipment, in which case, instead of having just one set of equipment, it would have several such sets which would help to accelerate land demarcation. The Ministry would

MR. MALEBE (CTD.):

also accelerate this exercise if it set up a team of educate wananchi on land adjudication laws. If wananchi understand what the Government is doing on the ground, which they only know by hearsay, this would be a good idea. At the moment, you will find one mwananchi telling another that things are done this way, but when that message is verbally passed around severally, you find that the message gets distorted before it reaches the other end. It would be a good idea for the Ministry to form a small group of staff for the purpose of educating wananchi on land laws.

A certain hon. Member raised the point that the Ministry should comply with the District Focus for Rural Development Strategy and establish ~~open~~ offices in locations, in which case, its officers would be with the people right at the grassroots level. Then, the Ministry would be able to accelerate the adjudication of land at the locational level. Instead of just having one adjudication officer in a large area, the Ministry would have its offices and records at the locational level, and this would accelerate the exercise.

The other issue relates to clarification between Chapters 264 and 283 of the Laws of Kenya. My understanding is that once the records of existing rights are ready, Chapter 283 can continue to operate. In cases where the records of existing rights are not ready, it would be preferable to shift to Chapter 284 and accelerate the demarcation of land.

In conclusion, Mr. Speaker, Sir, I would request the Ministry to have more than ^{one} land adjudication officer and possibly one extra records officer at the locational level so that the hearing of land cases may be dealt with continuously. Currently, the land adjudication officer hears these cases once a week. Sometimes, when this officer is busy at the headquarters, the cases may not be heard even for a month, and this slows down the process of land demarcation.

I am very happy that the Government has accepted this Motion.

MR. MALEBE (CTD.):

This is a great day for me in this House because this is my first Motion here, and the Government has accepted it.

With those few remarks, Mr. Speaker, Sir, I beg to move.

End C



(Question put and agreed to)

Resolved accordingly:

THAT, while appreciating the efforts made by the Government to ensure that wananchi throughout the country are issued with title deeds for their land portions in order to secure loans to intensify agricultural development; and noting that there are some areas in the Republic where demarcation of land has been relatively very slow especially in Igembe Division in Meru District; this House calls upon the Government to accelerate land demarcation, land registration and issuance of title deeds, in order to improve the standard of living of farmers wishing to develop their land and construct permanent houses.

MR. SPEAKER: Next Order.

MR. GALGALLO: Mr. Speaker, Sir, I thank you for giving me this opportunity and I beg to move the following Motion:-

THAT, in view of the fact that tourism is an important sector in our national economy, and bearing in mind that the industry continues to be controlled by non-Kenyans; this House urges the Government to effect measures to ensure that 51 per cent shares of tourism companies are owned by the indigenous Kenyans so that ~~they~~ may ultimately realise total indigenisation of the tourist industry.

hwe
The purpose of this Motion is to ensure that we are able to encourage our people to venture into the tourist industry. It is a well known fact that tourism has been the second ^{highest} foreign exchange earner for this country. It is a pity that our own local people are not effectively involved in this business. After 25 years of Independence, our people are still substantially not involved in this very important economic sector.

We are, therefore, urging the Government to devise a method in which our people can be fully involved and participate in this particular industry. As the trend is today, the future of this industry looks very bleak. There is so much butchering of our wildlife going on to the extent that animals are killed in the camps of game departments. We have enough game rangers who have adequate weapons to protect those sacred animals. Despite this, poachers still move in, kill the elephants and rhinos, take the horns and disappear without being arrested.

Mr. Speaker, Sir, this is not convincing at all. There is some-
 thing which is very fishy in this Ministry and the truth will be unearthed.
 We would like to request the Ministry to be more effective and forward-looking.
 The Ministry should also ensure that tourism continues to give hope to the
 people of this country. Tourism should continue to be an industry worth its
 name and for the good of this nation.

There is mass propaganda that these poachers are carrying sophisticated
 weapons. The question is: How many of them have been arrested? We are a
 country and ^{we} are dealing with a few poachers who are sponsored by godfathers
 outside this country to destabilize our nation and the economy. The Ministry
 is responsible for hunting these people. The Ministry is just there doing
 nothing about this issue. The Ministry of Tourism and Wildlife has totally
 failed in this country.

Since the Government has deployed enough men to handle those
 poachers, I only urge the Ministry of Tourism and Wildlife not to be lax.
 They should join forces effectively with the other security men and give
 maximum support so that we can ~~be able to~~ eliminate these dastard criminals.

I would now like to comment about training. We have the Kenya Utalii
 College which was put ^{up} with a lot of money. It has trained enough manpower
 to handle our tourist industry. This college trains people on diploma courses.
 The question is: How qualified are the lecturers who train people in this
 college? The principal of any college ^{dealing with tourism} must be a qualified chef, food and,
 beverage manager, laundry manager and so on. Do we have such personnel?
 A qualified person is the type of person who can prepare a ~~six~~ suitable
 syllabus for students coming to that college.

We must endeavour to produce qualified personnel to man the tourist
 industry in this country. Secondly,——

THE ASSISTANT MINISTER FOR SUPPLIES AND MARKETING (Mr. Chesire): On
 a point of order, Mr. Speaker, Sir. Is the hon. Member implying that the
 the Kenya
 Principal of Utalii College is not qualified? If so, can he tell us the
 qualifications of that principal?

MR. GALGALLO: Mr. Speaker, Sir, I beg to ignore that interruption. I know that hon. Chesire is a qualified man in this industry and I will solicit for his support in this Motion so that he can give us the knowledge he has about the Kenya Tourist Development Corporation and the training of these people.

THE ASSISTANT MINISTER FOR SUPPLIES AND MARKETING (Mr. Chesire): On a point of order, Mr. Speaker, Sir. I wanted to know whether the hon. Member is alluding that the Principal of the Kenya Utalii College is not qualified. This is because he said that qualified people should teach there. We would like him to respond to that point of order.

MR. GALGALLO: Mr. Speaker, Sir, I think the interruption by hon. Chesire is quite unnecessary. I only asked a question to the effect: "Do we have qualified lecturers at the Kenya Utalii College to produce competent scholars to man this industry?" In fact, it is for the Minister for Tourism and Wildlife to reply to that. I am only asking hon. Chesire to contribute what he knows about tourism when he gets the opportunity.

(Applause)

MR. MAKAU: On a point of order, Mr. Speaker, Sir. I have never heard any announcement to the effect that hon. Chesire is a Back-bencher. Is he in order to ask a question from the Back-Bench? Is he a Back-bencher now?

THE MINISTER FOR FOREIGN AFFAIRS AND INTERNATIONAL CO-OPERATION (Dr. Ouko): On a point of order, Mr. Speaker, Sir. The present Principal of the Kenya Utalii College is a competent and experienced officer. Is it in order for an hon. Member to imply that he might not be qualified to run the college?

END.....P



MR. GALCALLO: Mr. Speaker, Sir, I beg to continue.

The second point is that we must ensure, or the Ministry must ensure, that our fellow graduates from these colleges are not frustrated in the hotel industry. There has been a problem where our young men ^{are} were pushed here and there and ended up at lower offices because the main tourists seem to have ^{been} people from outside the country.

Mr. Speaker, the qualification of our people must be recognised by the hotels and must be given the opportunity to serve and show their talents. There has been enough frustration and a lot of them have run away from that profession to look for alternative jobs just simply because somebody somewhere chooses to sit on them. Unqualified hotel managers who are expatriates are brought into the country in order to assist the few white tourists who are coming from overseas. This trend must stop and the Ministry must devise a method of checking this.

Mr. Speaker, there are hotel inspectors, and unless we have a uniform hotel accounting system we will not know how much foreign currency comes to these hotels. We cannot account for it unless we have qualified hotel inspectors who are conversant with the hotel industry as it is. So, we have been losing a lot of money. Outside what we are being told - KSh.6...billion - there is so much money we are losing by getting non-citizen officers to manage ^{the} hotel industry and take decision. There is no way we can involve our indigenous people into this industry unless we do away with these bottlenecks ⁱⁿ from the hotel industry.

Mr. Speaker, why do we have so many managers coming right down to food and beverage ^{management,} who are white men or expatriates, while we have people with diploma courses, some of them trained overseas? In fact, we have spent so much money training these fellows but when they come here they are being pushed down as assistant front office managers, assistant food and beverage managers and so on. Why can they not be food and beverage managers? Why can they not be hotel managers? Why can they not be executive chefs in the hotels? We are literally discouraging our people from participating in the hotel industry effectively by giving too many expatriates the chance to stay here and serve in these hotels when we have equally or even more qualified personnel in our country ^{to manage them.}

MR. GALAGALLO (Contd.):

Mr. Speaker, with all due respect, I want to insist that the Ministry must know the qualifications of all hotel managers who are non-Kenyans. We want to know the qualifications of all those food and beverage managers and chefs to see whether it actually tallies with our requirements because we know the number of Kenyans who graduate from our colleges here or even from overseas. Our Government spends a lot of money on those people for their training. So, if those qualifications are not used here, then why do we waste money on their training? Therefore, where we have a competent Kenyan we should not have expatriates.

Mr. Speaker, I want to go into the field of travel and tour operators. We do not have a Kenyan, or a blackman, operating a travel and tour business in Italy or Switzerland, or anywhere in Europe. But in our country here, the whole business of travel and tour operators is managed by foreigners. For instance, we have Nairobi Safaris, Pollman Tours, and so on. Our own people here cannot get business because of these group tours. Someone operates here with another man over there. The money is put in the bank over there. He comes here and ^{moves} ~~moves~~ freely. For instance, it is KSh.400/- a day ^{at} ~~to~~ Masai Mara; KSh.500/- a day ^{at} ~~to~~ Meru Mulika Lodge and so on. Advertisements are all over the country. Where do our people go? ^{if} ~~Why~~ those fellows are supporting their ^{brethren} ~~President~~ here, ^{they should not undermine} ~~that is actually undermining~~ the Africans ^{who} ~~to~~ come into that business. If you go to their country you are pushed-out. Therefore, we are saying that let us begin indigenisation here by indigenising the tour and ^{operation} ~~business~~ here. We do not need foreigners from outside to come and conduct the business here. It can be handled by our own people. The Ministry must give consideration and issue directives immediately so that our people can get ^{into} ~~the~~ business. This is our country and we must be able to run our economy. The best way to do it is by the Ministry devising methods and effective measures that will assist our people to participate effectively in the business. ^{have}

Mr. Speaker, there ^{operation} ~~has~~ been complaints here and there that even in the tour and travel ^{operation} ~~business~~, the non-indigenous tour operators are really frustrating the local people who are working with them. There is a lot of apartheid in that system. Why are we importing apartheid into our country? Why can we not make sure that this business is run by locals, ⁹ ~~passed?~~

MR. GALGALLO (Contd.):

They can organise group tours from overseas because we have provided a base for friendship, stability, investment, and so on. Kenya is a base. We have offered them all this ground. Why do they follow us here and then come to frustrate our people here? This is our land and we must be proud of it. We must be proud of our own values. Therefore, this business must strictly be run by indigenous Kenyans.

Mr. Speaker, we must follow the rules. Our people are here to reap the fruits of their struggle for Independence, and we must be economically independent. ^{To do} ~~By doing~~ so, the best thing the Government can do is to effect measures that will make our people realise that they are benefiting from their struggle, not only in the field of agriculture but also in the field of tourism. Therefore, I am saying that the Ministry must give a guideline. The Ministry must be able to support and assist the local people to ~~be able to~~ participate effectively in this field of tourism.

Mr. Speaker, some of our hon. Members here own big hotels. However, when you go to those hotels you will find that chefs and managers are all expatriates. They run around looking for licences or work permits for these expatriates. Their fellow Africans are being frustrated here by these same Wazungu managers and they keep mum. Are these people really supporting this Government and the local people here? Are they, therefore, for our economic emancipation? As Africans of this nation, are they for that?

Mr. Speaker, it is high time we came to our senses and realised that this is our nation and our nation and our people need us here. Our people need our services too because whatever we do here we are contributing to the welfare of our people. ~~Our people sacrificed so much for this country.~~

End Q.

R. Jmk.

JMK

MR. GALAGALLO (ctd.):

Our people have sacrificed a lot; they have seen a lot of bad things happening, but because they love their Government and the head of the state they just keep quiet and wait until His Excellency gives directives to rectify the situation. Even when poaching has been continuing for so long, the Ministry just kept mum until His Excellency the President had to direct that ~~xxx~~ something must be done. What we were seeing from the Ministry were only Press statements as to how many animals had been killed. What was the Ministry doing over the years? The white rhinos are now finished.

Mr. Speaker, Sir, this Motion only seeks for effective measures to be taken and guidelines to be given so that, ultimately, the ordinary or the indigenous Kenyan takes the maximum benefit from the tourist industry. What we are saying is that the top officials of the Ministry of Tourism and Wildlife are not effective and are not supporting our ~~pr~~ people as they are ~~expte~~ expected to do. It is the high time that we realised that we are answerable to the people of this country. The record of every one of us will be accounted for and we will see who belong to this country and who do not.

With those few remarks, Mr. Speaker, Sir, I beg to move the Motion and kindly request hon. Boy to second it.

MR. BOY: Mhambante sana, Bw. Spika. Ninashukuru kwa kupata nafasi hii ili niafiki Hoja hii. Nataka kwanza nimshukuru mhe. Galgallo kwa kuleta Hoja nzuri kama hii. Ninapoi afiki Hoja hii, ninayo yangu machache ambayo ni ya kweli ingawa machungu

Nataka kuichukua nafasi hii kusema kwamba sisi watu wa Kwale haturidhiki na kazi inayofanywa na Wizara ya Utalii na Wanyama wa Porini. Utalii unaletwa na wanyama wa porini, mahoteli, watu na amani katika nchi. Ukiyachanganya mambo hayo pamoja, utalii utakuwa shwari kabisa. Katika Wilaya ya Kwale, ukianzia pwani ya kusini, mahoteli yako mazuri sana ambayo yanafaa kwa shughuli za kiutalii, na pesa tunazopata kutokana na utalii ni kidogo sana kuliko zile zinazobaki nje. Sisi katika Wilaya ya Kwale tumekuwa tukiisaidia Wizara hii sana. Kwa mfano, mimi mwenyewe nimewanigila kwa ripoti ya mtu ambaye alikuwa na kampuni yake hapa Kenya na ambaye

MR. BOY (ctd.):

akiba yake ya pesa iko nchini Ujerumani. Nilitoa ushabidi jinsi mtu huyo hutoa pesa hapa nchini na kuzipeleka nchini Ujerumani lakini mpaka sasa hakuna hatua iliyochukuliwa dhidi ya mtu huyo; bado anapewa leseni ya kufanya kazi. Nilienda mpaka ofisini kwa Waziri wa Utalii na Wanyama wa Porini, tukakaa naye na nikamwonyesha ~~jinsi~~ jinsi pesa za Kenya zinavyotolewa nje kwa kutumia Euro-Cheque. Kuna kampuni moja inayofanya wind surfing (?) ambako mtalii anapofika hapa nchini anaambiwa, kwa mfano, badala ya kulipa KShs.1,200/- kwa pesa za Kenya, atoe Euro-Cheque. Euro-Cheque ni hundi ambayo inatambulikana kote ulimwenguni. Yule mtalii akitoa Euro-Cheque, ambayo inaweza kuwa katika ~~US dollar~~ US dollar ama British Pound, hundi hiyo inawekwa na zikishakuwa za kiasi kama cha KShs.1 milioni, huyu Mjerumani anaondoka na kwenda na ndege ambayo ni chartered, zile ambazo huwasafirisha watalii na kwenda hadi ~~Kyza~~ Ujerumani. Mtu kama huyo haonyeshi kama ana kampuni nyingine yoyote ~~xi~~ isipokuwa ile ambayo iko kule Diani Beach.

Bw. Spika, nilipokwenda hadi kwa ofisi ya Waziri wa Utalii na Wanyama wa Porini na kumweleza mambo hayo, baadaye nilionekana kuwa mpumbavu mbele za watu. Nilichukua makaratasi yote yaliyohusika na hata Euro-Cheques ~~xizi~~ zilizotumika na nikazifanyia nakili, halafu nilipozipeleka kwa Wizara kilichofanyika ni kwamba yule Mjerumani alizidi kupatiwa leseni ~~k~~ za kufanya kazi.

HON. MEMBERS: Shame! Shame!

MR. BOY: Mimi mwenyewe, nikiwa mhe. Mbunge, sikuonekana kama ninaongea mambo ya maana. Hiyo ndiyo sababu sisi watu wa Kwale tunasikitika sana. Hata nilionyesha kwamba watu hao wana pasipoti mbili; pasipoti moja inawekwa leseni ya ~~kwa~~ kufanyia kazi na ile nyingine inamwonyesha kuwa yeye ni mtalii. Tunajua kwamba wakati watalii wanapoingia hapa na ndege ambayo ni ~~chartered~~ chartered hawachunguzwi sana. Mungu wangu! Tutasema nini hapa? Pasipoti zote mbili za huyu Mjerumani zilishikwa lakini hakuna kilichofanywa ~~xi~~ dhidi yake ~~xi~~ isipokuwa kuongezewa leseni za kufanyia ~~kazi~~ kazi na bado wako hapa Kenya. Haya si maneno ya uongo. Mimi nilienda hadi ofisini mwa ~~Wzi~~ Waziri. Kama ninasema maneno ya uongo, basi Waziri asimame hapa na aseme ni uongo. Hata baada ya ~~kj~~ kutoa nakili na makaratasi niliyo-

2.11.88.

MR. BOY (ctd.):

nikamweleza hali ilivyo katika Wilaya ya Kwale, na nikamwambia kwamba mashamba yetu yameharibiwa sana. Ndovu wanejaa katika Wilaya ya Kwale na wameharibu ~~mimi~~ mimea ya watu wa huko, watu ambao ni wawindaji haramu na ambao hawataki kuwaua wanyama wetu. Waziri hajakata nafasi angalau ya kwenda Kwale na kuwaambia wananchi ni hatua z gani zinazochukuliwa kuhakikisha kwamba mimea yao haiharibiwi na ndovu waliohamia huko. Nafasi ambayo Waziri amepata ni ya kwenda hadi ~~Ena~~ Robinson Baobab Hotel kuwahutubia wanamichezo waliokuwa katika michezo ya Olympic. Yawaje hivyo ile hali hakuna nafasi ya kuwatuliza wananchi ambao mimea yao imeharibiwa na wanyama? Nafasi Waziri anayopata ni ya kuhudhuria karamu ya chakula cha jioni lakini hana nafasi ya kuwatuliza wananchi ambao mimea yao imeharibiwa na ndovu. He is very busy! Sisi watu wa Kwale tuna uchungu mwingi sana na Wizara hii.

Bw. Spika, watu wa ~~ka~~ Kwale wana imani kubwa sana hivi kwamba hata kama mashamba yao yanavamiwa na ndovu, ndovu hao ~~hax~~ hawauliwi. Katika upande wa Shimba Hills ~~waku~~ watu wako katika hali ya kutotoka nje. Mkuu wa Wilaya ya Kwale amepiga signal hadi hedikwota ya Wizara hii kusema kwamba kuna hatari lakini hakuna kinachofanyika.

END..... R

MR. BOY (ctd.):

Ningetaka Waziri afanye a baraza na kuwaambia wananchi wa ^{Kwale} Kwale kwamba
 wanavyosumbuliwa
 Wizara hii inawaonea huruma kwa vile/~~wanasema kwamba~~ hawa ndovu, na kwamba
 Wizara itachukua hatua ya kuwasaidia. Hivyo ndivyo tunavyotaka. Tungetaka
 wananchi wa Kwale wafahamu kwamba Wizara hii inawafikiria. Lakini Wizara
 inaendelea kunyamaza juu ya jambo hili. Unapokwenda kuwaita wakajionea
 vile hawa ndovu wamefanya, wanasema kwamba wana kazi nyingi na kwamba hawana
 nafasi ya kwenda kule. Hivi sasa wananchi wa Shimba Hills na Mkongani
 wanaendelea ^{Kutishwa} kutishwa na hawa ndovu na katika sehemu hizi, kuwezi kutembea
 baada ya saa kumi na mbili unusu. Juzi, Mkuu wa Wilaya ya Kwale Bw. ^{Mbuc Waganagwa} Waganawa,
^{Ali NUSURILLA KUSHAMBULIWA} ~~Wanasema kwamba~~ hawa ndovu lakini kwa bahati nzuri
 alikuwa kwa gari. Yule Mkuu wa Wilaya alikuwa akitoka kwa Civil Servants Club
 katika Mji wa Kwale alipokutana na ndovu wawili lakini kwa bahati nzuri alikuwa
 ndani ya gari ya GK ya aina ya Peugeot 504. Tunachosema sisi watu wa Kwale
 ni kwamba tunaunga mkono Hoja hii. Sisi hatuwai ndovu hawa kwa sababu sisi
 ni watu wa Nyayo kabisa, lakini ni lazima Wizara hii ifike kule Kwale na
 kutuambia kwamba wanatuonea huruma. Nasema hivyo kwa sababu ekari nyingi
 za machungwa sasa zimeheribiwa na hawa ndovu. //Bw. Spika, hebu wewe fikiria
 juu ya shamba lako la machungwa la ekari kumi au 20 ambalo linakusaidia
 kuwalisha na kuwasomesha watoto wako. Hawa ndovu wanakuja wakiwa 300 na
 kuharibu machungwa hayo yote kwa siku moja. Wanaingia pia katika shamba lako
 la minazi. Bw. Spika, ~~hawa~~ ndovu anararua minazi vile unavyorarua karatasi.
 Tungetaka Wizara hii ifike kule ~~ka~~ Kwale na kuwaambia wananchi, "Tunakubali
 kwamba ~~una~~ taabu hapa". Hawa maafisa wa Wizara hii ~~hawa~~ walifika kule Kwale
 tu wakati Mtukufu Rais alipofika kule Kwale. Wakati ule ndipo tuliwaona hata
 Mawaziri wakiwa na bendera zao wakifika kule Kwale na pengine hawatarudi kule
 tena mpaka Rais ^{atakapofika} /~~afika~~ kule tena. Sisi tuna huzuni kubwa sana juu ya Wizara
 hii. Alipofika kule Kwale, Mtukufu Rais alisema kwamba tujengewe ua la
 seng'enge and ~~ni~~ ndipo wakafanya ~~mbi~~ haraka na kujenga ua la seng'enge. Kama
 Mtukufu Rais hangekuja Kwale, pia ^{katungepata} /~~katungepata~~ ua hilo. Sisi watu wa Kwale
 tunaipatia Wizara hii usaidizi lakini haitufanyii chochote. Haya ndiyo matatizo
 tunayoleta katika Bunge hili na tungewataka Mawaziri waondoke hapa Nairobi

//NP

na kwenda kule ili kuwasaidia wananchi.

Kwa hayo machache, naunga mkono.

(Question proposed)

DR. MISOI: Thank you very much, Mr. Speaker. I rise to support this very important Motion on the indigenization of tourist industry so that Kenyans can have 51 per cent of shares in tourist companies. In discussing this matter, it is important to take note of the overall policy regarding the indigenization of industries in this country. Whereas we are talking about tourism now, we know that the indigenization policy should cover all the industries in this country. It therefore follows that we need a clear/^{national} policy to cover the aspect of indigenization of all industries in Kenya.

Mr. Speaker, Sir, we all do realize that tourism is very important to the economy of this country and that is why views have been expressed about our concern for the current state of our wildlife. Wildlife is the main attraction for tourists in this country. I would like to thank one of my colleagues who said that there are four aspects of tourist attraction. He mentioned hotels, people, wildlife and bees and he was right. However, without wildlife in this country this localization of the industry would be meaningless. We would not be proud of talking about the localization of an industry where the product to be sold is not there. The products in the life tourist industry which we are talking about are the wild/species in this country, the ^{fauna} ~~fauna~~, the environment and other attractions.

Mr. Speaker, Sir, while talking about localizing this particular industry, it would be important to look at the hotels in this country. Who own^s these hotels? ^{What} How much percentage of the hotel industry do we control? We will have to look into this and to find out whether or not we are really progressing. I know that we would like to attract foreign investments into this country, but let us have a fair share of what is available in our country.

The other aspect which is very important is the service organizations such as travel agencies, tour operators and so on. These are small companies which we should localize first because they do not require a lot of investment in the intricate and complex management skills. Therefore, the

Ministry should be able to guide wananchi on how best they can run this particular industry. It serves no purpose to have tour operators coming all the way from Europe to run these small companies and to take people around our national parks such as Masai Mara Game Reserve, Tsavo National Park and so on. Mr. Speaker, Sir, we have people who know these places well. For example, we have the tour guides who are Kenyans and they know where and how to move. Therefore, why should we allow foreigners to run such small companies? We should have a policy of localizing these companies so that they are controlled by Kenyans.

Mr. Speaker, Sir, the other area which I should touch on is the management of the tourist attractions in this country, that is the wildlife. We have read reports about people killing wildlife in areas protected by the law or by a Presidential decree. In these areas, we have, for example, the rhino sanctuaries and these areas are specified and therefore, we know where they are. These areas are supposed to be guarded by game rangers in order to protect the animals. However, wild animals are being killed every day and now some species are have been wiped out completely. If you kill one animal and leave another one alive, it will produce others. However, if you wipe out a whole species of animals, you extinct them and we are now talking about the extinction of wildlife in Kenya. Kenya without wildlife is not a tourist attraction. Kenya today is known because of its wildlife. If you go abroad, you will hear of people saying how they love Kenya due to its wide range of animals. When they come to Kenya, they see lions, elephants and all sorts of animals, yet today, we are being told that our wild animals are being killed everyday and the Ministry does not seem to be paying any attention about this. We do not know what the Ministry is thinking about this. We have been assured that all is being done to protect ~~ix~~ our wild animals and yet they are being killed everyday. We see photographs of animals which have been butchered and these photographs are now being shown all over the world for people to see what damage is being done to the wildlife in Kenya. Is this really giving credit to Kenya as far as other countries are concerned?
 are taking enough care of our wildlife? I am sure that

DR. MISOI (Ctd.):

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this is not a credit to this country. This is going to ^{create} ~~great~~ lack of confidence in the management and protection of our wildlife and therefore, we need a firmer action to be taken. We need to introduce stiffer sentences for those who are caught with animal trophies. These people should be detained. Why can they not be detained instead of being fined? After all, they get millions of shillings out of this illegal business and therefore, are able to pay the fine. The other day I said that if these people are caught shooting the animals, they too should be shot dead. It was interesting to read about that 45 minutes shooting at the Meru National Park between the game rangers and the poachers. If there was such a shoot out, was any of the poachers shot dead? If not, why? We know that these animals are in a particular area, yet the poachers managed to slaughter them and to load them into vehicles.

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DR. MISOI (Ctd.):

They managed to disappear, managed to load them into motor vehicles and managed to pass through various places. That is not a forest area, but it is an area that is ^{inhabited} ~~inhabited~~. Where were the police officers, ^{and} the security personnel and the administration in that area? These are the people who should be made accountable because they know the environment and they know the routes where these poachers pass through. The local residents as one of my hon. colleagues said earlier should be involved in this particular activity. They should feel that the animals belong to them; they should feel that they stand to benefit when they protect the animals. But they see the animals as if they are for the foreigners. This is because when they look at the tourists, they ^{see that they} are foreigners; they look at the animals ^{and see that} they are foreigners; they ^{know there is} look at the income which come ^{but} to their country, ^{and nor} it does not go to their pockets, ^{neither} do they see any investment in their area. Then they become only spectators and not participants. The Ministry should start a campaign to create awareness in all these areas so that wananchi will be become defenders; ^{and} they will become militia men to protect the animals in those areas and they will be able to help the security personnel.

There is a lot to be done even in the Ministry itself because if one had to look at the accounts of those officers in the Ministry, one would not wonder to find millionaires in the Ministry. Where have they got this money from? I wonder if somebody can look into that. This country has been ruined by people who are supposed to manage the ~~ex~~ economy of the country and to protect the interests of the country. When they are discovered, they are just demoted or are removed to go home, rest and eat their loot. Is this really correct? Are we serious ~~on~~ ourselves? The discipline we are talking about is meaningless unless we practice that discipline. At one time there was Kanu Delegate^s meeting held at Kenya Institute of Administration where a National Disciplinary Code was ~~ex~~ established; ^{well,} I do not know where it went, ^{or} whether it was published as a document to be used or whether it was shelved because we Kenyans are not ^{disciplined} ~~disciplined~~ enough to follow it. Unless we help His Excellency

DR. MISOI (Ctd.):

the President in this war against indiscipline, corruption, exploitation ^{of} national assets this country will lose a lot of important materials and property.

Sir, I love animals. Incidentally, one of my names is named after some animal when I was born and ~~that~~ I think my love for animals is in my blood. We should be serious in managing our affairs; let us not pretend and let us not give cosmetic answers. Hon. Members ask Questions here, Ministers come and answer and they clap and they disappear ^{and} next day the problem is still there. Let us not cheat wananchi that we are doing this yet we are not doing that. Time will come when leaders will have to indicate and declare how they have gained their wealth. This is because if they have scooped the wealth of this country through unfair means, then they stand to be charged. In fact, it is not good, for example to retire somebody in the public interest yet he is going to enjoy himself: He has not lost anything. He has used his good office to exploit this country and it is not only in the Ministry of Tourism and Wildlife, it is everywhere. That is why ~~I believe~~ ^{and} I think the Ministries concerned should put more efforts in implementing the policies we so cherish, ^{and} ~~we~~ ^{we} so speak so much about ~~them~~. In the area of wildlife management, we need to have more research to know what we are, what ~~a~~ we are doing, what are the problems, the ^{degradation} ~~declaration~~ of the wildlife sanctuaries, the encroachment by people, ~~people~~ who want to have land ^{and} they encroach ^{into the forests} ~~and move~~ and cut trees and the animals start moving and perhaps start disappearing because they have nothing to eat. This is where we need to pay more attention. We need to do research, to accommodate the interests of the people because people have to survive ^{and} they have to co-exist with the wild animals.

With those few remarks, I beg to support.

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MR. KYONDA: Thank you, Mr. Speaker, Sir, for giving me this chance to also join my colleagues in support of this Motion. We are all concerned about the welfare of this nation. This is why Motions like this one, which in a way touch many Kenyans, are brought here and seriously debated. It has been said that tourism is an earner of a substantial amount of foreign exchange for this country. This is why, therefore, our seriousness cannot be spared when we discuss a Motion like this one.

The main point in this Motion, as I understand it, is the indigenisation of tourism so that Kenyans can take care of it; can control it and everything that goes with this earner of substantial foreign exchange. There was a time we needed foreigners. I can remember that famous meeting which the late Mzee Jommo Kenyatta had with white people in Nakuru, where he was kind of pleading with them to hold on. But things have changed a lot since that time, and Kenyans have taken control of their agriculture; they have taken control of our education and are ^{even} shaping it the way we want it to be; they have taken control of administration, to name but only a few. So, why not tourism?

Mr. Speaker, Sir, as it has been said, and we know it, many sectors of our tourist industry are in the hands of foreigners. This being so, therefore, what do we expect? We can only expect them to do things the way they want so that they can suit their own taste. There is a saying in my language; in the olden days we used to sleep on hides, and that saying goes like this: you would always have a sound ^{sleep} if you are sleeping on your own hide; if you have borrowed it, the owner might come in the middle of the night when he has got visitors and take it away, and therefore you will not sleep. If we are to control whatever comes out of this very important trade in tourism, it ^{is} only fair to say that things will work well if Kenyans are in charge of this trade.

MR. KYONDA (CTD):

Mr. Speaker, Sir, a lot has been said about what is happening. A lot ^{of} things that go to make tourism have been mentioned. One of them is our wildlife, and the attraction it brings about. Without wildlife, I do ^{not} know the kind of tourism we would be talking ^{about}. Perhaps, it is there, but it is likely to be very little. We can ask questions, like the one which was asked here yesterday. However, somehow, maybe it was not deemed a suitable one; perhaps it was felt to be ^{too} sensitive one. It may have been sensitive, but if we do not discuss sensitive issues which concern us in this House, where will they be discussed? We can see the way our wild animals are disappearing, and yet it seems as if nothing is happening to stop this. It also seems as if we cannot question this, and even if we question it, it seems as ^{if} we cannot get answers. Now, are Kenyans not capable of being in control of their own affairs? Why are our animals disappearing? One explanation that I can give is that maybe the foreigners, who do not have the welfare of this nation at heart and in the spirit of wanting to get rich quickly, want to do things their own way. Therefore, maybe this is one way of explaining the dangers that we are ^{likely} to have if we leave tourism in the hands of foreigners.

Mr. Speaker, Sir, last year a lot was seen and discussed about the disappearance of money from this country; people were seriously and vigorously siphoning ^{our money} away. This is also what is happening in tourism, particularly because, as I have already said, we do not ^{have} Kenyans, who have the welfare of this nation at heart, controlling this industry. So, there are very many reasons why tourism, like other development sectors in this country, should be in the hands of Kenyans.

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MR. KYONDA (ctd.):

Mr. Speaker, Sir, I think that time has come when deliberate efforts should be made to ensure that the tourism industry falls into the hands of Kenyans. This industry should be indigenised. One just needs to look around to ^{realise} see firms and small businesses that Kenyans can take care of have already been taken over by foreigners. Hotels as has already been mentioned are expensive to manage and most of them are in the hands of foreigners. It is not surprising, therefore, to note that we are getting a raw deal from the hotel trade. A lot of money is being lost to these foreigners. The question of over-pricing in hotels has been mentioned here time and time again. We have come a long way since Independence and ~~thus~~ it should be possible for the Ministry to know how we are losing money in the tourism industry and where we are actually ~~is~~ going wrong. The Ministry should also be ⁱⁿ a position to know what is happening in the national parks and game reserves where poachers are killing animals. ^{would} I like the Ministry to look at those areas where we need some particular officers to manage things for us. I think we have qualified Kenyans to monitor the money coming into the country and that going out. We can only succeed in the tourist industry if we had Kenyans controlling it.

I was saying that deliberate efforts should be made to indigenise the tourist industry. We should even go out of our way and say: "This is what the foreigners will be allowed to do and also this is what they will not be allowed to do". We should ask these big hotels to sell shares to the people of this country just like ^{what} the ~~KENYA~~ Barclays Bank did.

(A group of hon. Members consulted with the Assistant Minister for Tourism and Wildlife (Mr. Awori)

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. I do not know whether we have another Parliament within a Parliament ~~xxxxi~~

MR. MANG'OLI (ctd.):

going on in the House. There seems to be another different debate going on between the Assistant Minister over there and a few hon. Members while the ~~present~~ hon. Member on the Floor is making his contributions. The Assistant Minister has not been taking notes. It is only now that I am raising this point of order that he is opening his file to show that he has been taking notes. In actual fact he has not been taking notes.

MR. SPEAKER: The hon. Assistant Minister was just consulting with the ~~the~~ other hon. Members!

(applause)

MR. KYONDA: Mr. Speaker, Sir, I hope that ^{it was not} a gesture made in order to distract us from this important Motion. What I was saying before I was interrupted was that everything possible ~~x~~ should be ^{done} made to indigenise the tourist industry. Kenyans have come along way since Independence. Foreigners should be made to realise that ^{there} ~~they~~ were some things that they were doing in the past that they cannot do now. Some of these foreigners after the economic squeeze in their countries come into this country with the aim of making quick and easy profits. This is the fact that we should realise. We should at the same time make sure that the efforts of the Kenyans to set up businesses are not undermined. Everything should be done to ensure that the Kenyans are in control of the ~~x~~ ~~xtourist~~ tourist industry. We could even legislate or amend ^{the} existing laws to ensure that ~~k~~ Kenyans own a certain percentage ^{of} ~~the~~ shares in foreign-owned companies. That way we will not go on losing money ^{the way} ~~that~~ we are doing that at the moment

Mr. Speaker, Sir, there are many foreigners who come into this country pretending to know a lot when in actual fact they know very little or nothing ^{about} ~~at~~ of the hotel industry. Somebody mentioned, for example, foreigners who are employed as managers who know next to nothing about the hotel administration. Such people end up

MR. KYONDA (ctd.):

frustrating the efforts of our people. So we should amend the existing laws to say which sort of foreigners we need in this country. We should also try to establish the qualifications of these foreigners who would allowed into the country.

With those few words, Mr. Speaker, Sir, I beg to support.

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MR. MUHANJI: Thank you very much, Mr. Speaker, Sir, for giving me this chance to contribute in this Motion. I also thank the Mover of this Motion because it is a very important one.

Tourism ~~is~~ is a very important industry in this country because it gives us foreign exchange. One of the very ~~imp~~ important points that was raised here was the issue of 51 per cent of shares to indigenous Kenyans. There are some hotels which have already done this but there are still others which have not. We would like this to be brought to their attention that there is need to give out this 51 per cent of shares in order that ~~the~~ our people are able to contribute on the economic side of the business.

At the same time, Utalii College should be utilized fully. It appears - as the Mover said - that we are not utilizing our Utalii College for the employment of the hoteliers as well as the Africanization of those hotels and there is a lot to be decided or discussed. I strongly feel that the hotels should register their employees properly and those who are expatriates should not be going on overseas leave from time to time. They should be ~~enry~~ enjoying their leave within the country. Also, these posts should be indigenized because there is no need of having the Utalii College when we, ourselves, cannot utilize it fully.

(applause)

Another thing I have noticed is that we have some foreigners who do not respect our country. They do not do whatever they are told to do but instead, do whatever they think right. The Ministry should be called upon to exercise Africanization in the tourism industry so that we do not have to resort ^{to} /importation of labour whereas we have our own manpower to do these jobs.

MR. MUHANJI (Ctd.):

As has been said, it is unfair for the Ministry of Tourism when its officers have been given papers to examine to determine exactly what is happening in certain hotels, to ignore such things. I think that is a failure on the part of our Ministry. The Ministry should be able to exercise the power which it has been given ^{to it} in accordance with the Act.

Mr. Speaker, Sir, as far as wild animals are concerned, we should take care of them and, at the same time, the Government should try to take care of our people and their crops. It is not fair to leave the animals to spoil our crops---

ADJOURNMENT

MR. SPEAKER: It is now time for the interruption of business. The house is therefore adjourned until 2.30 p.m.

The House rose at thirty minutes past Twelve o'clock.

END W..

H A N S A R D

Wednesday, 2nd, November, 1988

The House met at thirty minutes past Two o'clock.Mr. Speaker in the Chair

PRAYERS

NOTICES OF MOTIONS

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Mr. Speaker, Sir,

I beg to give notice of the following Motion:-

THAT, pursuant to Section 3B of the Guarantee (Loans) Act, Chapter 461 of the Laws of Kenya, this House approves, with effect from 30th June, 1988, the increase of the total contingent liability in respect of the principal amount of money borrowed or credit obtained under Section 3A (2) of the Act from the sum of three million six hundred thousand pounds to five million pounds.

MR. IAGAT: Bw. Spika, ningependa kutoa arifa ya Hoja

ifuatayo:-

KHAMBWA, kwa vile tunaridhika na juhudi za Serikali kuhimiza upandaji wa miti, na kwa vile Serikali hata imetenga siku ya Taifa ya Upandaji wa Miti; Bunge hili linauliza Serikali kuamuru yafuatayo:-

- (a) Wenye mashamba kote nchini kupanda angalau moja asili mia (1%) ya mashamba yao miti.
- (b) Mashamba yote yaliyo kando ya mito yapandwe miti ya kiasili kwa eneo la kiasi cha mita 30 kutoka mtoni ili kuzuia mmomonyoko wa udongo.

ORAL ANSWERS TO QUESTIONS

Question No.426

MR. GACHUI asked the Minister of State, Office of the President, when the Gatanga Divisional Headquarters will be established and a District Officer posted?

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha):

Mr. Speaker, Sir, I beg to reply.

The establishment of Gatanga Division will be considered when appropriate proposals are received from the Muranga District Development Committee (D.D.C.) and subject to availability of funds.

MR. GACHUI: Mr. Speaker, Sir, is the Assistant Minister aware that the Muranga D.D.C. made the recommendations ^{for} the establishment of Gatanga Division and issued the appropriate proposals last year? In deed, a promise was given that the ^{divisional headquarters} division would ~~have~~ have been established by now.

MR. ONYANCHA: Mr. Speaker, Sir, we are not aware. When we receive the appropriate proposals, we will act accordingly. For the ~~information~~ benefit of the hon. Member, I would like to inform him that we have already posted two district officers to Kandara Divisional Headquarters, and they are taking care of Kandara within which Gatanga is situated. But after we receive the recommendations from the Muranga D.D.C., we shall act accordingly.

MR. GACHUI: Arising from that reply from the Assistant Minister, is it ~~was~~ possible for one of the district officers at Kandara Divisional Headquarters to be ^{posted to} located at ~~in~~ Gatanga ^{premises} ~~premises~~ ^{since} ~~because~~ available? ^{Under agreed} ~~By~~ the system of getting closer to the people, we used to have a district officer closer to his area of ^{jurisdiction} administration, and ^{is} in this case ~~the~~ residence ~~district officer~~ is already available.

MR. ONYANCHIA: Mr. Speaker, Sir, the new division has not been established, and we cannot, therefore, send a district officer to an establishment which does not exist. After we ^{have received} receive the recommendations from the Muranga L.D.C. and ~~we shall establish a new division~~ ^{we shall} ~~we shall~~ ^{the division} send a district officer to the ~~new~~ area. We do not know what ~~it~~ ^{it} will be known as, but we will set it up.

Question No. 430

MR. A.I. MOHAMED asked the Minister for Energy:-

- (a) whether he is aware that Mr. Yakub Kuso, a former employee of Kenya Pipeline Company Limited, had his services terminated on 23rd January, 1984, vide letter reference No. Staff/Kuso/1176 dated 27th January, 1984;
- (b) whether he is further aware the Mr. Kuso was acquitted of the alleged offence he committed by the Voi Magistrate in Criminal Case No.191 of 1984; and
- (c) In view of the above facts, ^{he} will ~~the Minister~~ reinstate Mr. Kuso and pay him all his dues since the date of termination.

THE ASSISTANT MINISTER FOR ENERGY (Mr. M'akindia) Mr. Speaker, Sir, I beg to reply.

(a) Yes, Sir, I am aware. ~~However~~ However, I feel that the hon. Member has been misled because the letter he quotes was for suspension. For his information, the letter of termination is reference No. Staff/Kuso dated 26th April, 1984.

(b) Yes Sir, I am aware.

(c) No, Sir, I cannot have him reinstated because of the following reasons:-

Mr. Kuso was employed as a company security guard ^{by} ~~for~~ the Kenya Pipeline Company on 13th February, 1978. In January, 1984, company chairs disappeared when he was on duty. He was suspended from duty on 27th January, 1984, pending investigations ^{into} ~~in~~ the matter. Police investigators

THE ASSISTANT MINISTER FOR ENERGY (Mr. M' Mukindia)(ctd.):

thereafter found the company chairs in his ^{friends'} ~~friend's~~ house. Mr. Kuso and his friends were subsequently taken to court for theft.

Sir, although Mr. Kuso was acquitted by the court on a technicality that a co-accused person cannot be used against another accused person, the truth, not withstanding and without prejudice to the court's decision, is that the stolen company chairs were found by the police in ~~xx~~ Mr. Kuso's ^{friends'} ~~friend's~~ house. ^{His} ~~These~~ friends stated, under oath, that the chairs had been brought to their house by Mr. Kuso on pretext that they were his and ~~since~~ ^{that since} he was going on transfer, he wanted to leave the m in safe custody. Since Mr. Kuso's friends were not employees of Kenya Pipeline Company and hence had no access to company property, it was obvious that Mr. Kuso had stolen the chairs.

(END....AJ)

THE ASSISTANT MINISTER FOR ENERGY (Mr. M'Mukindia)(contd.):

Under the circumstances, Mr. Speaker, Sir, the management of Kenya Pipeline Company discussed the matter at length and concluded that the employee was unreliable and the company could no longer trust him as a security guard, and accordingly, his services were terminated on the 26th April, 1984. All his dues, up to, and including the day after termination, were paid to him. He was also paid one month's salary in lieu of notice.

MR. ABDI: Mr. Speaker, Sir, what other facts did the management use against Mr. Kuso ~~disputing~~ ^{in disputing} the court's ruling?

MR. M'MUKINDIA: Mr. Speaker, Sir, we did not dispute the court's ruling. All the facts pointed to the fact that Mr. Kuso was entirely unreliable.

Firstly, Mr. Kuso was employed as a security guard. One of the requirements to be a security guard is that you have to be honest and reliable. It is quite clear that Mr. Kuso was not reliable as a security guard. Firstly, the ~~chairs~~ chairs were stolen while he was on duty. Whether or not he ~~is the one who~~ ^{that} stole them is another matter. The fact still remains, however, that chairs were stolen while he was on duty.

Secondly, the chairs were found in his friends' house. ~~This friend of his~~ ^{His friends} of course, had no access to the company's property.

Thirdly, ~~the~~ ^{his} friends themselves said, under oath, that Mr. Kuso took the chairs to their house on the pretext that they were his, and he was going on transfer. Therefore, ~~but~~ ^{was found to be} Mr. Kuso ~~being~~ ^{and he} entirely unreliable, was relieved of his duties.

MR. KILIKU: Mr. Speaker, I would like to know ~~from~~ ^{whether} the Assistant Minister is doubting the court's ruling that Mr. Kuso was not guilty. Since Mr. Kuso was found innocent by a court of law, then why ~~can~~ ^{should} he not be reinstated?

MR. M'MUKINDUA (contd.): Mr. Speaker, Sir, I think the hon. Member misunderstood my answer. We are not disputing the court's decision. All we are saying is that, notwithstanding the courts decision; and further, without any prejudice to the court's decision; the truth of the matter is that the chairs were found in Mr. Kuso's friends house. The truth is also that these friends of Mr. Kuso alleged that he took the chairs there on the pretext that he was going on transfer, and, therefore, they were to be kept in their house for safe custody.

It is quite clear that, although ~~the technicality~~ ^{found} ~~that made the court to find Mr. Kuso innocent~~ ^{under the technicality} ~~that a person's evidence cannot~~ ^{states that} ~~the co-accused will not be used against another accused~~ ^{person,} the fact of the matter is that these chairs were found in Mr. Kuso's friends house. And, they themselves claimed, under oath, that Mr. Kuso took ~~them~~ ^{the chairs} there.

MR. WASIKE-NDOMBI: Mr. Speaker, Sir, the Employment Act ^{provides} ~~mandates~~ that an employee shall not be dismissed for a mistake for which he has been acquitted by a court of law. So, we take it that the employer carried out his investigation; reported the matter to the police who investigated ^{the case} and finally took the matter to court; and the court found the man innocent. Therefore, the employer was not right in dismissing his employee on the same charges that ^{made him to be} ~~he had been taken for~~ before a court of law. If Mr. Kuso had been dismissed, before ~~g~~ being taken to court, for other reasons like gross misconduct that would be different question. However, ^{since} ~~the fact that~~ he was taken before ^a ~~the~~ court of law which found him innocent, and ^{he} ~~was~~ only dismissed after being acquitted, ~~that~~ ^{it} means that the employer was wrong. The Assistant Minister should now order the employer to reinstate Mr. Kuso.

(applause)

MR. M'MUKINDIA: Mr. Speaker, Sir, Mr. Kuso's services were not terminated entirely because of this particular offence.

To give more information: On the night of the 5th October, 1981, at 12.30 a.m., and also on the 24th December, 1982, Mr. Kuso was found sleeping while on guard duties at the station. He was given written warnings for these conducts. Furthermore, in June, 1983, two more chairs disappeared while Mr. Kuso was on duty. So, in fact, this was the second offence. In the first offence, in June, 1983, the company felt that the man should only be surcharged for the two chairs that had disappeared. However, in the second occasion, he was taken to court. We, therefore, have facts to show that this man was actually ~~dishonest~~ entirely dishonest. ^{He was} ~~It is~~ worse than being unreliable.

MR. SPEAKER: Let us move on to Mr. Wambua's Question.

Question No. 429

MR. WAMBUA asked the Minister for ^{Finance} ~~Finance~~:-

- (a) ~~that~~ in view of the fact that it is very costly for pensioners in Mwala Constituency to travel from their homes to the Machakos District Commissioner's office every month to collect their meagre pensions, if he could make arrangements so that these pensioners can get their cheques through their locational chiefs; and
- (b) the urgent action he is taking to ensure that pensioners are paid their dues in time.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Mr.

Speaker, Sir, I beg to reply.

(a) Pensioners in Mwala Constituency who wish to receive their pension cheques through their locational chiefs should notify the Principal Pensions Officer at ^{The Treasury,} ~~this office,~~

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(contd.):

P.O. Box 30007, Nairobi. Such notification should indicate clearly the chief and his contact address through which the pension cheque should be sent.

(b) Arrangements have been made to post monthly pension cheques on the 25th of every month so that the cheques reach their owners by the end of every month.

MR. WAMBUA: Mr. Speaker, Sir, the answer I have got from the Assistant Minister is okay. What I would, however, like to know is whether ~~there are any arrangements~~ some arrangement will be made for these pensioners to be paid at the chief's centres? Even if the cheques are sent to the chiefs, they would still ~~have~~ have a problem of travelling from the chiefs offices to the district commissioner's office to cash the cheques. ^{because} They would not be allowed to cash these cheques in the banks unless ~~if~~ they pay a certain commission. The shopkeepers ^{cheques} would not accept them either. So, what arrangement is the Assistant Minister making to ensure that when the cheques reach ^{chiefs'} the offices, the cash is there for these pensioners to be paid? He ~~can~~ should take into account that these people retire at the age of 55 years. Some of these pensioners that I am talking about ~~are reaching the~~ ^{or 80 years} have reached the age of 70 and, cannot therefore walk. Having rendered very good services to this country, these people should be taken care of. What arrangements are being ~~is~~ made by the Assistant Minister to ensure that these people are paid their money comfortably at the chief's offices.

MR. THUO: Mr. Speaker, Sir, as I have said, the only responsibility we can undertake is that of seeing that the pension cheques are sent to the address given by the

The question of chiefs cashing the cheques / or

MR. THUO (contd.):

arrangements being made, to that effect, ^{does} ~~we do~~ not at the present moment ^{arise..} prevail. As such, it is a known fact that once you get the cheque, you can take it to ^{your} ~~the~~ bank, and bank it there, and later on withdraw the amount you want at any one given time. It ^{is well} ~~being~~ known that the only places ^{where} ~~that~~ the cheques can be cashed are at the district commissioners offices or at sub-district offices such as Naivasha and other places. It would not, therefore, possible for the chiefs to be empowered to cash the cheques. However, ~~there~~ if the cheques could be required to be sent to the chiefs, so that they are closer to those who have to collect them, that arrangement can be made with our office.

End B.....

MR. WASIKE-NDOMBI: Mr. Speaker Sir, it is possible that what the Assistant Minister is suggesting can work, but what is happening in our ^{constituencies} constituencies is that the money is delayed at Treasury. For instance, today, my cousin came to collect cheques for the months of April, May, June, July, August and September. The cheque for April is now ~~stale~~ a stale cheque. Will the Assistant Minister also make sure that these ^{cheques} cheques are not delayed at the Treasury like ⁱⁿ my cousin's case. Tonight, I am going to meet some expenses regarding his accommodation since he is here in Nairobi waiting ^{to collect} for ~~xxx~~ another cheque at 4.00 p.m.

MR. THUO: Mr. Speaker Sir, it is our interest to see that the pensioners get their money on time. If there have been some delays in getting the cheques, maybe ~~that~~ due to the ^{addressing} address system and so on, we are willing to co-operate as much as possible to see that ~~there~~ in future, cheques are not delayed. As I said earlier, arrangements ~~have~~ are being made so that the cheques are posted on 25th of every month. That gives us five to six days to reach the owners. So, ~~xxx~~ by the time workers ^{will be} are receiving their money on 30th of every month, the pensioners will have ~~also~~ received their cheques and they can cash them.

MR. MANG'OLI: While appreciating what the Assistant Minister is saying, he should further tell this House and pensioners ~~xxxxxxx~~ the immediate action he is taking to ensure that they are paid their dues in time. ^{When} If ~~xxxx~~ a cheque ~~xxxx~~ is over-delayed, it becomes a stale cheque; ^{cheque will} Of course, ~~then~~ the issue of ~~the~~ non-payment of that ~~pensioner is going to~~ ^{action} come up again. What is the Assistant Minister going to take against the officers ^{ensure} responsible for preparing the cheques? The Assistant Minister should take action to ~~ensure that~~ ^{ensure} ~~that~~ ~~these~~ ~~things~~ that things have changed. The Assistant Minister should tell the country ^{would} what the current situation so that when the pensioners follow their money, they ~~should~~ do so with the knowledge that the Assistant Minister gave a directive that cheques ^{would} ~~will~~ be processed in time. The pensioners can even quote the Assistant Minister's ^{directive.} directive's

MR. THUO: Mr. Speaker Sir, as I said earlier on, we would like ~~it~~ to see the pensioners paid within minutes after they enter into our pensions office. or when they present themselves to the ~~D~~ district commissioners' offices where ~~it~~ there cheques can be ~~is~~ cashed. Having said that, I would like to say that systems are bound to change. Arising out of this kind of problems, our department is looking for ways to speed up the future payments so that the pensioners do not suffer. As I stand here, I cannot tell the House ~~the~~ now the system we intend to use, but definitely the delays that have been ~~ex~~ experienced by pensioners, ^{are regretted, but} some action will be taken against those concerned. As a Ministry, we will see that the department concerned ^{devises} ~~devised~~ a method that will make the pensioners get their money in time.

MR. WAMBUA: While I quite agree with the Assistant Minister that arrangements are under-way to make ~~ex~~ some changes on this issue, I still insist that the pensioners get some problems when they get their cheques through their ~~the~~ chiefs. Some method should be devised to see that these pensioners are paid their ~~a~~ pension by cash at the chiefs' offices. The Ministry should make arrangements ^{for the} ~~in such a way that~~ clerks from the district commissioners' offices ^{where they can} to carry the money to the chiefs' offices ~~and~~ pay the pensioners there. The ~~idea~~ idea of pensioners receiving cheques from their chiefs and then ^{taking} ~~forward~~ them to the district commissioners' offices to be paid there ^{cannot} ~~there will be not help.~~ ~~different~~ For instance, a pensioner who ^{retired a long time ago and} receives ~~an~~ Shs.210.00 ~~and~~ and is required to ^{up to} follow his money ^{at} the district commissioner's office from far interior will spend Shs.80.00 ^{say,} ~~to~~ going to Mechakos and ~~going~~ ^{has} back home. He may find that on that ~~day~~ particular day, the cheque ^{has} ~~has~~ not have reached there. He will have to spend some money on other necessary expenses like food and so ~~forth~~ forth. In order to follow the Shs.210.00 he will have to look for some more money to follow it ^{He may be forced to} ~~up~~ ^{by selling} one of his cows to finance ~~his~~ his next journey.

Mr. Speaker Sir, I still insist that funds should be made available at the chiefs' offices so that the pensioners are paid there in ~~the~~ cash. The idea of being required to take ~~the~~ the cheques to their accounts will present many problems because there are some pensioners who do not have ^{bank} ~~any~~ accounts. ~~with any bank.~~ Unless one has an account with a mobile bank or an ordinary bank, ~~cannot~~ cash the cheque. One cannot just deposit a cheque

simply because he wants to do so. Nowadays, banks require that one has to have a minimum of Shs.1,000.00 in their accounts. Some of the pensioners get an average of Shs.200.00. With such little money, they cannot manage to open bank accounts. The Assistant Minister should very quickly work out methods of ensuring that pensioners cash their cheques at the chiefs' offices and then go back home. Some of these pensioners are very old and they should be assisted as much as possible.

MR. TIJO: Mr. Speaker Sir, I am an Assistant Minister as well as being a representative of a constituency. I do not understand the problems the hon. Members encounter. The fact that I am an Assistant Minister does not mean that Kigumo constituency, which I represent is free from such problems. We will continue to review this problem so that our pensioners get their money in time. The system may require paying them through the chiefs, banks or any other method that the Ministry may advise the department to introduce so that pensioners do not encounter problems. I would like to advise hon. Wambua that this matter will not just lie there. I will have discussions with those manning this department so that we can get the best way of handling this issue to the satisfaction of all those concerned.

Question No.432

MR. SPEAKER: Mr. Wakole not here? We will leave his Question until the end. Next Question.

Question No.411

MR. KILIKU, asked the Minister for Labour:-

- (a) why Sharmacon Ltd. of P.O. Box 80524, Mombasa did terminate the services of Messrs Morris Ogutu, Wilson Njau, Onesmus Wambua and Madero with loss of benefits; and
- (b) whether he would order the said company to pay these affected wananchi their terminal benefits with immediate effect.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker Sir, I beg to reply.

(a) The employees lost their jobs for various reasons, but they did not lose their benefits. Mr. Morris Ogutu, who was a welder was declared redundant on 24th May, 1988 due to shortage of work in the company's welding section. Mr. Wilson Nzau, a driver, was dismissed on 22nd August, 1988 for allegedly having refused to obey instructions to go to Kigali which was part of his duties. Mr. Onesmus M Wambua, an upgraded welder, was dismissed on 12th September, 1988 having been on suspension since February, 1988 for allegedly having been found selling the company's tyres. Mr. Madero, a personnel officer, was dismissed on 3rd September 1988 as a result of various charges which were levelled against him. These included chronic ^{absenteeism} ~~absenteeism~~, failure to obey ~~legal~~ lawful instructions and lateness, etc.

END C....

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei)(Ctd):

(b) Mr. Ogutu was entitled to a total of Shs.10,385.15 as terminal benefits. He has already been paid Shs.6,436.40, and my labour office, Mombasa, is assisting him with the recovery of the balance.

As for Mr. Nzau, the company offered to pay him Shs.4,352, but his trade union is demanding more than that. My labour office, Mombasa, is assisting the parties to reach a mutually acceptable solution.

As for Mr. Wambua, the company offered to pay him Shs.9,473, but the trade union is demanding much more. Our labour Office, Mombasa, will also assist the parties to reach a solution.

Mr. Madero's case is still under discussion, and our labour office, Mombasa, is assisting the employer and the trade union to come to an agreeable solution.

MR. KILIKU: Mr. Speaker, Sir, I would like to clarify the issues over which these people were sacked. Mr. Nzau was ordered to go to Kigali using a lorry which had no road licence. When he insisted that he could ^{not} drive a lorry which had no road licence he was sacked. Mr. Madero, who was a personnel officer, was sacked because he did not take disciplinary action against these people. I am very happy because the Assistant Minister has stated that these people will be paid their terminal benefits. However, I would like to point out to the Assistant Minister that no employer can declare workers redundant without the consent of the Minister for Labour. So, I wanted to know whether the employer sought and obtained the consent of the Minister for Labour before declaring Mr. Ogutu redundant.

MR. MIBEI: Mr. Speaker, Sir, there has been negotiations between the affected people, the employer and my office. Also, our labour office, Mombasa, is still assisting Mr. Ogutu in the recovery of the balance of money, because he had received some of his

MR. MIBEI (CTD):

terminal benefits.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. The hon. Member has asked the hon. Assistant Minister whether the company sought the consent of the Ministry of Labour to declare Mr. Ogutu redundant. That is the question, because if this practice is allowed to come in, then all the other companies will start declaring workers redundant. We want to know whether the company had the Ministry's authority because we must protect the workers. If the company did not have the Ministry's authority, then Mr. Ogutu should be reinstated in his job.

MR. MIBEI: Mr. Speaker, Sir, whether there was a consent or not, the issue now is the recovery of his terminal benefits since he has already received Shs. 6,436.40.

MR. BIDU: On a point of order, Mr. Speaker, Sir, The Assistant Assistant Minister is putting a condition here. My point of order is on the hon. Member's question on whether the Ministry's consent was obtained before the declaration of the redundancy, or not. We want a reply to that question.

MR. MIBEI: Mr. Speaker, Sir, I could not go into the history of the case, but I was referring to the present position, which is the recovery of the balance of the terminal benefits.

MR. KILIKU: On a point of order, Mr. Speaker, Sir. I thanked the Assistant Minister for saying that these former workers will be paid their terminal benefits; I am very happy about that. However, I wanted to know from the Assistant Minister whether the employer sought and obtained authority from the Minister for Labour before declaring Mr. Morris Ogutu redundant, as the law provides. This is because if ^{he} declared him redundant without this consent, then he will continue declaring other employees redundant in the same manner, and all the other employers will start following his method.

MR. MIBEI: Mr. Speaker, Sir, I hope that the necessary procedure was followed.

MR. J.N. MUNGAI: On a point of order, Mr. Speaker, Sir. We all know that the Ministry of Labour has a lot of responsibilities, but ^a part of those responsibilities is ^{taking} care of the workers. It is one of the Ministry's responsibilities to answer the hon. Questioner's question on whether the employer sought the Ministry consent before effecting this redundancy. So, far the Assistant Minister has not tried to answer that question. ^{he} Can ^L tell us whether he is aware of what he is being asked? If he is not aware, we can give him time for more investigation and then ^{we} report ^L back to this House so that we know what went on.

MR. SPEAKER: I have no intention of going to the help of the Assistant Minister, but part (a) of this Question seeks to know why the services of these employees were terminated. I think ~~we~~ the Assistant Minister is responding to that and not why they were declared redundant.

MR. MAKAU: On a point of order, Mr. Speaker, Sir. Here we have a mix up of a lot of things. We have termination of services of employees, and declaration of redundancy, which is different from termination of services. According to the Assistant Minister's reply, Morris Ogutu was declared ^{redundant} ~~redundant~~. Now, we are saying that there is a laid ^{down} procedure which requires that before an employer declares employees ^{redundant} ~~redundant~~ he must apply for consent from the Ministry of Labour giving reasons, such as lack of finances. Without that authority from the Ministry, no employer is allowed to declare an employee redundant. So, we are asking the Assistant Minister to tell us whether that authority was granted ~~to~~ by his Ministry to the employer.

MR. MIBEI: Mr. Speaker, Sir, as I said before, there are two issues, which are tied ^{up} together. I have said that I believe that all the procedures were followed. What is before us now is the issue of the payment of terminal benefits, which arises from part (b) of the Question; this is a matter we are pursuing now.

MR. SPEAKER: I hope the hon. ^{Assistant} Minister understands clearly what the hon. Members really want to know. Is it true that in your reply you stated that Mr. Ogutu was declared redundant? That is all we want to know.

MR. MIBEI: Mr. Speaker, Sir, I have said that Mr. Morris Ogutu was declared redundant on 24th May, 1988 due to shortage of work in the company's welding section. I have also said that he will not lose his benefits as a result of that action.

END

MR. SPEAKER: Order, hon. Members. The ~~best~~ best question would be: was the best procedure followed in declaring Mr. Ogutu redundant?

MR. MIBEI: The correct procedure was followed, Mr. Speaker, or so I believe.

HON. MEMBERS: On a point of order.

MR. SPEAKER: Order, hon. Members. I think it would be fair if the Assistant Minister found out the truth of the matter.

MR. KILIKU: What I would like to know, Mr. Speaker, Sir, is whether the Assistant Minister will come back and report to the House once he has got the truth.

MR. SPEAKER: Yes, he will.

MR. Question No. 436

MR. KAGWIMA asked the Minister for Water Development:-

(a) what happened to the water supply meant for Kathwana Soil Conservation and Afforestation site; and

(b) when this site will get a permanent supply of water.

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT

(Mr. Mweu): Mr. Speaker, Sir, I beg to reply.

(a) Although this project was not a Ministerial project, when it was proposed in 1987, it was decided that ~~the~~ a donor to support it be approached. The donor who was approached was reluctant to sponsor it. It was then decided that another donor be approached. Up to date, no donor has been found. As a result, the project has not been implemented.

(b) Once the money has been made available through

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu)(ctd.):
 the Meru D.D.C., my Ministry will be ready and kind to
 implement the project.

MR. KAGWIMA: Mr. Speaker, Sir, this project was
 started by the previous Parliament under the leadership of
 His Excellency the President, Daniel arap Moi, and the whole
 House sometime in 1983 met at that place and started an affores-
 tation and water conservation project. The Ministry of Water
 Development ~~then~~ then tried to assist the project by providing
 some water. Sometime in 1985, some pipes were laid for a
 length of about one and a half kilometres and a site cleared
 for the construction of a reservoir. After that, the ^{supply} ~~project~~
 of water was discontinued. I am surprised the ~~Minister~~
 Assistant Minister says that in 1987, a donor was sought for,
 whereas in 1985 - two years before then - pipes were ~~a~~ laid.
 Can the Assistant Minister tell us who supplied ~~the~~ and laid
 down the pipes that were abandoned at that time?

MR. MWEU: Mr. Speaker, Sir, I am asking the same
 question because my Ministry is not aware of any ~~k~~ pipes that
 were laid around that place. Maybe the hon. Member could tell
 us how they procured the pipes and who was responsible for their
 procurement.

MR. KAGWIMA: On a point of order, Mr. Speaker, Sir.
 I thought the Ministry was responsible for such matters, and,
 therefore, the Assistant Minister should be ^{informing} ~~telling~~ the House,
 rather than me. All I am saying is that the pipes were laid,
 and even today, they are there. Can the Assistant Minister
 investigate this matter, if he has not done so, and then report
 his findings to this House?

MR. MWEU: Mr. Speaker, Sir, ~~this~~ not every water
 project belongs to the Ministry of Water ~~Development~~ Development.

MR. MWEU (ctd.):

There are projects which are initiated on self-help basis and so on. I do not know anything about this one, but I will take up this matter with my Water Engineer, Meru, to investigate and ^{establish} ~~let us know~~ the truth. After that, I will report my findings to this House.

MR. MALEBE: Mr. Speaker, Sir, it is very surprising to get such an answer from the Assistant Minister because if the project does not belong to the Ministry of Water Development, why did he attempt to answer this Question? The Minister denies any knowledge about this project. He ~~is~~ even said that he is not responsible for supplying water to soil conservation sites. Why, in the first instance, did they ~~take~~ take the responsibility of answering this Question? [?] If it was directed to them by mistake, they should have said that ~~this~~ that is not their project and end up there. Can the Assistant Minister tell us why they took the initiative of trying to solve this water problem which they are not responsible ~~of~~ ^{for}?

MR. MWEU: Mr. Speaker, Sir, the hon. Member ^{may not} ~~must~~ have been listening to me when I started answering the Question. I said that this ~~w~~ was not a ~~Ministerial~~ project, but there is only one Ministry of Water Development in Kenya. That is why ^{The} ~~it~~ ^{Question} was directed to us. We, therefore, had the obligation to answer.

MR. MALEBE: Mr. Speaker, Sir, I think it is wrong for the Ministry to assume that all questions ^{relating} relating to water should be answered by them. We even have private ~~own~~ organizations starting their own ~~is~~ water supply. In this case, we have the Permanent Commission for Soil Conservation and Afforestation, which could be carrying out these projects without reference to the Ministry. So, I think it would be misdirecting the House for

MR. MALEBE (ctd.):

anyone to say that it is only the Ministry of Water Development which should handle cases concerning water. The Ministry should have redirected the Question to the Permanent Commission for Soil Conservation and Afforestation.

MR. MWEU: I think so, Mr. Speaker.

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. Once an ordinary Question is put to a Ministry, the Ministry is given three months in which to carry out investigations and come up with an answer to it. As far as this Question is concerned, it is evident that the Ministry is not taking our Questions seriously. They are supposed to make calls to the place - I go there and find out what is happening in that area. What has now become evident is that the Minister, his Assistant Ministers and officers in that Ministry just ^{prepared the} answer ~~the~~ ^{to the} Questions from their desks; they do not know what is going on on the ground. They just want us, Backbenchers, to appear ~~like~~ to be unofficial opposition. The way this Question was answered indicated that ~~the~~ Ministry does not take the initiative to investigate questions and come and ^{us the} give answers we want.

AN HON. MEMBER: What is your point of order?

MR. MANG'OLI: My point of order is: can the Chair direct ~~the~~ the Assistant Minister to carry out investigations on this Question? Is he in order to assume ^{answers to} ~~to answer~~ Questions on which he has not carried out any investigations?

MR. MWEU: Mr. Speaker, Sir, the original Question did not imply that there were pipes which had been buried someplace. This is a revelation ~~it~~ that has just come to light. I did not know that, and that is why I ~~we~~ have undertaken to

MR. MWEU (ctd.):
investigate the matter.

(Mr. Mang'oli tried to say something)

Mr. Speaker, Sir, the hon. Member had his time to say whatever he wanted when he stood on a point of order. I now have my time to answer him. He should, therefore, give me time ~~to~~ to answer him, or else he continues making his point of order.

What I am saying, Mr. Speaker, ~~is~~ is that this idea of some pipes being buried some place in Kathwana was not implied at all in the-Question. But since it is a new revelation to us, we will investigate the matter and report to the House.

Question No. 392

MR. LEWA asked the Minister for
Lands and Housing:-

(a) who the registered owner of plot
427/111/MW in Kikambala is;

(b) whether he is aware that Mr. Adam
Mohammed of P.O. ~~Box~~ 5, Kikambala and some
other 285 persons live on this land; and

(c) whether he could allow the persons
mentioned in (b) above, to ~~to~~ buy the piece
of land from the owner.

THE ASSISTANT MINISTER FOR LANDS AND HOUSING

(Mr. Mutiso): Mr. Speaker, Sir, I beg to reply.

(a) Land parcel No. 427/111/M.N. in Kikambala
is registered under the name of M/S. Catherine Sheila Macdonald.

(b) I am aware that there are some illegal squatters
on the land.

(c) The land is privately owned ~~is~~ and the question
of my allowing the squatters to buy it does not arise.

E.6....2.11.88

THE ASSISTANT MINISTER FOR LANDS AND HOUSING (Mr. Mutiso)(ctd.):

The only advise I can give to the squatters is that they should approach the registered owner and request her, or ~~him~~ her agents, to consider selling the land to them on the basis of willing buyer-willing seller.

END E. Mutiso

MR. LEWA: Mr. Speaker, Sir, arising from the Assistant Minister's reply which is not satisfactory at all. I understand that Mr. McDonald left the country in 1971 and that he did, in fact, write letters to the effect that the squatters who were living on this land should be given the land after subdivision of the land has been carried out. This has not been done and as a result there is total chaos because some other people are now encroaching on the land claiming it to be theirs and not taking seriously the letters that were left by the owner of the land who left this country in 1971. Could the Assistant Minister assure this House that the subdivision of this land will be carried out and the proper people who were, in fact, meant to own the land will be given the land?

MR. MUTISO: Mr. Speaker, Sir, I am surprised by the information which the hon. Member is now giving the House to the effect that some letters were written by the registered owner of this land to the effect that the land should be given to the squatters. Could the hon. Member really prove to this House that this is the case by producing those letters so that we can know to whom they were addressed and the contents of the letters so that from there we can take the necessary action?

MR. LEWA: Mr. Speaker, Sir, I promise to bring those letters to the House.

MR. SPEAKER: Okay, shall we go back to Mr. Wakole's Question.

MR. WAKOLE: Bw. Spika, kwanza, naomba msamaha kwa kuchelewa.

Question No.432

MR. WAKOLE alimuuliza Waziri wa Ustawi wa Mifugo kwa vile Shirika la Kenya Meat Commission linapata shida ya kuendesha biashara ya kununua mifugo, kama anaweza kufikiria kuwaachia watu binafsi biashara hii badala ya shirika la Agricultural Development Corporation kama ilivyo sasa.

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kisiero):

Bw. Spika, naomba kujibu.

Kwa wakati huu, Shirika la Kenya Meat Commission linabadilishwa na Kenya Corporation na kazi yake inaendelea kwa njia nzuri. Inatarajiwa kwamba

THE ASSISTANT MINISTER FOR LIVESTOCK DEVELOPMENT (Mr. Kisiero)(Ctd.):

Shirika hili lipya litaweza kuendesha biashara ya mifugo kwa faida na wafugaji wataalikwa kununua hisa katika Shirika hili ^{Jiyya} ~~lipya~~. Wakati huo, wafanyabiashara wa mifugo wataweza kununua hisa katika shirika hili na kusaidia kuliendesha shirika hili kwa mamfaa yao pamoja na mamfaa ya wakulima wengine hapa ~~hizi~~ nchini.

Bw. Spika, Agricultural Development Corporation haiendeshi biashara ya mifugo kwa niaba ya Kenya Meat Commission kwa wakati huu. Mhe. Mbunge anafahamu wazi kwamba hata sasa biashara ya mifugo inaendesha na wananchi binafsi. Kwa wakati huu, hakuna mtu binafsi yeyote ambaye ameweza ~~kushiriki kwenye~~ kuendesha biashara hii vile Kenya Meat Commission ilivyokuwa ikifanya hapo awali.

DR. MISOI: Bw. Spika, kufuatana na ^{Jawabu la} ~~muhtabu~~ ya Waziri Msaidizi, anaweza kulieleza Bunge hili ni lini ~~kasasa~~ shirika hili litaanza kazi ya kuchinja mifugo.

MR. KISIERO: Bw. Spika, mazungumzo yanaendelea baina ya wale ambao wangependa kuendesha biashara hii na tunatumaini kwamba mazungumzo hayo ^{kuwa} na yakimalizika upesi na ~~kazi~~/mapatano mema, haitachukua muda ^{mrefu} ~~wa maziakachae~~ kabla ya Kenya Meat Commission kuanza kazi tena.

MR. MAKAU: Bw. Spika, Waziri Msaidizi ametueleza ^{Kwamba} wana mpango wa kuifanya Kenya Meat Commission shirika ^{Jiyya} ~~lipya~~ na kwamba mazungumzo yangali yanaendelea. Anaweza kutuambia mazungumzo hayo yanaendelea kati ya nani na nani? Alisema kwamba hisa zitauziwa wananchi na kwa hivyo, tungetaka kujua mazungumzo hayo yanaendelea kati ya nani na nani? Ikiwa hisa hizi hazijatangazwa bado, tungetaka kujua kama wale wanaendelea na mazungumzo haya ni watu ambao wanainunua Kenya Meat Commission au kama ni watu wa Wizara hii.

MR. KISIERO: Bw. Spika, kuna watu wengine ambao wametoka nje ya nchi hii ambao pia wangetaka kushiriki katika kazi hii lakini mipango yote ya kuanzisha shirika hili na kuuza hisa, ^{inaendelea} ~~yanatendelea~~ mazungumzo kujadiliwa ili wale ambao wangependa kutoka nje na kuingia katika ~~kazi~~ biashara hii

na na wananchi ambao wangependa kununua hisa, wakati wa

wenye mifugo au wafanyabiashara. Mazungumzo haya yanaendelea zaidi kati yetu kama Wizara na watu kutoka nje ya nchi hii.

MR. MAKAU: Jambo la nidhamu, Bw. Spika. Nilimuuliza Waziri Msaidizi alieleze Bunge hili wale wanaozungumza nao kutoka nje ya nchi hii ni akina nani? Nauliza hivyo kwa sababu mimi ninatoka sehemu ya Machakos na ~~ing~~ ningetaka kumunua hisa katika shirika hili.

MR. KISIERO: Bw. Spika, haya ni mambo ya Serikali na kwa wakati huu hatuwezi kusema ni fulani na fulani ambao wanashiriki katika mazungumzo haya. Wakati ya kuyatangaza mambo hayo haujafika.

MR. MAKAU: Jambo la nidhamu, ~~kw~~ Bw. Spika, Waziri Msaidizi sasa anasema kwamba haya ni mambo ya Serikali, lakini mimi kama Mbunge kutoka Wilaya ya Machakos mahali Kenya Meat Commission iko, nina haki kujua mazungumzo haya yanaendelea kati ya nani na nani. Hii ni kwa sababu a watu katika ~~sh~~ sehemu ya Machakosa sasa wanajitayarisha kumunua hisa. Hakuna siri ya Serikali inayochusu kuiuza kampuni ya Kenya Meat Commission. ~~Kuzungumza~~ Mnajadiliana jambo hili kati yenu na akina nani na ni hisa ngapi ambazo mtawauzia?

MR. KISIERO: Bw. Spika, mipango ya kuendesha shirika hili inaendelea na hatujakata ^{Kauli} ~~shauri~~ kuhusu ni hisa ngapi ambazo zitauiwa w akulima na wafanyabiashara wengine au zile ambazo zitauiwa wale ^{wenye} ~~waka~~ rasilmali kutoka nchi nyingine. Hatujakamilisha mpango huo lakini wakati jambo hilo litakapokamilika, watu wa ~~ex~~ Machakos wataambiwa kikamilifu ili wajitayarisha katika mpango wa kumunua hisa.

MR. MAKAU: Jambo la nidhamu, Bw. Spika. Huwezi kuzungumza na watu kutoka nje ya nchi hii bila kuwaambia watauiwa hisa kiasi gani. Waziri Msaidizi anaweza kuliambia Bunge hili wale wageni watanunua kiasi gani cha hisa?

MR. KISIERO: Bw. Spika, nimesema kwamba tungali tunajadiliana juu ya jambo hili ili kuweza kujua wataweza kuchukua kiasi gani cha hisa hizi na ni ngapi watu we tu hapa nyumbani wataweza kumunua. Tungali ~~ta~~ tunaendelea kushauriana na hawa watu na hatujakata ^{Kauli} ~~shauri~~ bado. Tukishakata ^{Kauli} ~~shauri~~,

MR. KILIKU: Bw. Spika, Waziri Msaidizi amesema ~~kz~~ kwamba kuna marekebisho ambayo yanaendelea. Anaweza kutueleza ni mambo gani ambayo yalikuwenda kombo katika ile kampuni ya zamani ya Kenya Meat Commission? Kuna hakikisho gani kutoka kwa Wizara hii kwamba wananchi sasa wakianzisha biashara hii hawatapata matatizo kama yale yaliyopatikana hapa awali? Swali la pili, Bw. Spika, - - -

MR. SPEAKER: One question at a time, Mr. Kiliku.

MR. KISIERO: Bw. Spika, tumechukua muda mrefu katika majadiliano haya kwa sababu tunataka kuliitengeneza shirika ~~hiki~~ ambalo litaweza kufaulu na tunaamini kwamba litatafaulu. Lakini hatuwezi kusema hapa ~~hata kwamba~~ ^{linga naga} kwamba shirika hili halitapata tatizo fulani.

MR. KYONDA: Bw. Spika, Waziri Msaidizi anasema kwamba wanazungumza na watu wengine kutoka nje, je anaweza kutueleza kama mazungumzo haya yanaendelea hapa au nje ya nchi hii? Lingekuwa jambo la busara kama tungeanza kujadili juu ya jambo hili hapa nchini kwanza halafu baadaye tuwaalike watu kutoka nje. Wakati mwingine mazungumzo kama hayo huanzia nje ya nchi hii.

MR. KISIERO: Bw. Spika, ni pesa nyingi sana ambazo zinahitajika ili kuweza kuiamshā Kenya Meat Commission. Hii ndiyo sababu tunatafuta njia ^{kuzipata} ya ~~kuatafuta~~ hizo pesa. Hivyo si kusema kwamba tumewakataza watu wetu hapa nchini kumunua hisa. Serikali inalisimamia jambo hili kwa niaba ya sisi sote na bila shaka, Serikali itachukua hatua ~~inayofaa~~ inayofaa kwa nchi hii.

END F

MR. MAKAU: Jambo la nichamu, Bw. Spika.

MR. SPEAKER: Are you sure it is a genuine point of order?

MR. MAKAU: Yes, Mr. Speaker, Sir.

Jambo langu la nichamu ni kwamba wakati alipoulizwa Swali lingine hapa, Waziri Msaidizi alitujulisha kwamba kuna yule Mzungu ambaye alikuwa akifanya kazi katika Kenya Meat Commission (K.M.C.) ambaye aliacha kulipwa ili awe akifanya kazi bure. Waziri Msaidizi anaweza kutwambia kama yule Mzungu ambaye aliingamiza K.M.C. ndiye anayefanya mazungumzo na watu hawa? Waziri Msaidizi alitujulisha kwamba Mzungu huyu bado yuko katika K.M.C.

AN HON. MEMBER: That is not a point of order, Mr. Speaker, Sir.

MR. SPEAKER: Let us move on to Questions by Private Notice, Mr. Kyonda.

QUESTIONS BY PRIVATE NOTICE

MR. KYONDA: Bw. Spika, naomba kumwuliza Waziri wa Afya Swali Maalumu lifuatalo.

(a) ^{Waziri} Anachukua hatua gani kuona kuwa wananchi wa mashambani wasio na redio wala televisheni wanaelimishwa juu ya uenezaji na madhara ya ugonjwa hatari wa Ukosefu wa Kinga Mwilini (Ukimwi), yaani Acquired Immune Deficiency Syndrome (Aids)?

(b) Anaweza kuhakikisha kuwa viongozi, pamoja na Waheshimiwa Wabunge, wamehusishwa katika mpango huu wa kupambana na Ukimwi?

THE ASSISTANT MINISTER FOR HEALTH (Mr. Ogun): Bw. Spika, naomba kujibu.

(a) Pamoja na kipindi kinachoendelea katika televisheni cha kuwaelimisha wananchi juu ya Ukimwi, Wizara ya Afya ina njia nyingine ambazo hutumiwa kusambaza elimu juu ya Ukimwi, kama vile mafunzo kwenye seminars, baraza, maongezi baina ya watu na kutawanya posters na makaratasi. Wimbo juu ya kuzuia Ukimwi kwa lugha ya Kiswahili na

THE ASSISTANT MINISTER FOR HEALTH (Mr. Ogun)(Ctd.):

Kingereza umetolewa. Waimbaji mashuhuri wameulizwa watunge nyimbo juu ya Ukimwi. Hii inafanywa kwa kushirikiana na Wizara nyingine za Serikali, kama vile Wizara za Elimu, Habari na Utangazaji, Utamaduni na Huduma za Jamii, Utalii na Wanyama wa Porini, Mipango ya Mikoa na Serikali za Wilaya na Mipango ya Miji na shirika la National Council of Population and Development. Juu ya haya yote, Wizara imezidisha ushirikiano na mashirika yasiyo ya Serikali kwa viwango vyote katika kuendesha mambo ya afya. Hii itavikusisha vikundi vya akina mama, makanisa, Shirika la Msalaba Mwekundu, African Medical Research Foundation (Amref), Family Planning Association of Kenya, professional organisation, kama vile Kenya Medical Association, na vikundi vyote vinavyofanya kazi na wananchi.

(b) Wataalam wa usambazaji habari, sociologists na viongozi wanahusishwa kwa kupata matamshi juu ya Ukimwi.

MR. KYONDA: Bw. Spika, kwanza, naelewa kwamba ningekuwa nirepatiwa jibu ^{Wilibachapwa} kabla ya Swali langu kujibiwa hapa, lakini sijalipata. Bali na hayo, ningetaka kumshukuru Waziri Msaidizi. Kulingana na jibu lake, nimemsikia akitwambia yale ambayo yanatarajiwa kufanywa. Ameyataja mashirika mengi ambayo yatafanya kazi ya kusambaza habari ya Ukimwi. Ninasema hivi kwa sababu sijakiona cho chote kati ya vitu alivyotaja kikitendeka katika mahali nitokapo. Tumesikia ^{malangazo} juu ya Ukimwi kupitia kwa redio na televisheni, lakini Swali langu ni juu ya wananchi ambao huishi mashambani na hawana redio wala televisheni. Waziri Msaidizi ameyataja mashirika mengi ambayo yanakusudiwa kufanya kazi hii, lakini sijaliona mojawapo ya mashirika haya likifanya kazi katika sehemu yangu. Pengine waheshimiwa Wabunge wezangu hapa watasema kama wameona kazi hii ikifanywa katika sehemu zao. Waziri ameyataja mengi ambayo yanatarajiwa kufanywa, lakini sijaona kazi hii ikifanywa katika sehemu yangu hata mara moja, na hali hii ni elimu ya maana sana kwa wananchi.

MR. OGUR: --Bw. Spika, kwa kuwa Wizara ya Afya peke yake haiwezi kusambaz^{ha} habari kuhusu ukimwi, ningetaka kutinakikisna Bunge kwamba Wizara yangu itawahusisha viongozi wote wa kila ngazi katika kuwaelimisha wananchi juu ya ukimwi. Seminar ya waheshimiwa Wabunge itatayarishwa na kutangazwa wakati mipango itakapokuwa tayari. Inatarajiwa kwamba, baada ya seminar hii, waheshimiwa Wabunge watawaelemisha wananchi wa mawakilisho yao juu ya udaya wa ugonjwa huu. Seminar ya viongozi wa ngazi ya kiliniki ita~~nu~~nuishwa wajumbe wa kamati za maendeleo za wilaya, viongozi wa Kanu, yaani Kanu youth groups, Kanu Maendeleo ya Wanawake na vikundi vingine vya akina mama, walimu na makanisa yote.

MR. MANG'OLI: Jambo la nidhamu, Bw. Spika. Waziri Msaidizi aliulizwa na mhe. Mbunge mwenzetu anafanya nini hivi sasa, yaani jana na leo, kuweka msingi wa mpango huu kwa manufaa ya wananchi wasio na redio wala televisheni. Wizara hii inafanya nini sasa? Haifai kusema eti wizara hii itafanya hivi na vile. Kila mara tunapouliza Swali hapa hujibiwa kuwa mambo fulani yatafanywa. Ningetaka kujua Wizara hii imefanya nini jana na leo.

MR. OGUR: Bw. Spika, nimetoa majibu haya yote, lakini nitayarudia tena. Kila jioni, redio na televisheni hutangaza juu ya hatari ya ukimwi. Namwomba huyu mhe. Mbunge ndugu yangu awe akikaa karibu na televisheni yake na atasikia tangazo juu ya ukimwi karibu kila saa.

MR. MANG'OLI: Jambo la nidhamu, Bw. Spika. Kwanza, siitwi "huyu", na nafikiri mhe. Waziri Msaidizi ananijua.

Sisemi kwamba sina redio nyumbani mwangu. Niraongea juu ya mipango ya Wizara ya Afya. Inafanya nini kuwakusanya wananchi wa kawaida na kuwaeleza habari ya ukimwi.

HON. MEMBERS: Wanatangaziwa. Wanatangaziwa habari hii.

MR. MANG'OLI: Acha matangazo ya redio. Waziri Msaidizi amefanya mpango gani wa kuita baraza la chifu, na kadhalika?

MR: OGUR: Bw. Spika, nawaomba waheshimiwa Wabunge walio hapa waendeleo kuwaambia machifu watangaze katika baraza zao kwamba Ukimwi ni hatari.

MR. J.N. MUNGAI: Mr. Speaker, Sir, I beg to ask the Minister for Water Development the following Question by Private Notice.

(a) Is he aware that there has been an acute shortage of water in Elburgon town?

(b) What urgent steps is he taking to restore water supply in this town?

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there has been rationing of water in Elburgon town, but there has not been an acute shortage of water in the town.

(b) The available water in the town will continue to be rationed until such time as money is made available to rehabilitate the town's water supply. Therefore, there are no urgent steps that can be taken at the moment to rectify this situation ^{since} there are no funds set aside for this purpose.

End G. Mungai

MR. J. N. MUNGAI: Mr. Speaker, Sir, arising from the Assistant Minister's reply, I would like to inform him that the issue here is not a question of rationing water in that town. I live in that town and I know that there is no water there. It is raining at the moment and the people are drawing water from the roadside for domestic purposes. I am sure that the Voice of Kenya radio will report this evening in their programme "Today in Parliament" that there is no ^{water} shortage but ^{only} rationing of water in Elburgon town, when we know that the wananchi are drawing water from the roadside. I wonder how the wananchi will feel when they hear that.

The Assistant Minister simply said that he will correct the situation when money is available. It is only the other day when we voted money for the Ministry of Water Development. How long is it going to take before he gets the money to correct the situation in that place?

MR. MWEU: Mr. Speaker, Sir, I would have loved the hon. Member to ask one question at a time because it is not possible to keep the two questions in mind at the same time. The argument is not that there is no water shortage. I have agreed that there is water shortage, but it is not very acute. That is my contention.

The other point is with regard to part (b) of my answer, which is about availability of funds. We cannot promise the House anything when we know that money is not available. As long as money is not available, we will continue having that situation. We are looking for funds at the moment. Elburgon town would have benefited from some money which had been set aside, but it was withdrawn at a time when the Treasury had a financial squeeze in the last Financial Year.

MR. MALEBE: Mr. Speaker, Sir, I would like the Assistant Minister to tell the House the difference between "acute water shortage" and "water shortage". I am raising this issue because, in both cases, the people have no water to drink. Why is he saying there is no acute water shortage in Elburgon town when we know that there is no water there?

MR. MWEU: Mr. Speaker, Sir, that is very simple. "Acute" means extreme, and "shortage" is when it is "so-so" and, in this case, it is not really very extreme or acute.

MR. J.N. MUNGAI: Mr. Speaker, Sir, it is only ^{recently} when we had enough water in Elburgon town, and the Assistant Minister is now saying that water is now being rationed. What has caused this rationing of water? About three weeks ago, there was enough water in Elburgon town and now we are told that it is being rationed.

MR. MWEU: Mr. Speaker, Sir, the hon. Member knows better than myself that Elburgon town has grown tremendously within a very short time and, therefore the demand for water from the two existing boreholes cannot cope with the population. The required amount of water per day in that town is 500 cubic metres, whereas the water that would be required to suffice the needs of the town is 1,500 cubic metres. Sir, you can see that a lot of water is required in this town and that is why there is that difference.

MR. J.N. MUNGAI: On a point of order, Mr. Speaker, Sir. Before I brought this Question here, I, as the Member ^{of Parliament} representing that area, consulted with the water officers in that area. The answer I was given was that one of the water switches was stolen. I was also told that they are constructing a huge tank and, as soon as it is completed, water would be enough in that town. It is true that the water tank is being constructed, and I do not want to deny that switches were stolen.

My point of order is with regard to whether what the Assistant Minister is telling the House is correct. Is what we have been ^{told} about a huge tank being constructed and switches having been stolen true?

MR. SPEAKER: ^{what does that get} ~~That has~~ ^{to} ~~do~~ ^{with} something to do with the reply which you were given.

MR. J.N. MUNGAI: Mr. Speaker, Sir, before I brought this Question here, I had doubts about the switch being stolen. We accept the fact that the tank is being built because we know it is under construction and is about to be completed. We thought the Assistant Minister could confirm what his

officers said, that they are putting up a tank that would suffice the town's water requirements.

My question is: Is it true that the switch was stolen - according to what we have been told - or there are no funds and yet a huge tank is being built? Where is the Ministry getting funds to construct that tank?

MR. MWEU: Mr. Speaker, Sir, I have no information as to whether the switch was stolen. Whether it was stolen or not, there is still shortage of water simply because the town has grown tremendously. If the switch was stolen - I am not saying so - then it has been put back and this is good news and the hon. Member should appreciate that.

MR. SPEAKER: Next Order.

POINTS OF ORDER:

MR. MUREITHI: On a point of order, Mr. Speaker, Sir, on the 13th of July, 1988, the Minister for Livestock Development assured this hon. House that within one month, he would be able to supply acaricides to Kieni Constituency. Up to Monday this week, no supplies had been made to Kieni. I do not think that the Ministry of Livestock Development is taking the issue of cattle seriously.

In the past, our people used to go to war to fight for their cattle. In the rural areas, after land, the only big asset is cattle. When the Ministry assures this House that it will act within one month and nothing happens after three months, the people are left wondering what the Ministry is up to.

I will quote what the Minister said, ~~as follows~~ which is this:-

"The funds are in the process of being taken to the districts and I can assure the House that this problem will not arise in Kieni and other areas within one month from now."

It is now more than three months and nothing has been done, and yet cattle need to be dipped once a week. We get milk from cattle which are very beautiful creatures to look at. We are nearing half of the 1988/89 Financial

Year and yet nothing is being done. I would like to request the Minister----

MR. SPEAKER: Order! I know Ministers give ~~an~~ undertakings to come back and give a definite answer to Questions if need be. I hope that the Minister has heard the complaint by the hon. Member.

MR. MATE: On a point of order, Mr. Speaker, Sir. We have a problem with the answers we get from the Ministers. I support my colleague, hon. Mureithi, because I have about six written answers which were ^{positively related} ~~attributed~~ to ^{And well given} ~~positively~~ my constituency in this hon. House and up to now, nothing has happened. We are wondering whether the Ministers are reducing this House to a "talking House" where whatever that is said here is not honoured. We are in a very big dilemma because we are told that this and that is going to be done. The wananchi listen to those promises over the radio. I have about six examples which I can give to this House where nothing has been done. Do the Ministers take this House and the nation for a ride or are they trying to mar the good name of our Government? This is a very serious issue and many Back-Benchers have experienced this particular problem.

END

RJH
Jmb.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): On a point of order, Mr. Speaker, Sir. The hon. Member has made a very serious allegation which is both sweeping and general, that all Ministers are giving answers which are not true. Perhaps hon. Mureithi had a point, but hon. Mate should substantiate which Ministers are giving the wrong answers.

MR. MATE: On a point of order, Mr. Speaker, Sir. Maybe my colleague might have got me wrong and he is capable of doing that. I said that some Ministries are actually giving us false promises in this House and I said that I can give six examples of positive answers which have been given here and nothing has been done up to this time.

BILLS

Second Reading

The Statute Law (Miscellaneous Amendments) Bill

(The Attorney-General on 1.11.88)

(Resumption of Debate interrupted on 1.11.88)

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir, when the House rose last night, I had just ^{got up} ~~rose~~ to reply to the points raised by the hon. Members. I had started by thanking all the hon. Members who so kindly contributed to the Bill and made very kind remarks. My colleague hon. Anyango seconded it, hon. Mibei followed ^{him} and hon. Biwott also contributed to this Bill. But when we came a little lower down in the debate, certain points of importance were raised and one of them was by the hon. Makau who contributed positively and asked that my office be more of a relations office in order to educate people of the need for reform and advancement of the law of this country. I thank him for that and I would also ask him to assist us in so doing. He is quite knowledgeable in various matters and I would ask him perhaps to call at the offices of The Kenya Law Reform Commission with an appointment or without and try to identify some of the subjects that ^{he} can contribute to assist. The Kenya Law Reform Commission move in the direction of reform, modification, consolidation and so on.

THE ATTORNEY-GENERAL (Ctd.):

Mr. Speaker, Sir, I take seriously the question of drug trafficking. This is a serious matter which is afflicting our country and the Government is taking stern measures to apprehend all those who happen to come through our ports or within the country ^{carrying} ~~selling~~ dangerous drugs like heroine and other drugs. Our law courts are getting more aware of the seriousness of the offences and they are imposing heavy penalties for these offences of drug trafficking. So I am also thankful to him for alerting and informing the House. In fact, this shows that the entire country is concerned and worried about this drug trafficking. These drugs are dangerous just like Acquired Immune Deficiency Syndrome (Aids) as the Assistant Minister for Health ~~has~~ said this afternoon. Drugs are dangerous and they can easily finish ~~the~~ the nation. They can easily ruin the nation. For instance, America is taking serious measures to combat drug trafficking after realising that the nation was almost falling. This is not the only country; India for that matter is another. We would like the members of the public including my colleagues hon. Members of this House also to be vigilant. Whenever they get any information or some information connected with drug trafficking or drug possession ^{they should} ~~try~~ to alert the police as quickly as possible so that we can help the authorities to eradicate this menace which is ~~threatening~~ threatening both young and old people. As I said earlier, drugs are dangerous.

Hon. Malebe raised a point in connection with the Mining Act. I do not think he had read the definition of what is a mineral. If he had read the definition, he would find that a lot of materials connected with soil are excluded from the Mining Act. I can only do better by referring him to the definition of minerals which means all minerals and minerals substances and maybe precious metal, precious stone^s or non-precious stone^s but does not include clay, murrum, limestone, sandstone, mineral water, ^{Pyrolites} lime, ~~limestones~~, powerline, gravels, building dimension stones and construction stones, ballast, ornamental stone, sodium and potassium compounds and ^{Pyrolites} ~~limestones~~ and that is ^{the Kisii stone} ~~to say~~ soil. So not every mineral is caught under the Mining Act. Hon. Malebe who happens to be

ment in minerals and also matters connected with quarries should have read

THE ATTORNEY-GENERAL (Ctd.):

that definition. Nevertheless, I also ask him to come ^{to} us ~~to~~ ^{to} the Kenya Law Reform Commission and discuss with us, the legislations either for consolidation or for ^{Codification} ~~modification~~ or reform, ^{and particularly} the legislation dealing with mines such as diamonds and properties.

Hon. Mang'oli was quite positive and I share with him the comments ^{made} that he ^{brought} about under the Local Government Act, that the Minister should have some restriction as to the number of councillors he may nominate. I share with him that comment and I would like to reserve that aspect until I have discussed the matter with the Minister responsible for local authorities. I was not able to see him ^{between} yesterday and today and I would perhaps ^{request} that the Committee stage be deferred until next week.

Hon. Kiliku was quite happy with the increase of judges of the Industrial Court and we ~~we~~ hope that sort of amendment will ~~help~~ help quite a lot in the dispensation of trade disputes.

Hon. Wasike-Ndombi supported the Bill well and asked us to look ~~x~~ into the Workmans' Compensation Act or how soon the civil servants who have retired can be given their pensions. He also raised the question on the wisdom of the Local Government Act being amended to give the Minister ^{unfettered} ~~unfettered~~ powers of nominating councillors.

I thank all the hon. Members for their kind words and their contributions. The other matters have all been noted, are contained in the HANSARD and we will go through them quietly and improve them. I can assure the House that my office will continue to make suggestions for the reform of the law as well as consolidation and codification and I would welcome any suggestion from the hon. Members either directly to my office or to the Kenya Law Reform Commission. It is a joint effort, not one persons' responsibility. I call upon you to make your contributions as and when you come across a legislation that needs some looking into.

With those few remarks, I beg to move.

END I....

(Question put and agreed to)

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

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Speaker, Sir, I beg to move that the Restrictive Trade Practices, Monopolies and Price Control Bill be now read a ~~2~~ Second Time. I shall

In the light of the importance of this Bill, I shall ask the indulgence of this House if I ^{have} ~~were~~ to deal at length ^{on} ~~the~~ objectives of this Bill.

Sir, hon. Members will recall that ^{while} ~~when~~ presenting this year's Budget, I tabled ~~the~~ The Restrictive Trade Practices, Monopolies and Price Control Bill which will not only properly regulate price control administration but, much more important, extend surveillance to practices which ^{restrain} ~~restrict~~ competitive forces in our economy. As I pointed out then, it is Government policy to reduce its intervention in the economy through the parastatals. As we progress in the implementation of this policy, it will be necessary to rely more on policy instruments to ~~to~~ influence agricultural management and industrial decisions on product choice, investment and employment. However, as private sector activities and community efforts increase in scope and magnitude, opportunities for abuses, favouritism and exploitation also increase. We all know that various kinds of groupings with dominant power in different sectors of our economy do operate tightly knit enclaves with the purpose of freezing out others including new, emerging businessmen, who may thus be driven into bankruptcy or confined to fringes of commerce despite a high degree of efficiency and determination to work hard.

Currently, the Government has no legal tools to combat these restrictive practices. Hence, the importance of this Bill. By equipping ourselves with the appropriate legislation and

THE MINISTER FOR FINANCE (Ctd.):

and enforcement machinery to combat such practices, we will make a major ^{step} ~~step~~ forward in accelerating indigenisation of commerce and industry; promotion of efficiency and lowering of consumer prices which will eventually increase exports by virtue of enhanced competition. This will not only promote growth, but also greater income distribution. This Bill therefore, represents a major step in restructuring our trade policy.

It is important to briefly review the history of the price control in Kenya and its future role before analysing the main features of this Bill. Kenya has had a price control regime for the last 32 years. The current Price Control Act came into force on 16th October, 1956. At that time, Kenya was under colonial rule and the degree ~~of~~ of industrialization and monetization of the economy was very undeveloped. Immediately after Independence, Kenya embarked on increased industrialisation based on import substitution. The output of these industries was therefore, geared towards meeting domestic and East African Community markets.

In order to ensure that these industries had greater and adequate market for their output, quantitative restrictions including "Letters of No Objection" were introduced on competing imports. Thus, the consumer was left at the mercy of these local manufacturers as far as prices was concerned. In order to protect the consumer, the Government maintained price controls on most manufactured goods. ~~But~~ However, as import substitution increased and following the collapse of the East African Community some ten years ago, domestic industries found themselves with an even smaller captive market and it became even more difficult to sell in Uganda and Tanzania as they had to compete with foreign firms

THE MINISTER FOR FINANCE (Ctd.):

for these markets. It, therefore, became important to expose them to competition domestically in order to gear them for the export market. Competing imports were, therefore, allowed into the Kenyan market and some items were progressively removed from the price control.

Mr. Speaker left the Chair

The Temporary Deputy Speaker (Mr. Kabingu-Muregi) took the Chair

Mr. Temporary Deputy Speaker, Sir, increased competition has also been augmented by increasing number of new industries in some sectors of the manufacturing industry. This has led to increased domestic competition and lower consumer prices. However, the level of domestic competition arising from both increased imports and new domestic industries has not reached a stage where price controls can be abolished on all the products. This Bill therefore, maintains the philosophy of the current Price Control Act in order to ensure that ^{the} prices of basic consumer items are not arbitrarily increased. In this connection, I would like to assure the House that it is the Government policy to continue to control the price of these essential consumer items which are either produced ^h under monopolistic conditions or traded restrictively and which take a large share of the budget of the low income group of our society. These items feature prominently in the cost of living of our population and their ^h prices will continue to be controlled. It is for this reason that the price control section of the current Price Control Act (Cap. 504 of the Laws of Kenya) has been reproduced in the Bill.

I have already reiterated Government's commitment to maintain price control on basic consumer items. They will therefore be a large number of items which will not ^{be} price controlled. The

THE MINISTER FOR FINANCE (Ctd.):

only way to ensure that consumers pay a fair price for ~~only~~ both price controlled and decontrolled goods is to encourage competition both in their production and marketing. Hon. Members will agree with me that it is for our ~~own~~ own benefit to allow competition to bring down prices of goods and services rather than to rely on administrative price control which, if not properly managed, may lead to ~~shortages~~ shortages and black marketeering.

For competition to work efficiently, the market must be free of any restrictions, both direct and indirect. These restrictions on investment and trade take various forms. It is these restrictions which will be outlined by enactment of this Bill. Only by removing these restrictions will efficiency in resource allocation be achieved.

Sir, monopolies, cartels - and indeed those individuals who are acting in restraint of trade ~~we~~ would not like this Bill. They would like ^{to} maintain their present privileged position which the Bill seeks to dismantle. Similarly, we must not allow our scarce resources to be wasted, nor for that matter must we allow some individuals to frustrate our indigenization policy which will be strengthened by opening up trade and industry to citizens who were previously disqualified from participating due to practices which will now become illegal. Hitherto, we have ~~re~~ relied on the Price Control Act to protect the consumers from exploitation ~~from~~ by ~~the~~ the monopolistic producers.

End J. 

THE MINISTER FOR FINANCE (ctd.):

In many cases, Mr. Temporary Deputy Speaker, Sir, these monopolies are the end result of the gradual process of the import substitution that the country embarked upon after Independence in order to put the control of the economy in our hands. We have continuously revised the Determination of Cost Order in this House so as to ensure that industries producing price ^{controlled} goods would obtain adequate profit margins while denying them the opportunity to take advantage of their monopolistic position to exploit the consumer. Unfortunately, this strategy has not always worked well as potential and actual investors often tend to shift their capital to areas of least administration controls even when such areas are of no priority in terms ^{our} of industrial development. In addition, there is no incentive to be more efficient in those industries where a monopolist can rely on secure profits on "cross-plus" basis. It is now intended to overcome these shortcomings which have been identified over the years by the introduction of this ^{new,} more comprehensive Bill.

Hon. Members ^{will} ~~would~~ have noticed that the section dealing with Restrictive Trade Practices seeks to curtail all those discriminatory actions that have stopped small traders and businessmen from entering into ^{remunerative} ~~remunerative~~ areas of economic activity. These areas in many cases have been the preserve of those who historically had the advantage of being commercially ^{entrenched} ~~entrenched~~ before indigenous Kenyan businessmen developed the requisite skills and capital. The mere fact that somebody can drive another out of business due to his financial reserves or economic contracts and not because of his price, is an unfortunate historical situation which we must now rectify. Similarly, we must get rid of the concealed lack of competition in the tendering procedures where collusion has often made it impossible for new upcoming businessmen to participate, and for those seeking efficiency ~~through competition to~~

THE MINISTER FOR FINANCE (ctd.):

through competition to get what should be the true cheapest quotation.

Mr. Temporary Deputy Speaker, Sir, one of the most discriminatory restrictive practice which is of concern to new entrants to the skilled labour market is practised by trade associations. These associations have been able to guard their privilege by constraining access to the profession by not recognising the qualifications of the new potential entrants. This Bill will ensure that, firstly, the rules of those associations are reasonable for the level of skill required for our economy and secondly, that the rules are applied in a consistent, non-discriminatory manner. Furthermore, this Bill will ensure that members of the trade associations will not, by virtue of their membership be able to act in collusive manner in determining the conditions of sale of their services.

Another aspect of discriminatory practice which we shall seek to outlaw with this Bill is the behaviour where new investment is deterred by actions of one of those already in the business. Such behaviour has taken the form of cutting prices below cost of production, forcing buyers to buy from the particular seller all of their products rather than shopping around for the cheapest, and other physical and financial threats which might drive a competitor into bankruptcy or discourage a potential investor from entering the business.

In a young economy such as ours, there is always a danger of concentration of economic power. This is not necessarily bad since there is need to reward those who have the necessary skill, but the abuse of such a power is something which we must discourage. The highly developed countries are all too familiar with the high cost of production associated with inefficiency arising from the concentration of economic power to the detriment of efficient resource allocation.

THE MINISTER FOR FINANCE (ctd.):

through competition. There are two ways of curtailing this: Firstly, the control of existing monopolies and, secondly, the curtailment of economically inefficient mergers and takeovers. Where a business has acquired a significant portion of the total market, it is then able to practice independent pricing policy and obtain profits in excess of ~~the~~ those which the competitive and efficient use of capital would entitle it to. Therefore, mergers and takeovers which reduce competition and which enables producers to manipulate prices to their advantage will be discouraged.

Mr. Temporary Deputy Speaker, Sir, this is not to say that there is no economies of scale to be reaped from mergers and takeovers: the problem is rather identifying when exactly such ~~the~~ economies are to be obtained, and to ensure that the resulting benefits are passed on at least in part, to the ~~the~~ wananchi by way of lower consumer prices. In allow~~ing~~ing the realisation of such economies of scale, we will ensure that technological choice does not discriminate against the labour-intensive techniques in which Kenya has comparative advantage.

It is therefore clear from the examples I have given that this Bill aims at improving efficiency in Kenya by creating more employment opportunities, earning more foreign exchange, keeping the cost of living down and raising the standard of living. Opponents of this Bill have already started arguing that we do not have the machinery to implement its provisions. This argument, is false. The Bill contains a number of institutional proposals to meet this challenge. This includes the creation of Monopolies and Price Commission and the Restrictive Trade Practices Tribunal. The purpose of having these is ~~a~~ to provide for an orderly manner ~~for~~ of appeal and adjudication while providing well formulated criteria for judgement.

I am sure that hon. Members will appreciate that the ~~the~~ purpose of introducing this Bill is indeed to increase our control

THE MINISTER FOR FINANCE (ctd.):

on our own economy by giving more businessmen access to opportunities and to make our economy more prosperous by ensuring that ~~an~~ scarce resources will be used in their most efficient activities. More ^{importantly} ~~important~~ this Bill will go ^a long way in the implementation of the indigenisation of the economy of our country.

With these few remarks, I beg to move.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Temporary Deputy Speaker, Sir, I rise to second this Bill which has been ably moved by the Minister for Finance.

~~Quorum~~

QUORUM

MR. JALDESSA: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sorry to interrupt the Attorney-General but I can see that he is addressing an almost empty House because we do not have a quorum.

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): Yes, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

END K.....

VWN

L.1

2.11.88

THE ATTORNEY-GENERAL (Mr. Mali): Thank you Mr. Temporary Deputy Speaker, Sir.

I rise to second the Bill, following the able statements made by the Minister ~~for~~ for Finance while moving this Bill. Mine will be purely to give the scope of the Bill, but before I do that, I ~~thi~~ would like to say that the key points raised by the Minister in his Ministerial Statement while moving the Bill are very encouraging indeed. He said that this Bill looks forward and aims at raising the employment opportunities in our country. I think that in itself is commendable. It is also aimed at improving the efficiency in our economy. What else do we want if this Bill is doing such a commendable thing? The Bill also seeks to promote indigenisation of our economy, keeping the cost of living at a lower level, and also raising the standards of living of our people. I think these key points should run through the entire spectrum of our deliberations ~~write~~ on this Bill. I would not have helped being titivated by those four key pillars of the Bill as the Minister explained.

Mr. Temporary Deputy Speaker, Sir, the Bill is a technical one in terms of the wording, and in practice within the industry of commerce, although it can also touch on other enterprises.

(END...L)



THE ATTORNEY GENERAL (contd.):

Just before I rose I was speaking to my colleague, hon. Mwai Kibaki, and told him that this is a technical Bill. He is an expert on trade, and we hope that he will help us in enhancing the deliberations in ~~zix~~ this Bill. Basically, the scope of the Bill is aimed at doing three major things.

Before I can go into these major objectives, I think it is fair to mention the ideal criteria in any business. Healthy competition and fair play in any business or trade are basic principles of law which should be applied when dealing with each other in business endeavours. The manufacturers or distributors, no doubt, aim at making profits. What about the retailer? He too must have access to the goods without which he cannot operate his business. He must obtain his goods without ~~nx~~ any discrimination in the open market. He too should make profits. What about the consumer? The mwananchi must at all times obtain the goods at reasonable and fair price. He must not be exploited, and he must also obtain goods worth of his money.

I think these are fair basic principles of law in commerce, and we cannot get away from them. The manufacturer must have a fair competition. He must also aim at ~~x~~ producing goods of a standard which is acceptable to the distributor, the consumer and the public in general. The distributor must also be fair when distributing. The retailer must also be fair to the consumer in dealing with him.

As you can see, these three people are on display at all the time. They are really at stage at any one given time.

THE ATTORNEY GENERAL (contd.):

~~Consumer~~. If ~~these personalities~~ these personalities
hesitate at the same time, you can expect quite a lot of things
to happen. The stronger may wish to knock down the weaker. The
weaker may also wish to exploit the stronger. How then can you
control business or have business ~~in~~ feelings where you have
such ~~as~~ unfair competition, undercutting, exploitation, poor
production, and so on without a ^{code} ~~code~~? This is exactly ~~the~~
what we are doing here. To bring a ^{code} ~~code~~ that ~~will~~ will
ensure that the four persons on the stage acting together do not
~~knock~~ ~~each~~ at each
~~others'~~ others' shoulders in order to knock one off ~~or~~ or to
exploit the other. As I said, the manufacturer's main function
will be to ... manufacturers good for consumption either locally
or internationally. The distributor's main duty will be to
distribute. The retailer may receive and sell. The individual
consumer will then come and buy the goods. These people must
be given a ~~fair~~ sort of a forum or a fair competition in the
running of the race in order to survive. If you do not do that
then you are bound to sink the smaller one and, perhaps, enhance
the benefit of the stronger one.

NP

End M.....



THE ATTORNEY-GENERAL (ctd):

Mr. Speaker Sir, I am talking in terms of personalities. That involves also associations of business, companies and other associations. So, when I am talking of an individual person, you can also amplify that to cover all undertakings by institutions like companies, associations and so on. So, that is where we are; and we must protect these people in their own dealings within their own spheres to enable them to enhance their business or to enable, in case of international trade, foreign exchange to come. The Minister mentioned that point that one of the objects is to enhance foreign exchange earnings. Employment opportunities will be available. Efficiency is the other key pillar point which will be maintained because of fair and harmonious commercial and industrial dealings amongst the players in the game.


Mr. Speaker Sir, ~~the~~ costs of living will ~~invariably~~ inevitably be kept low for the benefit of wananchi. Standards of living will inevitably improve. So, having said that, I now turn to the Bill. The Bill contains ~~some~~ several chapters as it will be seen in my memorandum of Objects and Reasons at the end of the Bill. I know that the Bill was distributed a little longer; this was about June or thereabout. I hope that the hon. Members are able to retain these Bills in order to be able to follow ~~the~~ what is being discussed. There is no doubt that the hon. Members are interested in this Bill.

Mr. Speaker Sir, first of all, I would like to ease the burden of the hon. Members with regard to this Bill. If hon. Members may turn to part IV of the Bill, they may see that part, up to the end of the Bill, except for the Memorandum of Objects and Reasons, contains the provisions entirely and almost a reproduction of the Price Control Act, Cap. 504. The law is existing at the moment and if hon. Members do pass the Bill, which will entail repealing of the Price Control Act, Cap. 504, they will bring into force ~~the~~ this one. The other law is still in force. So, the other law will remain in force until it is replaced by this one.

THE ATTORNEY-GENERAL (ctd):

NP
 So, ^{the provisions of} the Price Control Act ^{have} been reproduced ^{almost} word for word. If hon. Members would like to ~~check~~ check that, the books are here, ^{and} they can compare the Bill with the existing ^{Act.} law. I would like to say that we will, at the end, under the miscellaneous section, Part V, which deals with Establishment of Restrictive Trade Practices Tribunal, apart from where we have provided that the Tribunal to be known as Restrictive Trade Practices Tribunal, we will replace what used to be the Price Controller and the procedure laid down. The Bill is in essence a reproduction of the existing law. This is a good example to show reforms of law, codification of law, consolidations of laws, and enactment of new laws, which I was talking about yesterday. ~~xxxx~~ This falls under the category of consolidation of laws. We ~~think~~ think that the Price Control law can easily go with Restrictive Trade practices and the Control and Monopolies. So we feel that we should consolidate them into one ~~xxxx~~ law. So, this is a point I might as well ~~make~~ make now in relation ~~of~~ to our law reforms. This exercise, to that extent, is consolidation, but to the extent of the new parts which are being brought about earlier than the Price Control Provision, ^{the} these are new enactments of ~~the~~ the law.

END N...



THE ATTORNEY-GENERAL (ctd.):

So, Mr. Temporary Deputy Speaker, Sir, if the hon. Members have been quite happy with the existing Price Control Act, as was explained by my colleague the Minister, which existed to control prices in manufactured goods, which, I think has done very well, then you need not worry about the debate at this point, unless you have something to improve on, in which case, you may take the opportunity to suggest it. ^{now} At the moment, ~~it is~~ the existing law ~~but~~ and ~~it~~ is being reproduced as it is with a few modifications and harmonizations in order to fit in well with the new enactment under the ~~new~~ Restrictive Trade Monopolies and Control Act. So, if you agree with me on that one, Mr. Temporary Deputy Speaker, Sir, the hon. Members may not find ~~the Act of~~ the Bill very difficult. So, unless you have anything to suggest for improvement as far as Part IV is concerned, I will take this opportunity to amend the existing law which should be taken to be a reproduction of the Price Control Act, with a little bit of modifications to allow for the tribunal, instead of the Price Controller, who used to deal with matters of dispute and so on.

Mr. Temporary Deputy Speaker, Sir, I think I have made the remaining part of Bill a little bit easier. I did mention competition, undercutting, hoarding of goods, unfair play in dealing ⁱⁿ ~~with~~ business associations, knocking off one another - ~~kn~~ forcing out another business so that you can survive. I did mention that in passing when I was making the general statement. I would now like to introduce this part of the Bill in two portions, as the Minister did in his policy statement.

THE ATTORNEY-GENERAL (Ctd.):

The first portion will deal with restrictive trade practices. I am sure hon. Members will start wondering what ^{these} restrictive trade practices are. I think it is easy for me to tell the hon. Members to turn to Sections 6 to 12 of ^{the} ~~the~~ Bill. These are the sections which explain what restrictive trade practices are. In short, restrictive trade practices are practices which all collectively or singly, tend to reduce or eliminate competition in fair markets, ^{or reduce} or eliminate opportunities to acquire goods or services in open markets. Once you get that particular statement, then you can read Sections 6 to 12 and find out ~~what is enlisted~~ whether what is enlisted there falls under that major criteria. In Sections 6 to 12, you will see examples of these practices. Section 6(a) - just to give you a kick-off, states:-

"an agreement or arrangement between persons engaged in the business of selling goods or services to engage in conduct -

(i) hindering or preventing the sale or supply or purchase of goods or services between persons engaged in the selling or buying of goods or services; or

(ii) limiting or restricting the terms and conditions of sale or supply or purchase between persons engaged in the selling or buying of goods or services;"

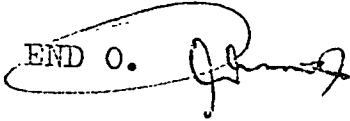
So as you can see, any matter or any practice that will be inclined to limit or reduce the capability of one person in the ~~the~~ same trade by imposing conditions or bans to that particular person would be a restrictive trade practice. This will be illegal, and the person doing so will be liable to serious penalties when found out. So, as I said, Sections 6 to 12 give you all those practices that are said to be ~~illegal~~ restrictive.

THE ATTORNEY-GENERAL (ctd.):

Mr. Temporary Deputy Speaker, Sir, I cannot go on reading the Bill; I assume that hon. Members have read it. I will, therefore, move on to the other aspect of the Bill which is Control of Monopolies and Concentrations of Economic Power. This is found in Part III of the Bill. What are the monopolies? I will refer the hon. Members to the definition itself because it is very important. The Bill states:-

"A monopoly undertaking means a dominant undertaking or an undertaking which, together with not more than two other independent parties, produces or provides services at the rate of one half of the total undertaking."

In other words, where an enterprise is fair and provides, supplies or does services to the tune of half of the total production by itself, it is called a monopoly. What do we really mean when we say that we are controlling monopolies? That will bring you to Part III of the Bill, and I think it is quite fair that we have a look at it just before I conclude my remarks.

END O. 

THE ATTORNEY-GENERAL (Ctd.):

Mr. Temporary Deputy Speaker, Sir; Paragraph 3 talks about the control of monopolies. The monopolies that I have mentioned in the definition will be permeated by the indigenous or prominent businessmen in control of the business thereby forcing a merger or a take-over of any other business for the purpose of kicking him out. That, again, will be illegal under the Act because it would ~~be~~ deemed to be a monopoly or engaging in ^a merger or a take-over proposal. I think hon. Members will find it very interesting from paragraph 1 to paragraph 6 of the Bill which say what is a merger or a take-over proposal which may amount to a monopoly, which is controlled under this Act.

For instance, Mr. Temporary Deputy Speaker, Sir, I would like to take just one example of a merger or a proposal which says:-

or

Lhas "A proposal retaining to acquisition, deposition of shares in a company which, together with the shares, if any, to which the transferee already ^{Lhas} is a beneficial interest, carries the right to exercise of the exercise. In the case of a private company, it is a take-over.

So, a monopoly, just like ~~a~~ restrictive trade practices, will not be encouraged in order to maintain the standards which the Minister brought forward as a key ~~k~~ pillar, namely to maintain opportunities for others to co-exist in the same trade where fair competition and fair dealing in open markets will exist. So, employment opportunities will be there and efficiency will be maintained by not allowing merger or take-overs or forcing people to close down by undercutting prices so that others also can close down their shops. This will also allow our indigenous people to come up in business.

Mr. Temporary Deputy Speaker, Sir, there is a good example which I cannot forget. A s soon as we attained our Independence in ~~163~~ 1963, most ~~of~~ us were here in 1964 and 1965 when businesses in Biashara Street and in River Road were owned by Asians. However, the Government encouraged the indigenous people to take over these businesses and very quickly, our people went into these businesses and started operating them. Did they succeed? Why did they not succeed? This will give you a very good example of restrictive trade practices. The manufacturer in the Industrial Area was a Mr. X and

and the trader or the retailer was an African. Where would this African get the money to manufacture goods? Here again, I am talking about a monopoly ~~it~~ or forcing out a merger or a take-over and a good example would be found in what I have already said. The neighbours of the African traders were squeezed out of business. These neighbours decided to join their brothers to manufacture goods ~~and~~ and supply ~~to~~ them to their brothers ~~and~~ who would then sell the goods through under-cut prices. So, did the African businessman succeed? I am not commercial minded, but I do ~~not~~ know that those principles of this law were violated commercially and these are the ones I am asking this House to bring them forward now firmly so that anyone who tries to violate them, ^{can be dealt} ~~then we can deal~~ with him. This is the only chance we have of bringing up our indigenous businessmen into commerce and industry.

^{second and} Mr. Temporary Deputy Speaker, Sir, with those few remarks, I ^{beg to} ~~now~~ commend this Bill to the House.

(Question proposed.)

(THE BILL THE MINISTER FOR HEALTH (Mr. Kibaki): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to just say a few things in support of this particular Bill, which is very detailed and which, in its ^{purposes} ~~total~~ phase, ~~will~~ we believe will go along way towards helping us to fulfill policies that we have attempted to fulfill since the time of our Independence. I am very grateful to the Attorney-General for elaborating all the legal provisions and the problems that we may face, and in particular, for giving some examples of this restrictive trade. However, perhaps the living example that we have now which is very vivid, is the whole situation about nails. There ~~is~~ has been a shortage of nails in this country and there have been numerous excuses by the manufacturers, but we that live in this country and who are doing some construction, ^{know} that in fact, during this ~~period~~ period, there are some people ~~has~~ who have been able to get access to nails. As the Attorney-General said, these people are friends or relatives or

~~my~~ cousins of the manufacturers. These people have therefore made special arrangements to get special profits. I am saying this because you can go to a certain town and find only one or two persons have access to nails and when you go to buy nails from their shops, they demand that you also buy iron sheets for roofing or other goods and eventually, they sell you the nails at double the price. I am not telling a fictitious story. I know this ~~has~~ happened. I myself have sent people to buy nails and I know this is how they have been treated. The excuses given by nail manufacturers in ~~Kenya~~ Kenya are not acceptable. We know that ~~this is~~ ^{is happening} because they have a restrictive trade arrangement through agreements which have existed for years. Whenever they find a demand in ~~the~~ neighbouring countries and other areas or whenever they know there is going to be a small shortage in the supply of raw materials, they go very quickly into a closed shop so that only they themselves will make a profit and other few people whom they choose in various towns.

Mr. Temporary Deputy Speaker, Sir, this is the sort of ~~trade~~ trade that we are talking about in this Bill where ~~a~~ such profits are guaranteed ^{to} a few people because ~~of~~ of their special relationship with the manufacturers. This means others cannot have access to certain goods. Now, in a country where only a few traders are very prosperous ^{and where they} believe that they can get away with this kind of arrangement regardless of the majority who are suffering, we need the law to take effect. I am saying this because we must attempt to use the law before we use any other means. I hope the Attorney-General does not hear me talking about using other means because I know he does not ~~it~~ like those words. However, Sir, there is one thing that you and me know, and that is, ^{a situation is not tenable} ~~this is not tenable, it is not~~ nor can ~~it~~ be defensible, ^{it can} it last where a few traders or manufacturers choose to make huge profits while the rest of the economy is suffering. Socially and economically, that position cannot be sustained for any length of time. It does not matter how much we may be tested in the form of how much goodwill we have. The case of the nails is very obvious and it is continuing even up to this time despite all the excuses.

THE MINISTER FOR HEALTH (Ctd.):

There are other ~~examples~~ examples where we should take action at once when this law is passed.

The manufacturers of textiles will also be affected. At the moment, the prices that are available for textile trading are different for different people and therefore, it depends on whom you are and your relationship with the ^{manufacturer} ~~manufacturer~~ and that is a fact. The restrictive trade here is not even an agreement. It takes three dimensions. First and foremost, some traders are given special/^{cash} discounts by manufacturers so that on the invoice which is to be ~~xxx~~ inspected - - - This is why I raise this ~~question~~ point because in this law we are talking about invoices. However, the invoices never tell the whole story in today's system in Kenya. The cash discount will make sure that the invoice looks all right for the purposes of inspection, but in fact, there will always be a quantity of goods/^{passed} ~~put~~ free of any invoice or any recording anywhere, to that favoured distributor.

END P

JTC

THE MINISTER FOR HEALTH (CTD)

Therefore, in that particular little town all the buyers will go to that particular trader who gives a special large discounts. So, he is able to survive because he gets that special treatment from the manufacturers or the wholesalers. In that way those who are not favoured are kept out, and they are not able to go on trading. This is the most effective way of keeping out completely the 'natives'.
 When they have to ^{be} kept out of any trade, they are completely kept out of it. This method is very effective in the textile trade.

Mr. Temporary Deputy Speaker, Sir, this practice takes a second facet. When new lines ^{are} introduced, they are not generally made available; they are only made available through certain distributors. So, if that is what is fashionable and profitable, for the first six months they are only made available through certain distributors, after which they are generally available. In that six months, the favoured few have made their profits, and moved on. It is only then that all 'natives' may join and take what they want. These are things we are seeing with our own eyes. So, we really have to use the law to beat down these types of people, because there is bitterness in trade. The only ^{way} for the problem to be dealt ^{with} is for the law to be seen ^{as} being used to put right something which is very obvious.

There is a third method which we know and which we have been seeing in these matters of special arrangements with the distributors. It is a kind of collusion regarding the time when you are to be supplied with goods. It is difficult to pinpoint this aspect in the law - this is partly why I am mentioning it. It is covered by the law, but for it to be effective we have to be aware of it. Though the law mentions it, ~~you~~ you will find upto five wholesalers, or distributors, ordering for goods from the same manufacturer at the same time, the order for one of them will not be fulfilled

THE MINISTER FOR HEALTH (CTD):

for the first two months, while somebody else's order is fulfilled twice over. So, in that particular town one trader will still be waiting to be supplied with goods, while somebody else has been supplied with goods and sold them out, and he has had a new supply of goods which he is still selling. Therefore, the whole market is 'cornered' by the manufacturer on behalf those few favoured distributors. The other traders will continue waiting to be supplied with goods with the arms folded up, and still paying rent for their shops. We know that this situation exists. So, it is very important to see that the clauses in this Bill will be interpreted without any mercy. This is because these things will not be specifically recorded anywhere.

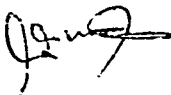
However, Mr. Temporary Deputy Speaker, Sir, in order for the law to be effective the traders will have to seek to use it to protect themselves. This is because the Government will not have enough manpower to police every operation in the trade; there are too many operations for the Government to afford policing. So, the traders will have to use this law where they are being discriminated against when it is provided to complain by raising specific issues. If there are special terms for any one trader, then that manufacturer should be forced to make those same terms available to every trader, so that we do not have a manufacturer who gives special terms only to some traders. That is very important.

There is another aspect, which is covered in Clause 10 of this Bill, and about which I would like to mention something. This is what is described as 'predatory trade practices'. We know that a predator is an animal which picks another up the way the hawk picks a chick up, and takes it away and eats it ~~in~~ ⁱⁿ comfort on top of a tree. That kind of an animal is a predator. Now in this country - and it is good that the Minister in charge of Jua Kali Programmes is here -

THE MINISTER FOR HEALTH (CTD):

the moment Jua Kali entrepreneurs explore a market and establish that a particular line of trade is popular you find that the long established big manufacturers move into that little line very quickly.

END



THE MINISTER FOR HEALTH (CTD.):

I can give 15 examples here, but I do not have to give all of them. Let me just give two of them, because everybody knows the truth.

This is the most predatory practice of all right now in front of our eyes. It originally started with the making of windows, but thank goodness for the resilience of "Jua Kali" artisans. They have survived. Initially, when "Jua Kali" artisans were making metal windows, those who were manufacturing windows before reduced their prices at once and, because they have a lot of reserves and other access to credit, they could survive for a year. How does the "Jua Kali" artisan survive for a year without selling something? The old window manufacturers simply ^{pushed} "Jua Kali" artisans out. Now that we are assisting these artisans, we have to make sure that this practice is stopped. Perhaps one of the most effective ways of going about it is to tackle the issue from another angle, namely, to buy our commodities from "Jua Kali" artisans. In that case, we will be providing the market for their products. We will make them strong. Because we know that the "Jua Kali" costs of production are lower than those of big manufacturers, these artisans will stand on their own in the next round of their operations. We know that there is this practice of sabotaging "Jua Kali" artisans.

Every little line that may become profitable very quickly is available. Even more important, if an entrepreneur may start making some profitable item, he is very quickly offered a price. He is given an offer which is very difficult to refuse. He is told, "We will pay all your costs and even employ you/ or make you/ a director of some enterprise." If he accepts ^{the} offer, he loses what he could build on for the future. This is covered in clause 10 and elsewhere. I am sure that it is important for us to make sure that this provision is effectively applied.

One practice, Mr. Temporary Deputy Speaker, Sir, that we are

THE MINISTER FOR HEALTH (CTD.):

coming into contact with everyday in every Government Ministry and department is covered in clause 11 (1) - collusive tendering. This practice is to be prohibited. How are we going to implement this prohibition? The law is very good because we are going to prohibit it. However, how do we stop it? If you look at some of the tenders within any Government department today, no matter what projects they relate to, you will find that they are all within the narrowest of margins. People have either talked to one another, they have stolen information together, they have a common informer or they have whatever they have to buy together. Somehow, normal bidding and competition is eliminated, and there is genuine collusion. You will find that people who normally tender will not do so on certain occasions because they leave the opportunity to XYZ first who, in turn, agrees to leave the next tender to him. In this case, the one who has the opportunity to tender tenders his price. So, we are reduced to this position.

To implement the prohibition of this practice, we ^{MUSC} ~~will have to~~ have departments which establish the established prices in the market so that we may be able to decide not to accept the prices of those who try to cheat us by offering very high prices. It is very important that we get together in respect of this issue. This particular collusion is seen most often when there is collusive bidding at auctions. This is also prohibited. People agree, "If we are bidding a dressing table that is being auctioned and the bid gets to Shs.15/=, keep quiet so that only one or two people remain in the bidding." In that case bidding stops and the fellow concerned takes the table at that price. It is known, however, that there should be a reserve price, and this is what I am talking about. We should have reserve prices for other similar situations in case of collusive auctioning.

Finally, Mr. Temporary Deputy Speaker, Sir, the biggest problem in this country regarding this sector of our economy is the fact that the

THE MINISTER FOR HEALTH (CTD.):

people who are in trade have come to work into their heads and minds that they must make very large profit margins. The way in which we are going to deal with these problems that we face here is to make sure that we encourage those who are willing to make narrower margins and grow rich on the volume of trade. In this country, this is a problem literally in every sector we look at. People make 30, 35, 40 and even 50 margins of profit, and goods are so expensive in relation to what should be paid for them in an economy that is at our stage of development that the money that is available to us does not go as far as it should go to help in promoting development in this country and raising the standard of living of the people whom we are here to help and protect, using the law that we are making here.

In the clause that deals with mergers, which I think is, indeed, very welcome because some of our smaller companies that may not be able to survive have to seek protection from somewhere by merging with big ones or are forced to do so, I hope the merging procedure will not take so long as to render some small companies, which could be salvaged if they were allowed to merge with big ones in time, helpless. If this is the case, these companies will not go broke and bankrupt because many of those that are threatened by this kind of thing can be salvaged by merging them with those that are already efficient and effective and which could lead to future growth because they have access to more capital, better management or bigger markets.

It is also important now that we have the Preferential Trade Area Agreement (P.T.A.) to get some indigenous companies to merge with others so as to become more efficient in supplying their goods to a wider market, which we have. That is a separate category, and we hope that the department that is going to be set up for this purpose will process such

THE MINISTER FOR HEALTH (CTD.):

companies' requests for a merger quickly so that the companies may grow, expand and supply their goods to the wider markets that we have in this eastern Africa region.

The point I want to make finally, Mr. Temporary Deputy Speaker, Sir, relates to price control. I think it is important that we tell our manufacturers that price control is not something unique in Kenya. They have now made it a habit every time they have a meeting together to pretend that the few items that are price-controlled are stopping investment in the economy. You, I and everybody know that there are items in almost every country in the world that are price-controlled. As to which items are chosen to be price-controlled, depends on the economy itself. In some American countries, for instance, there would no meaning in having food price-controlled because of the nature and the volume of production and the volume of competition. However, there was a time when there was a price control on food there. Now, only some items in the industrial sector are price-controlled because of the structure of their economy. In this economy of ours, there are items which are price-controlled, but these are very few in relation to the total number of items that are traded in the economy. Therefore, any manufacturers or their representatives who pretend that price-control, to the ~~entire~~^{extent} it is now being practised in Kenya, is a major restriction on investment is not sincere. It is time that this matter is spoken about freely and openly so that whoever is talking about this pretention is now forced to talk about a specific item, and not about price-control in general.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

End R. 

Temporary
 MR. MAHILU: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to comment on this very important Bill. The operations of the Minister for Finance have been aimed at helping the mwanauchi as manifested in this Bill. Since this Bill has been described as a very technical, I will make a layman's comment because the experts have spoken.

I would like to congratulate the Attorney-General for the manner in which he ^{moved} supported this Bill and elaborated what it means in legal terms. My concern is particularly in the department of price control, ^{which is} Price Control is a very important ~~department~~. I would like to commend the Minister, once again, because this department is properly staffed and kept up-to-date. There are certain areas where we would like the Minister to take note from time to time especially in the field of production. When production of items becomes too expensive, it is important that Price Controller or the Commissioner of Monopolies is able to keep up with the trend.

If he keeps up with the trend, the result will be that the economy will not suffer. If a manufacturer is producing items to sell at less the cost of production, he will definitely lose and the Minister should look at that. I have no doubts in my mind that ^{to} a law has been made to look after this area. The law should not aim at over protecting the consumer more than the producer. The producer should be compensated sufficiently enough to enable him to produce and to make a small profit.

————— If that particular area is looked after, our economy will ^{grow} well.

NNP/
 One area which I would like to comment is one which many hon. Members have spoken on. I would like to be more specific by speaking about industrial estates. The products which are produced in our industrial estates - which are now being established in all major towns of Kenya - face a problem of lack of market and competition. I am talking about the small industrial estate ^{operator} or a jua kali artisan for that matter. This person needs to be assured that the items he produces will have market.

There is another area where I would like to draw the Minister's

attention^{to} This is with regard to tourist resorts. I think we sometimes overcontrol items which we, in fact, import. When Americans, Germans or Europeans visit our tourist resorts, they buy whiskeys and wines at a controlled price. In their own countries, these items are sold at higher prices. What I am trying to say is that the services of the tourist resorts should not be controlled so much. The ^{imported} items which are sold in those resorts should not be sold at lower prices. The Minister should look at that particular area because, if a free market was there, we would earn much more foreign exchange than is the case at the moment.

I do not see the reason why there should be price control in the lodges which are normally packed with foreigners and people who do not mind whether the price of soda is Shs.10/=, \$1 or \$2. Why do we control prices in such places? When tourists come to this country, they normally come with money to spend. This is an area where I feel ~~where~~ we should let them spend and use all their currency rather than take it back because life was very cheap here.

Accommodation is very cheap here and they normally do not mind how much they pay for the food. If we control prices in those areas, I think, at the end of the day, we might be pricing ourselves out of the market. I do not wish to make many comments on this particular area, but I feel that if we can take care of price control on commodities that are normally used by the mwananchi and remove this restriction on other items, our economy will grow.

The Minister has done very well on this issue. He has always taken care. For example, in this year's Budget, he made sure that the areas where the mwananchi is affected are looked after very well. Those people who come to tour our country and are prepared to spend, we should let them spend. By letting them spend, we shall be earning foreign exchange for this country.

The other area which I wanted to comment ^{on} ~~about~~ is the development of our country. Kenya is considered as a semi-developed country. In most

people come from other parts of Africa or south of the Sahara to visit Kenya. They are told "Do not go to London. Why do you not go to Nairobi?" This is happening everyday. Nairobi is a very important centre of communication and major businesses are conducted here.

The law has come at the right time to regulate the trade and those who want to make profit will be supported by the law. I agree with the comments which were made here earlier to the effect that manufacturers should not be wholesalers, distributors and retailers of the items they produce because they will have a complete monopoly of the items they produce.

We support the Minister and urge him to look at the question of monopolies. A manufacturer should only specialise in manufacturing and when it comes to distribution, somebody else should handle that area. The person who distributes, must not carry out retail trade at the same time. In this way, the trade will spread to as many people as possible.

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

MR. MAKAU: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this time to contribute to this very important Bill. When this Bill becomes law, it will be a salvation to the indigenisation programmes in this country as far as commerce and industry is concerned.

This country has ~~never~~ been operating in a fair atmosphere as far as business is concerned. We have had ~~ix~~ laws governing business operations, but many a time, they have been abused by unscrupulous businessmen who have always tended to drive away indigenous African traders in this country.

END

R/S
JMB

MR. MAKAU (Ctd.):

A lot has been said about The Restrictive Trade Practices, Monopolies and Price Control Bill. It is very gratifying to hear that the Front-bench is aware of these problems that have existed for many years. When we look at the Bill which we are debating today, we realise that we have one limiting thing which is that the small trader or the indigenous African will never ever get any business in the major towns in this country. This is because there is what is called the 'Goodwill' which I feel is a restrictive trade practice. For example, in Nairobi, it is not easy for an African to get a shop because there is collusion. Probably it seems as ^{if} in these meetings that take place in ~~xx~~ various religious clubs, there is some collusion whereby people decide that if any indigenous African wants to hire a shop in Nairobi, Mombasa or ⁱⁿ any other big town, he has to pay a given amount of 'Good-will'. Although it is difficult to ascertain and to find out whatever is happening, those of us who have been in business for number of years feel that there must be an agreement somewhere between a given community of businessmen in this country, that if a an indigenous African wants to have shop he has to pay a 'Good-will'. In fact, a good-will is ^{almost sh.500,000-} ~~being up to shillings half a million.~~ The other day a friend of mine wanted to let a small shop just near Kijabe Street and he was asked to pay shs.300,000 ^{as} good-will. This is one of the things that will make us not to be in business for many years.

Sir, you also realise that even the buildings that the Government has ^{up} put ^{up} such as Reinsurance Plaza and others are taken by ~~xx~~ the same businessmen who belong to the same community. They are always the first people to make sure that they get access to the letting agents so that from then ^{if you want to open a shop} you have to pay a very ~~xx~~ heavy 'Good-will'. This is one of the ~~xx~~ things which His Excellency the President ^{at} one time said that should be stopped. People should work ways and means of getting ^{rid} ~~rid~~ of this type of thing ~~was~~ called 'Good-will'. Now that we have this Bill that specifies clearly that those who are bent ^{on using} ~~to~~ use those practices to reduce competition are going to be catered for in this law. I would like those ~~xx~~ who will be enforcing this Bill when it becomes a law to make sure that this 'Good-will' which is a restrictive trade practice is eliminated. When the

MR. MAKAU (Ctd.):

Attorney-General was trying to ~~say~~ elaborate on various technical points, he ~~had~~ mentioned that when the Africans were given shops in Biashara Street something happened. Now even if we wanted to go back to Biashara street ^{it} is impossible. This is because the good-will that they are asking for is more than shillings half a million. Besides that what is being asked for is more than what you want to invest. So you find that there is no chance at all for any indigenous African trader to get into that business. In business, when we talk of business theory we mean that people start from small traders, to manufacturers and so on. But now if there is no way that an African can start then it is really very bad practice in this country.

I am happy to remember that during the presentation of the Budget, the Minister for Finance stressed that although agriculture is the backbone of our economy, for us to get into the next Nyayo decade, we need more than agriculture. We need to be involved in the industrialization and also making sure that those in commerce produce goods of quality that would be able to compete very well in the Preferential Trade Area (P.T.A.) market. So when we talk about indigenisation of our ^{economy} ~~in~~ this Bill we are not asking for those foreign investors not to be here. What we are asking ^{for} is balancing; making sure that those who are indigenous Africans also participate in the economic development and ownership of property in this country. This is because this august ^{House} ~~is~~ an indigenous Parliament and if we are serving the interest of the wananchi then we should be seen to be serving them. It should also be seen ^{in the outside} ~~aside~~ that there are practical examples of what we are doing for them.

The other aspect of this Bill which I feel is going to save ~~the~~ this country is on the question of controlling those companies which have been monopolies in this country. When I read the Bill, somewhere I got a little bit concerned because of the definition of what is a monopolistic enterprise. I know and that is why the Bill has been delayed, ^{for} sometime there has been a lot of canvassing from the Kenya Association of Manufacturers which is acceptable in business practice. But to define monopolistic competition as those who control 50 per cent

MR. MAKAU (Ctd.):

is un-heard of in the world. If somebody is controlling 50 per cent of any business whether it is supply of goods or services surely that is too high. I think the original Bill had stated 25 per cent but now we are talking about the present. However, what I am suggesting is that the criterion for saying that a given enterprise is monopolistic should be less than 50 per cent; it ~~is~~ should be about 33 per cent because 50 per cent ~~is~~ is too much. Currently when we are debating this Bill, I have in mind the Nalin Nail Company Limited which has caused heavy suffering to the Kwananchi who wants to put up a house in the village. This company controls about 50 per cent now; the Nalin Nail Works ^{is a} ~~is a~~ cartel of nail manufacturers. If we are going to ^{endorse} ~~endorse~~ this while we are suffering because ^{of} this nail control, then we are not helping this country as far as ~~is~~ monopolistic practices are concerned. Kenya is the only country in Africa that is having this Bill. This is because when you talk about monopolies commission you find that ~~you find~~ these things in Britain, United ~~States~~ States of America and so on. But to talk of 50 per cent, I think it is too high. Therefore, I would urge the Minister for Finance and the Attorney-General to see whether they can reduce this and make it at least 33 per cent. Well, I know that the Kenya Association of Manufacturers has already done a lot of work ^{which} to reduce. I would say that ~~is~~ there are companies already ^{which} are controlling 50 per cent and are causing a lot of suffering to the people in the construction industry and in particular to the people who have caused artificial shortage³ of nails in this country. I say artificial shortage because if you go round checking, you realise that they have been given import licences to import billet from Zimbabwe and now we do not know where the nails are going. Some ^{of} people ~~some~~ in the Ministry of Commerce, ~~in~~ Ministry of Finance or the Ministry of Industry know what is happening. This is because these people have imported billets from Zimbabwe but the nails are not available and they actually control 50 per cent of the nail production. Although this is not ~~is~~ backed by statistical research, ^{well} but currently if you look around you ^{will} find that manufacturers of nails control 50 per cent. So when you talk about 50 per cent I see that to be on the

MR. MAKAU (Ctd.):

higher side and you cannot say that if somebody controls 50 per cent there will be a chance of any person emerging. This is because two multinational organisations will have 50 per cent on one side and 50 per cent on the other side.

If you look at the cosmetic market in this country and it is good that we have this Bill and we hope that this law is going to be enacted. When the East African Industries heard of the decontrolling of prices, they went ahead and increased the prices until the whole country was crying. The East African Industries in collusion with the Unilever, I think, they acquired the Chessbury Bonds of the United States of America who had quite a big chunk of cosmetic market in this country. I think through merger and acquisition somewhere they got themselves bought out by the Unilever and East African Industries became the people that are distributing the products of Chessbury ponds.

END T.....

MR. MAKAU (Ctd.):

no other company competing with them. Although I hear that there is another company which is coming up to compete with them, I feel that it is going to be almost impossible to compete with BAT because that new company will have to be importing the raw materials- tobacco leaves - whereas the local company has a restrictive trade practice of making sure that they control the growing of tobacco. Due to this, there is not going to be a fair competition.

It is the same thing with the ^{brewing} ~~breweries~~ industry.

I saw in the local newspapers some people who call themselves Kenyans want to start some ^{brewing} ~~breweries~~ company here. I agree that those companies are doing a good job but we are looking ahead to the years to come when they will not be the only people who will be controlling the ^{price of the} raw materials. We should, however, look into the issue of raw materials because it ends up influencing the control of the supply of the manufactured goods. This is an area which needs to be looked into seriously.

Another area which has been mentioned in this Bill is the question of ^{mergers} ~~mergers~~ and acquisition ~~or~~ take-overs. I must say that we Kenyans have started looking into this. * Kenya is being called a developing country ^{and by} ~~through~~ the introduction of this Bill ~~and~~ That is why I started by saying that the Ministry of Finance and whoever was involved in the drafting of this Bill needs to be congratulated because we have now come to show the world that we are also concerned ^{about} ~~with~~ whatever is happening outside because it will also affect us here. The question of mergers and take-over through acquisition

MR. MAKAU (Ctd.):

in business all over the world has become a modern method of expansion. You will find this being done in Britain, in the United States and ⁱⁿ other industrialized ~~su~~ countries. If a country wants to expand, it must look for an opportunity whereby it will acquire another organization so that there is economies of scale.

We have heard of many people like Tiny Rowland, Maxwell and others who are establishing businesses all over the world and have employed a lot of people in these big businesses. It is good we have introduced it here although the effects of what is happening outside is likely to skip to us. I would like to add on this that if a take-over or a merger and acquisition takes place outside Kenyan territory, it should not be transferred to this country. Unless we have such a clause, a given multinational company will be taken over by another ~~in~~ organization and then transfer ~~su~~ the same thing into this country. ~~Unless~~ This is another thing which I feel we must look into because we can have a spill-over. Kenya has become internationally recognised. We should try to make our laws such that if any merger and acquisition takes place elsewhere, it should be ratified in this country so that we know whether it is going to be of benefit to us.

I say this because there is nothing wrong with mergers or take-overs. For us to enter into the Preferential Trade Area market (PTA), it might be necessary. For instance, if we combine a local business enterprise and a multinational to work together so as to be able to get into the PTA market, it will be very acceptable.

MR. MAKAU (Ctd.):

What we lack in this Bill is the precaution of ~~the~~ if this or that happens and people violate whatever is contained in the Bill. The Minister needs to be informed by the commissioner that there is something that is lacking here about the way ~~in~~ monopolies, ~~ways~~ mergers and acquisitions occur. There should be a creation of an independent body - what we would call office of fair practice. - In the ~~course~~ course of time, the Attorney-General should ~~an~~ introduce a fair trading act because what is covered in this Bill is not very necessary. We need an office of fair trading which ^{should be under} ~~is not~~ the Ministry of Finance. You cannot expect the people within the Ministry you are in ~~an~~ charge of to tell you that something is wrong somewhere; there is need for an independent office. This could be established in the Ministry of Commerce and Industry or elsewhere. This office of fair practice would be able to inform ^{the Minister for Finance} about complaints from a given trader or businessman.

At the same time, Nairobi is becoming one of the ^{cities} busiest ~~city~~ as far as the security market is concerned and there are these plans which were mentioned by the Minister for Finance. It is also necessary to have a ~~panel~~ panel of people in the security market who will be able to check and make sure that whenever these things are happening, there is somebody reporting whether they are being done fairly. That will be on the security and the sales and likewise in that kind of business. Within that framework of making ~~sure~~ sure that these people are reporting independently from what the Minister ~~is~~ is getting from his office, it is necessary, because of the implications and the intricacies that are involved here, ^{that} we should consider the question of appointing a commissioner.

MR. MAKAU (Ctd.):

Last time when I contributed to one of the debates here, I said - and I still say ^{it} strongly - that the worst thing this country can get ~~into~~ is not political sabotage but economic sabotage. Economic sabotage is worse than political sabotage. If there is economic sabotage, you will find ~~that~~ that a situation may be created whereby essential commodities like food may not be available. That is why I am stressing that the person who may be appointed to be ~~a~~ commissioner for monopolies and price control should not - ~~and it is not~~ be appointed by the Minister for Finance. This is a very important post in this country and such an appointment should be a Presidential one so that the prestige and the power of the job is ^{known} ~~known~~ by those who are likely to be economic saboteurs in this country. I am not saying that the Minister for Finance cannot appoint somebody in such a post.

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R/JMK

MR. MAKAU (ctd.):

But as we ^{enact} ~~enact~~ this Bill and later make it a law, ⁱⁿ ~~it~~ the course of time, it is going to be necessary because of the developments that this country is making in industries and business to bring a Bill in this House with the ~~xx~~ aim of forming an independent monopolies commission. Such a Bill exists in the United States of America (U.S.A.) and in Britain. Such a commission is an independent body that would be able to advise the Minister for Finance on any malpractices that are taking place. I ^{foresee} ~~foresee~~ such a thing happening in this country. This is because the present economic trend ~~&~~ of this country. The people who will be involved with this commission will be able to check on the various things that concern ~~trade~~ in this country.

Mr. Temporary Deputy Speaker, Sir, the ~~t~~ other aspect that is related to this Bill is about many local companies going under receivership. We have seen, ~~read~~ and know of companies that have gone under receivership or have ^{been} ~~wound~~ up. Many Kenyans are ~~not~~ entrepreneurs and would like to venture into business. For those of us who have managed to travel to other countries in Africa, we have realised that it is only in this country where we have real entrepreneurs who are willing to take risks and get into business. The Government as we know has done a lot in seeing that the economy is in the hands of Kenyans through parastatal bodies. We have now moved into another phase of entrepreneurship where there are people who have the knowhow and are willing to take risks in starting a business. We have seen a lot of small local companies that have put up notices of ^{winding} ~~winding~~ up their business in the newspapers or read of those that have been put under receivership. Since our country is a model of progress in the developing world, it is high time that we had Bankruptcy Protection Act. I am saying so because many of the companies that are going under are doing so because of ^a ~~temporary~~ economic situation. If we had such an Act, the business that showed

MR. MAKAU (ctd.):

a likelihood of progressing would be helped to grow up into promising companies.

Mr. Temporary Deputy Speaker, Sir, I am taking of ~~x~~ such an Act because it exists and works well in the U.S.A. I remember one day here referring to the Chrysler Motor Company in the U.S.A. which was helped by this Act ~~during~~ during the oil boom days and the ~~w~~ days when Japanese car imports ~~x~~ to the U.S.A. increased. When a company goes into receivership or is liquidated, we are ^{not} helping anybody in this country. In fact, if anything, we are losing a lot as a result of such an act. If a genuine Kenyan - not like the thief who is now out of the country - wanted to help this country develop and wants to secure a loan, the Bankruptcy Protection Act would be applied so that such an individual can be helped. For example, in the ^{case} ~~past~~ of this Chrysler Motor Company that I was referring to ~~it~~ during the oil boom period was almost going under. Cap. 11 of this Act ~~is~~ was applied and a certain Mr. Lee ^{Cockler} ~~Cocker~~ helped this company to resume operations. This company was given more money and after a period it was able to repay its loans such that at the ~~is~~ moment it is the third biggest car exporter in the U.S.A. If such an Act was not there, the U.S.A. would not be able to compete with Japan. Our country ~~I think~~ should also have such an Act.

I would not like to spend a lot of time on this point. One important question that has been put by many hon. Members is when people feel that the Minister and the Commissioner have not been fair, they have the option of applying to the Restrictive Trade Tribunal. I would like to urge the Minister for Finance that immediately after ^{passing} ~~introducing~~ this Bill he should create this Restrictive Trade Tribunal. This is because such a Tribunal would help many Kenyan businessmen who are being squeezed by the manufacturers. Most people know the community that is controlling the manufacturing of textiles and so on

MR. MAKAU (ctd.):

but I am not going to mention who they are. This Bill is a saviour to most businessmen. If this Tribunal was created immediately people might use ^{it} where they feel that they have not got a fair deal. In the conditions of creating this Tribunal, it was stated that the Chairman of this Tribunal shall ^{have been} be an advocate ^{for} of seven years. This is something that I do not understand. I do not think somebody necessarily needs to have been an advocate to understand the law of running such a tribunal. I think anybody who ^{studied} had ^{had} studied ^{advanced} advanced studies in Accountancy and marketing like me must have studied law. So ~~one~~ does not need to be advocate to serve in such a position. We should not, thus, use this qualification in choosing the chairman. We should just say that the person who is ^{to be} appointed as chairman should be competent enough and should have relevant experience in the related work that he is ~~f~~ going to do. If we do not do this I think we shall be leaving out those who are ~~st~~ not advocates but have in one way or another studied law. Furthermore, I think the Tribunal is going to have its own lawyers who are going to serve in it.

Finally, Mr. Temporary Deputy Speaker, Sir, the Attorney-General said that this Bill is consolidating the framework of the restrictive trade practices and the control of monopolies and price control. There have been for many years a lot of problems of delays of approving price adjustments in the Price Control Department in the Ministry of Finance. The moment people apply for price adjustments and if their requests are genuine, they should not be delayed. There is clause that says that ^{within 90 days} ~~if~~ after application a person ~~after 90 days~~ ^{he} can revert to the price that he ~~h~~ had wanted to adjust to. I think this is a very bad clause. Why wait for three months? What would the officers at the Treasury be doing at this time? I know there are a lot of technicalities in setting up a price, but still they should not take three months to come up with a decision. This is

MR. MAKAU (ctd.):

because during this period when a company is waiting for that adjustment it can go under. Before a company seeks for an adjustment, it would have looked at all the costs and come up with a price. Taking too long to make a decision makes people think that you are not competent enough in whatever you are doing. So we need to get rid of this trend of keeping people waiting.

END V.....

MR. MAKAU: (Ctd.):

So, it is a question of finding out whether the margin of profit that the company is looking for is reasonable.

The other point which I would like to make is about decontrolling of prices. Mr. Temporary Deputy Speaker, Sir, we have all read that this country is introducing measures ^{to} decontrol prices, something that is going to affect the economic development of this country. I read something about this in The Standard where people were just arguing. I just looked at the article and said, "This is just an argument that is baseless". ~~It~~ When you read about the argument, you find that the impression that they are giving us is that in areas where the multinational companies are operating - - - I know ~~it~~ that whatever was being said in the papers was for the purpose of the multinational companies. All I would like to say is that in this country, we do not have a marketing - - - It is very difficult for any country in the world to completely decontrol all the prices. Therefore, the marketing forces operating ~~in~~ the businesses should operate in such a way that they share competition. We cannot say that we are going to decontrol the prices of products when we have only one or two suppliers ^{for} the products. So, I would urge the Ministry of Finance to look into this matter. I would like to congratulate the Ministry for being able to decontrol certain goods, but this decontrolling of prices should be systematic. If you find, for ~~an~~ example, that there are enough competitors in the nail industry, then the price of nails can be decontrolled. However, we should not just come out and say that we have to decontrol the prices of goods. I would like to thank the Ministry of Finance and even take a pride as a Kenyan to say that this country of ours is much better off than others. I am saying this because when you read of what is happening in other developing countries, you will note that Kenya is lucky it has some fore-sight in that we started structural adjustments programme even before the International Monetary Fund started advising other countries to do so. I am saying this because many people do not know what happens in other countries. There is ~~an~~ a structural adjustment programme which we in Kenya undertook many years ago. We did this because we are good

planners. We know there are many people who have been writing ~~about~~ and talking about this but doing ve_ry little about it. However, we in Kenya have been doing this. The Sessional Paper No.1 of 1986 states very clearly the pattern of development that we are going to follow. So, I would like to compliment the Minister for Finance and whoever has been concerned ^{with} in this. Recently, I read that Kenya is now being used as a model of development for other countries in order to place their economies. This is one of the things that we should be very grateful for. This Bill is very important during this ~~Kay~~ Nyayo era. I hope that as we move towards the 'silver jubilee, we shall be having a very good law in this country. I hope that the implementation of this law is going to be followed closely. The Government should ~~not~~ follow up those economic saboteurs with a view to stopping the crooked methods that they use. If that was done, everything in this country would be great.

With those many remarks, I beg to support the Bill.

(Prof. Onger): THE MINISTER FOR TECHNICAL TRAINING AND APPLIED TECHNOLOGY

(Prof. Onger): Thank you very much, Mr. Temporary Deputy Speaker ~~in~~ for giving me this opportunity to express my great thanks for the introduction of the Restrictive Trade Practices, Monopolies and Price Control Bill. This Bill has come at the right time because of the need for us to be absolutely clear on what happens in the various practices that relate to trading and manufacturing. We know, Sir, and here I shall be slightly biased towards my own interests, that the Bill before us is an indication of the control that is necessary to attack this hoarding business. Hoarding is a bad practice. We have seen businessmen hoarding goods in this country from time to time. The introduction of this Bill, in fact, is anti-hoarding and it is very important to have a yard stick by which we can follow.

One obvious thing that we have seen is this business of curtailed ^{and} practices/ family syndicates where ~~x~~ families - - - At one time when I was the Chairman of the Kenya National Trading Corporation, it was quite clear when the indigenization programme was being undertaken, ^{most} ~~was~~ of the Africans ~~the~~ prestigious shops along Diashara Street and other streets,

THE MINISTER FOR TECHNICAL TRAINING AND APPLIED TECHNOLOGY (CTD.):

were unable to continue because the families that used to run those businesses moved into the manufacturing sector, and the family syndication was adopted as a measure of defeating the indigenization programme. I think this Bill has come at the right moment and I hope there will be a way of finding out how to break up this family syndicate so that we have a complete ~~change~~ chain of families from the manufacturing sector to wholesaling, to retailing because the consumer has to be protected at the end of this exercise.

There may be another very hidden area which has not been very clearly expressed and this is the area of ^{hire} ~~higher~~ purchase. Most of our people who have managed to purchase the matatus have had some hardships in the business and these matatus have been ^{repossessed} ~~repossessed~~. In some of the institutions that advance loans to these matatu operators, have syndicated small families to acquire these ~~matatu~~ vehicles at a throw-away prices. I think this is an area where you cannot ~~xxx~~ argue because the law provides that repossession is a necessary step and once a vehicle is repossessed, no ~~xx~~ one is quite clear ^{what} ~~for~~ type of prices should be attached to that particular vehicle. So, you will get some vehicles being sold for Shs.35,000/- when the owner had actually spend about Shs.200,000/- ~~@~~ or even more. This practice is now going on and has happened to some people ~~xxx~~ who have been very close to me. These people are left with another bill which they have had to settle at the end of the day and this results in ^{them} selling their farms.

Mr. Temporary Deputy Speaker, Sir, there is another hidden ~~tana~~ tendency in the tendering procedure where a group of tenderers get together and tender for specific items or for the supply of certain items to the various Government institutions. First of all, they tender because they have the capacity to supply and they are able to quote the price required. They then collude at what level of pricing they should do so. One of them gets away with the tender, but the most disheartening thing that one notes is that they fail to comply with the tendering procedure. They then wait ~~xxxx~~ ^{xxxx} or even four months after which they come back and

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and that they would like to have a price adjustment on a particular commodity. I think this is one way of defeating the Government programme³ because in a given fiscal year the Minister for Finance gives us a budget and gives such a programme to spend up the budget. If this collusion in the ~~the~~ tendering procedure becomes restrictive in supplying the goods that are required by the various institutions, (a), this would be denying that particular institution the opportunity to expand or to develop because of lack of that particular service or goods and (b), they have caused an unemployment capacity within the economy.

There is another area where collusion is at its highest level and this is in the supply of spare parts. There is a big racket in the supply of spare parts in this country. It is a racket because when you go to some of these shops the profit margin is more than 100 per cent. There is no way in which you can get into the supply market. I am saying this because the jua kali people are ~~not~~ now entering into automative industry and they would ~~like~~ like to be of good service to their customers. They would like to be fairly x priced; they ~~want~~ want to be know that they are doing a dignified job. They should therefore be able to get access to spare parts at a reasonable price so that they can be able to give a fair service to the people. However, ^{of spare parts} lack/ has become one of the x major bottlenecks in the expansion of the jua kali industry in the automative sector.

END W

THE MINISTER FOR TECHNICAL TRAINING AND APPLIED TECHNOLOGY (CTD.):

This holds true for other areas that we know. I hope that this particular Bill will address itself to the procurement and supply of spare parts that are important in the industrial sector of our economy.

The other point that I want to cast my attention to is the supply of raw materials. As you know, the "Jua Kali" artisan has become a very enterprising individual. He is right on the ball, but, unfortunately, the supply of raw materials, such as steel, steel billets or scrap metal, has become very elusive. "Jua Kali" artisans have been able to make some machinery. Those of you who were at the Nairobi Agricultural Show witnessed a very enterprising nature of these artisans in that they are able to make some very effective farm machinery, for instance, the chop cutter which, under normal circumstances, costs about Shs.60,000/= or 70,000/=. The "Jua Kali" artisans are able to make it for a fair price of Shs.16,000/= or 17,000/=. I think this is a fair price to the farmer. Unfortunately, because of this stiff nature of supply of steel which would enable the 'Jua Kali' artisans produce this item, which is so badly needed by our farmers, we find that they are being restricted in their ability to become good manufacturers of chop cutters and other related metal work items.

I think this Bill has come in at the right time. As I speak right now, the "Jua Kali" group has made a petition to my Ministry in connection with the supply of raw materials, such as steel. At some stage we should find ways and means of acquiring the supply of raw materials through several companies so that these artisans are enabled to have access these ^{to} materials and be able to manufacture items fairly, speedily and well at very low prices.

Another sector that has been invaded by monopolies very easily is horticulture. We have many small-scale farmers who have now gone into horticultural farming. They produce tomatoes, cabbages and French beans.

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They intend to enter export markets, but, unfortunately, there is this curtailed business both in securing cargo space in the plane and also in the forward market. They are curtailed abroad where those individuals who attempted to enter this business were told that their goods were supplied, but when they reached the other end, they were all rotten and of no value at all. So, our people shrunk away from this business, and yet we know it ^{is} on record that this is the one business that can earn Kenya a lot of foreign exchange. We should be looking for ways and means of encouraging the small-scale farmer to enter this competitive field which is fairly lucrative both in personal improvement and foreign exchange earnings for the country.

There is another sector, Mr. Temporary Deputy Speaker, Sir, that I think is equally important, ^{which} although it may not be evident as it is rather hidden ^{is} that the law is very clear. Financial instructions to banks are very clear - 17 per cent of their lending must go to agriculture. Unfortunately, you find that some big-scale farmers are able to take a big chunk of these loans, and the small-scale farmer is left without such facilities. This also goes for small-scale industries which would like to expand. There was fear that the small-scale entrepreneur would run away because he would not be able to repay what he has borrowed from banks. I would like to report to this House that, contrary to the views held before about the small-scale entrepreneur, with regard to his inability to repay banks, all those who were loaned money last year and a part of this year in order to be able to carry on their "Jua Kali" activities have repaid their loans to banks. In fact, they are the best loan repayers. They service their loans extremely well. I think that, just as much as we talk about the small-scale entrepreneurs, this facility should also be equally made available to small-scale farmers so that we may have a fair distribution of loans among

THE MINISTER FOR TECHNICAL TRAINING AND APPLIED TECHNOLOGY (CTD.):
 small-scale entrepreneurs, be they ~~agriculturists~~ ^{agriculturalists} or otherwise. It is this group of people who form a solid base of our technological advancement.

There is one area I would like to mention as one of the best examples here. I hope that this Bill will eventually assist those who will be enforcing it to look at various aspects of our economy. Spark plugs is one good example here. When we were at the Kenya Industrial Estates (K.I.E.) offices, we found out that some of our people entered this business and were unable to continue because one big manufacturer entered the scene, pushing our people out. Our people's factory lies idle at the K.I.E. offices, unable to produce spark plugs. Our people were pushed off in terms of both supply and quantities, and they were unable to service their loans. I hope that this is why this Bill is here. I am confident that it will address itself to the problems that we have just mentioned here.

The last point that I want to bring up at this stage is transportation. Our people have entered the transportation sector. Unfortunately, when there is any tender to transport goods from Point A to Point B, they apply, they are reasonable in their rates, they get the tender, but one way or the other, some big transporters come in and grab this business. I think we have to extend this facility to our people, who have every right to have access to it. We should find a way of controlling the tendering system in the transport sector. It is an area that needs to be looked into. It is also an area into which the price controller might want to stretch his tentacles. It is good that we spread out the transportation programmes throughout the whole country so that you do not have just one group of people transporting items in the whole country.

This is a Bill which restores confidence in the ability of this

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country to plan for the future. It shows that we must be in a position to regulate the fair practices of trade, manufacturing and doing things in a manner that is respectable. The Bill has come at the right moment, and I think it deserves a lot of support. I congratulate both the Minister for Finance and the Attorney-General on the efforts they put in putting together various sections that are fairly clear. When you go through both the restrictive, the monopoly and the price control aspects, you will find that they have covered a large part of the area they were expected to cover.

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

DR. MISOI: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to support this important Bill which has come a bit late. I heard about it several years back because there are too many problems. I would like to make a few comments on the restrictive trade practices. This particular aspect of the Bill will help to create orderliness in industry and facilitate the participation of a cross-section of our people in the trade and the economy of this country and help in the fair distribution of our means of production and wealth in various parts of this country. We have had problems in the supply of raw materials which may be imported by just one company although they are needed by other competitors. Because we ^{do} have not any law to regulate this practice, the country has suffered because the smaller firms could not manufacture anything simply because the importer himself is also a manufacturer of the same products. we have the question of nails. Importers here ^{are} a few, but you have other small-scale manufacturers relying on the supply of raw materials by big-scale manufacturers. The problem has been that they import raw materials to satisfy their own needs and thereby kill the small-scale entrepreneur.

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DR. MISOI (ctd):

Mr. Temporary Deputy Speaker, Sir, when we have a law of this kind, the small industrialists, such as jua kali artisans and others, will have a meaningful industrial base. We know that many industries started as small units. If we have to industrialise this country, then these industries must be protected. This Bill seeks to provide just that. It will also reduce the misinformation on industrial products, raw materials and specific aspects of these products to the Government ^{agencies} ~~agents~~. This is because some of these industries can mislead the Government on the identities of whatever products they are importing. The more people we have dealing in these products the better. ~~It~~ it is because unless they collude, we are likely to get proper information.

We know the activities of the monopolistic companies, both national and ~~and~~ multi-national. In many places, they have done more damage than good by either producing products which are sub-standard or dumping such products to other countries, perhaps, due to lack of competition. In this country, the few companies we have have done a good job. I have in mind companies like the B.A.T. (K) Ltd, Kenya Breweries and a few others.

The saddest case was that of the East African Industries. When the price control ~~mechanism~~ mechanism was removed, they ~~simply~~ simply decided to increase the prices. This was a very bad show to the Government. The Government removed the ~~price~~ price control assuming that these industries were not going to increase their prices in order to exploit the consumers. This is the tragedy. In a developing economy where ~~the~~ consumers are not enlightened and where there are no ~~informed~~ informed consumer organisations, industries of this kind will tend to exploit the people. Therefore, the removal of price control must be monitored carefully to ensure that nobody exploits the people.

The information of a second brewery in Kenya, which was announced recently, came as a surprise to many people. The Kenya Breweries Limited - formerly known as the East African Breweries Limited - has shown that a small group ~~of~~ ^{think t/} of people can form a brewery which can compete with others. I/

is due to the liberalisation of the laws of this country. If it were not for this, such a company would be killed in a few seconds.

Some years back, there was a company which wanted to ~~make~~ ^{manufacture} cigarettes. I think it was called Rothman. We read ~~it~~ in the newspapers that it did not survive because one particular company could not allow it to operate. If we have to be fair to all entrepreneurs, we must provide conditions which favour the growth of competitive industries. ^{Such} ~~These~~ industries will help ~~many~~ manufacturers to produce good quality products. The products must compete in the market in terms of quality and prices. This is a very healthy development.

We have another problem in this country concerning those people who ^{are} ~~own~~ dukawallas, ^{industry owners,} ~~industries~~ family networks and those who carry on their businesses excluding the local people. We know such people who operate in this country. We have Asians who have family networks. They manufacture, distribute, do the retailing and import at the same time. This is unfair because other people will tend to monopolise certain areas of the economy. These people have carefully planned their operations to the extent that you will not know that they are one and same company. They use their brothers, relatives, in-laws and so on.

This is an area which must be carefully screened so that we do not build a few industries to the detriment of other interested parties. I can quote one industry which has been supplying low quality products to the consumers. When the Kenya Bureau of Standards requested this company to comply with the Kenyan standards, they said "We cannot do so." This is because they are the only manufacturers of foam mattresses in this country. They thought that if they stopped the production of this product, the consumers would cry. This industry wanted to say that the Kenya Bureau of Standards has introduced strict measures and, therefore, they ^{could not} ~~cannot~~ produce. This is taking the Government for granted. We want to ^{guard} ~~save~~ the interests of the consumer and we cannot ~~say that the interests of~~ do so unless the requirements and regulations are followed.

I believe that this law will help in eradicating such monopolistic tendencies which are likely to ^{harm} ~~kill~~ the interests of the consumers. This is aimed ~~at~~ not only at the introduction of quality products but also reliability. What would happen if a consumer buys a product which is dangerous or ^{defective?} ~~effective?~~ What law would protect such a consumer? Where can he complain? What type of ^{compensation} ~~damages~~ can the consumer claim? We should have such laws to protect our consumers.

The other ~~xxx~~ area is about nails. Recently, we had problems about nails and barbed wire which were ~~missing~~ in this country. The prices of these commodities went up and the wananchi were unable to build houses, fence farms, and so on yet we have manufacturers in this country. If they have a licence to manufacture, they should do so. We have brought Questions to this House, they have been answered but people are still ~~xxx~~ crying because some of the items are not available. For how long shall we allow this to continue? Is it fair for people to travel from one town to another looking for these products. Most of the missing products are found in shops owned by ~~the~~ relatives of the supplier of the manufacturer.

I have travelled from Eldoret to Nairobi to look for nail and only found them in one shop which was charging exorbitant prices. I also found ~~xxx~~ them in another shop but I could not be given a receipt because of certain corrupt practices. The Government, or any other appropriate authority, should look into this kind of thing. This is because these are essential ~~xxx~~ items and anybody breaking the law should be taken to task and penalised very heavily and ~~even~~ his licence taken away so that other people can have the opportunity to do the job.

The other aspect I would like to ~~xxx~~ talk about is in relation to the Trade Restriction Act. This Act can be complementary to this particular regulation where people describe goods ~~xxx~~ as this and that. Most consumers have been taken for a ride in this manner. Many people have bought items which do not measure to the standards they had in mind. The implementing

officers, as far as this regulation is ~~not~~ concerned, ~~they~~ do not visit and advise the consumers. They do not investigate what is sold in the markets. Is this correct? We cannot allow our people to suffer because of people who are hungry to make profits at the expense of those who do not have the money. This is not the way to be millionaires. I think the best way is to follow the right channels.

The other aspect is about consumer protection, which is a role of other Government agencies. When we have laws like ~~the~~ the one we are talking about, it is necessary that we educate our consumers. It is necessary that we facilitate the development of consumer organisations in various places. These organisations will check these products and they are likely to raise alarm. When they raise alarm, they ~~are~~ are likely to solve those problems in good time. We need to do that to facilitate their development activities in this country and give them ~~all~~ the necessary advice. That is why the consumer protection agencies are there and they need to work with other ~~voluntary~~ voluntary organisations to ensure that our interests are taken care of.

I can ^{cite} quote the Public Law Institute, which is doing a lot in this area and I hope it will work with other Government agencies to ensure that what is in the market is fit for use by the people of this country.

END.

R. J. Jank.

DR. MISOI (ctd.):

The other thing I would like to talk about is the management of trade commission. This should be done by people of integrity; people who cannot be tempted into corruption; people who cannot be bought; patriots who have the interest of this country at ~~heart~~^{heart}; people who will protect the economy of this country, perhaps at the expense of their own benefits. We need to gauge things. because many things are going wrong, and ~~x~~ yet people in ^{responsible} positions ^{while aware} know that things are going wrong, ~~they only~~ move in at the end when things have happened. We need people who ~~xxx~~ can act on the spot, as soon as they detect there is something wrong. ~~xxx~~ They should use the instruments which ~~x~~ we have here. When we pass laws, we assume that they will be implemented ~~x~~ to control whatever they were meant to control. We cannot afford to have laws which are neglected. ~~xx~~

We know we have had problems recently. There are laws which are not being implemented because those officers who are supposed to implement them are ~~x~~ either careless or are not serious with their jobs. I believe that with the coming of this particular legislation, we, in this country, will be able to ~~xxx~~ have a fair ^{and} developmental industry, which gives us stability and creates wealth for everybody in this country. This legislation will facilitate moving to the rural areas - decentralization of development in this country.

~~xxxxxxxx~~ In this country, Mr. Temporary Deputy Speaker, Sir, we have a lot of big importers based in Nairobi. We do not have importers based in Eldoret; we do not have people who have direct contacts with the sources of raw ~~xxxx~~ materials in Kitale or Kisumu, yet we need them there. We can only develop these people if they also have contacts, know-how and technology from

DR. HISOI (ctd.):

the source. The trend is that those who have had opportunities to establish themselves become monopolists; they monopolize the source of supply. They can restrict the supply, give wrong prices of the goods and even buy old machinery ~~vi~~ which are described to be new because they have connections abroad. We cannot assume that some of the importers do not collude with people in ~~the~~ other countries. We know that some wrong products have been brought into this country and people knew that. Even with specifications having been taken, they have^{had} to spend money on wrong products.

An example is some coffee chemical~~s~~ that was imported. This was not really a coffee chemical, but it was certified as ~~the~~ the correct chemical. Unfortunately, it was not effective and yet foreign exchange earnings had been spent in importing it. ~~From~~ Farmers lost their money. I would, therefore, suggest that ~~if~~ an institution like the Kenya Bureau ~~is~~ of Standards be given the power to inspect all the goods that come into this country, certify that they are the correct ones and that they will serve the purpose for which they were imported to serve. At the moment, that is ~~no~~^{not} happening because we ~~rely~~^{rely} on certification of foreign firms such as those in India, Germany or other places. We need to have a national insti_tution to confi_rm that what is described as being imported into the country is exactly what this country wants. Unless we do that, we will be paying a lot of money to foreign firms registered as being competent to certify the quality, price or identity of ~~goods~~ products. We will be paying a lot of money in form of foreign exchange.

DR. MISOI (ctd.):

I am not against this particular company that certified the coffee chemical; we pay so much in dollars to this particular company. But I do not know whether we have any shareholders of Kenyan origin in that particular institution. But import and export business is a very critical business which we ~~cannot~~ cannot entrust foreigners with. We need to know what they are doing. I do not believe ~~w~~ many Kenyans know what they are doing in that area. They employ people in that business but how can we assume that everything they do is correct? ~~if~~ Even if we cannot help, we need to ~~have~~ have supervision powers over such businesses. We should go there once in a while and see what is coming into the country, who is importing, whether he is doing the right thing or not. We should be able to determine whether ~~with~~ the importer is exploiting our country, ~~a~~ overpricing or even transferring some of our foreign exchange earnings to other countries where they have ~~branches~~ banks or companies. We need to be more serious in this particular aspect.

I would now like to talk about bureaucracy in facilitating import and export ~~and~~ trade and exchange.--There are problems and people have been complaining that import applications are delayed; people wait for months before they get ~~their~~ their applications dealt with, and so they cannot produce because raw materials are not coming into the country. We cannot continue like this.

END Z. 

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS (Prof. O
(Prof. Ouma)(ctd):

device new ways of circumventing the ^{very} laws the future of ^{what} ~~which~~ we are discussing.

Sir, I mean that it is very important to make sure that provisions are ~~xxx~~ made for ensuring that these laws work. We can speak a lot; this House can make sure that laws are passed; but unless ^{in practice} these laws control and prevent the ^{proliferation} ~~distortion~~ of restrictive trade practices, and other abuses of the trade Act, we ~~xxx~~ shall not ensure that this country's economy remains on firm grounds. If we take an example of the ~~in~~ Kenyanisation work, or the indigenisation of the economy, we cannot ~~ind~~ indigenise unless we ^{you have enabled} ~~have enabled~~ the indigenous people to come in. They cannot come ⁱⁿ if these trade practises which involve industry and commerce ~~xxx~~ exclude them.

~~Sir~~, the security of commerce and industry depends on ———

ADJOURNMENT

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): ~~Prof~~

Hon. Members, it is now time for ~~the~~ interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 3rd November, 1988 at 2.30 p.m.

The House rose at thirty minutes past Six o'clock.

(END...AA)

THE MINISTER FOR FINANCE (CTD):

that In some cases they have gone up as a result of the fact there has been an appreciation of other currencies against our own currency. Most of the vehicles we have in this country have normally come from those countries with very strong hard currencies. For example, the majority of vehicles in this country come from Japan. I believe the hon. Members are aware that the Yen has appreciated considerably against our own Shilling. Other vehicles come from West Germany, where we are again dealing with a very strong hard currency. Again, purely as a result of inflation in trade which has taken place over a number of years, the ceiling which was set several years ago is no longer realistic today.

So, Mr. Temporary Deputy Speaker, Sir, this particular Motion really seeks the raising of the ceiling on the amount of money that the Government may guarantee to officers - and I said these officers include the hon. Members - so that they may be able to enjoy the benefits attached to their service. I, therefore, hope this is one Motion which hon. Members themselves will welcome. Indeed, a number of hon. Members have been in touch with me complaining that the current ceiling is no longer realistic. So, in a way this Motion is, indeed, a response to the views expressed privately to me by some hon. Members.

With these very few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to move.

THE ATTORNEY-GENERAL (Mr. Muli); Seconded.

(Question proposed)

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): As it seems that no hon. Member wants to contribute to this Motion, I will call upon the Move to reply.

R E P U B L I C O F K E N Y A
T H E N A T I O N A L
A S S E M B L Y

OFFICIAL REPORT

Thursday, 3rd November 1988

ORAL ANSWERS TO QUESTIONS

Questions Nos. 373, 442, 393, 451, 438, 437, 447, 433

QUESTIONS BY PRIVATE NOTICE

Provision of Vehicles to Collect Milk in Molo - (Mr. J.N. Mungai)-
dropped

Non-Payment of Mr. Chebogey's Claim (Mr. Chepkok)

MINISTERIAL STATEMENT

Failure to Follow Redundancy Procedure - The Assistant Minister
for Labour (Mr. Mibei)

BILLS

First Reading

The Appropriation Bill

Second Reading

(1) The Appropriation Bill - The Attorney-General - Question
Proposed - Put and Agreed to

(2) The Restrictive Trade Practices, Monopolies and Price
Control Bill - The Minister for Finance - 2.11.88-
Resumption of Debate - Debate interrupted wt
without Question put

COMMITTEE OF THE WHOLE HOUSE

The Appropriation Bill

Third Reading

The Appropriation Bill - Read the Third Time and Passed

MOTION

Increase of Contingent Liability - The Minister for Finance -
Question Proposed, Put and Passed

H A N S A R D

Thursday, 3rd November, 1988

The House met at thirty minutes past Two o'clock.Mr. Speaker in the Chair

PRAYER

Question No. 373

MR. FALANA asked a Minister of State, Office of the President whether he could consider extending the Nyayo Bus Services to Isiolo-Marsabit route which is currently being served by only one bus.

THE ASSISTANT MINISTER, OFFICE OF THE PRESIDENT (Mr. Onyancha):

Mr. Speaker, Speaker Sir, I beg to reply.

At the moment we do not have enough Nyayo buses for distribution as requested, but the request will be considered in future when we get more buses.

MR. FALANA: Mr. Speaker, Sir, could the Assistant Minister tell this House how many Nyayo buses are on the roads, and in which routes and districts in this country?

MR. ONYANCHA: Mr. Speaker, Sir, I do not have the exact figure because we did not expect that such kind of a supplementary question would be asked. However, if the hon. Member gives me time, I will get the figure and the routes.

MR. FALANA: Mr. Speaker, Sir, while appreciating the Assistant Minister's answer, I know that there are close to 300 Nyayo buses in the country. I am not asking for two or three buses, but for only one bus for a place like Marsabit. We just do not want to sit and watch progress of the Nyayo Era, but we also want to have a bit while at that other end of Kenya. During the last Kanu elections the Party delegates were boarded in ~~in~~ a lorry without seats from the District Commissioner's office. They travelled in discomfort all ^{the way} from Marsabit to Nyayo National Stadium. Immediately

MR. FALANA (ctd.):

after the elections, some of them fell victims of pneumonia. Seriously speaking, I am not exaggerating anything in this question. I am only putting across the facts to the Assistant Minister to show him the seriousness of the matter, and the burden we really have. I do not know how many Nyayo buses will be needed in order for us to have one bus; there are about 300 buses already. So, could the Assistant Minister consider giving us just one bus?

MR. ONYANCHA: Mr. Speaker, Sir, I do appreciate the sentiments expressed by the hon. Questioner but, as he ~~was~~ well knows, the Nyayo buses, now run by a Corporation, were ~~originally~~ originally intended to ease the ~~so~~ serious transport situation, particularly in Nairobi. Later on, two or three other towns were considered for the services of ~~these~~ these buses because of the serious situation in those places. It will also be noted that this Nyayo Bus Corporation is destined to become one of the strongest and biggest in this country. This means, therefore, that ~~its~~ fleet of buses is destined to grow fast, as I am sure the hon. Member has ~~already~~ already noted. It ^{is} ~~is~~, therefore, the intention of the Government that as we go on getting more and more buses—

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir. The hon. Member has appreciated the efforts the Government is making. But his question has asked for only one bus from all these 300 or 400 buses.

MR. SPEAKER: Mr. Mang'oli, what is your point of order?

MR. MANG'OLI: My point of order is whether the Assistant Minister is now in order to start telling us about how these buses will be ~~is~~ travelling?

MR. SPEAKER: Order! He is very much in order as far the Chair is still convinced that he is in the process of giving the hon. Member the right answer.

MR. ONYANCHA: Thank you, Mr. Speaker, Sir. As I was saying, we believe that finally all the areas in Kenya which need buses will get ^{them} ~~one~~. It is a question of time, and we request for patience.

MR. MANG'OLI: While appreciating the answer from the hon. Assistant Minister, will he now assure this House that he will ^{one bus} take ^{existing fleet of} from the already 300 buses ~~he has~~ and give it to Marsabit?

MR. ONYANCHA: Mr. Speaker, Sir, I am not very sure that I have said that right now ^{have} we ^L a fleet of 300 buses. However, whatever the number is, we know the buses we have are seriously needed where they ^{are} at present. So, I am not in a position to give any assurance.

MR. PALANA: Mr. Speaker, Sir, I would like the Minister to agree to commit himself. There ~~p~~ are places with alternative means of transport because there are transport companies and so on, but Marsabit has no alternative means of transport except lorries. So, could he commit himself and assure this House that when ^{he} ^L starts considering areas ^{outside} Nairobi for Nyayo bus services Marsabit will be on the top of his priority?

MR. ONYANCHA: Mr. Speaker, Sir, I will not safely do that. However, I promise the hon. Member that Marsabit will be among the areas which will be seriously considered.

MR. BULYAAR: Mr. Speaker, Sir, the hon. Assistant Minister has said that Marsabit will be considered when we get additional buses. When will that be?

MR. ONYANCHA: Mr. Speaker, Sir, I cannot tell the actual ^{time of implementation} ~~time from my answer~~, because that will depend on when we will have ^{enough} funds to buy enough buses.

END

Question No.447

MR. SPEAKER: Mr. Bujra not in? Let us move on to the next Question then.

Question No.442

MR. MWENJE asked the Minister for Local Government and Physical Planning:-

- (a) whether he is aware that the main road passing through Dandora is impassable; and
- (b) when it will be repaired.

THE ASSISTANT MINISTER FOR LOCAL GOVERNMENT AND PHYSICAL PLANNING (Mr. Wagura): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) The main road passing through Dandora is among many roads in the City of Nairobi which were damaged by the recent heavy rains. The estimated cost of repairing these roads is Kshs.105 million, which is not readily available.

The Nairobi City Commission has, however, spent over Kshs.3.5 million on the road in question. Nevertheless, provisions for patching up and repairing this road will start next week.

MR. MWENJE: Mr. Speaker, Sir, while thanking the Assistant Minister for his reply, I would however, like to remind him that I did not ask about all the roads in Nairobi. He says that they will spend Kshs.105 million on repairing all the roads in Nairobi, but I am not interested in all the other roads. This particular section of the road which is impassable cannot even cost the amount which the Assistant Minister has mentioned. It is a very small section of the road which is out of order and totally impassable. I tried to pass there myself and it proved to be impossible to do so. Can he give us a total assurance that ~~this~~ work on this

MR. MWENJE (contd.):

particular section of the road will start next week, the day, and the amount which is going to be spent on it.

MR. WAGURA: Mr. Speaker, Sir, I thought the hon. Member would thank the Ministry for taking quick action to solve this problem. He should, however, rest assured that work on the road will start on Monday, and should be completed by the end of the week.

MR. WASIKE-NDOMBI: On a point of order, Mr. Speaker Sir.

NP. Is the Assistant Minister in order to say that work on the road will start on Monday when only one or two weeks ago, His Excellency the President said that the Nairobi City Commission should pull their socks and repair all the pot holes on the roads in Nairobi? Is he further in order to postpone the date contrary to the order of the President?

MR. WAGURA: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to bring the name of His Excellency the President's name in this discussion?

MR. WASIKE-NDOMBI: I am quoting a Government directive on how the £ Nairobi City Commission had been given ^{money} ~~money~~ to repair all the roads in Nairobi City.

MR. SPEAKER: Okay. Let us move on to Mr. Lewa's Question.

Question No. 393

MR. NZAI on behalf of Mr. Lewa asked the Minister for Transport and Communications:-

- (a) what has caused the delay of payment of the retirement benefits of Mr. Mwatsuma Katana P/No. 484198 who retired on 30/6/87; and
- (b) when payment will be paid to Mr. Katana.

THE ASSISTANT MINISTER FOR TRANSPORT AND COMMUNICATIONS (Mr. Mutwol): Mr. Speaker, Sir, I beg to reply.

(a) Delay in payment of Mr. Mwatsuma Katana's retirement benefits was caused by an oversight on the part of my Ministry's officials in submitting all the necessary documents to the Treasury. The delay in submitting the documents to the Treasury is regretted.

(b) The claim has now been processed, and Mr. Mwatsuma will be paid his retirement benefits on 8th November, 1988.

MR. SPEAKER: Let us move on to the next Question.

Question No. 451

MR. BIDU on behalf of Mr. Kiliku asked the Minister for Labour:-

- (a) whether he is aware that Overseas Export C. Ltd., of P.O. Box 42434, Nairobi, closed its Mombasa office in 1987 and declared M/S. Rose Shigandi redundant;
- (b) if he is further aware that M/S Shigandi was not paid her terminal benefits by Overseas Export Co. Ltd.; and
- (c) whether he could order the said company to pay her terminal dues without any further delay.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that M/S Overseas Export Company Limited declared M/S Rose Shigandi redundant after they closed down their Mombasa office in 1987.

(b) I am not aware whether or not M/S Shigandi was paid her terminal benefits because she never reported her case to any of my offices.

(c) The complainant should be advised to report her case to the nearest labour office, so that her terminal benefits can be worked out and paid to her as soon as possible.

MR. MANGOLI: Mr. Speaker, Sir, while appreciating the reply from the Assistant Minister and also his comment that the case had not been reported to any of the Ministry's labour offices; can he tell us what the Ministry has done against this employer to ensure that M/S Shigandi is treated according to the labour laws?

MR. MIBEI: Mr. Speaker, Sir, investigations have revealed that the employer sold the Mombasa office where the lady's records are believed to be. The new owner of that office is currently in the United Kingdom, and the office is temporarily closed. He is expected back next month when the company will be able to ascertain whether the lady was employed; her rates of payment; and whether she was paid her terminal benefits or not.

Her former employer in Nairobi, is however, willing to pay her whatever was due to her as soon as her ~~records~~ employment records are available. In the meantime, I would request the hon. Member to ask the lady to report to the Nairobi labour office as soon as possible, in order to assist in ascertaining whatever is due to her in terms of terminal benefits. If she is in ^{Mombasa} ~~Nairobi~~ then she should be requested to lodge her complaints with our Mombasa labour office for onward transmission to the Nairobi labour office.

MR. KIILU: Mr. Speaker, Sir, does the Assistant Minister mean that there is no ^{assistance} ~~assistant~~ which the lady can get through his ^{office} ~~Ministry~~ than going to the labour office?

MR. MIBEI: Mr. Speaker, Sir, it is the same department, we work through the labour offices which are the working organs of the Ministry.

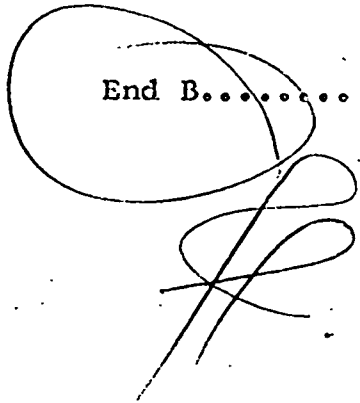
MR. BIDU: Mr. Speaker, Sir, I assume that the Assistant Minister is answering this Question on the Ministry of Labour. If it is true that he is speaking on behalf of the Ministry, then why can he not institute something against ^{these} ~~this~~ ~~individuals~~ concerned?

MR. MIBEI: Mr. Speaker, Sir, I am sorry I do not understand the question which the hon. Member has asked.

MR. SPEAKER: What ^{was} ~~is~~ your question Mr. Kiilu?

MR. BIDU: Mr. Speaker, Sir, the Assistant Minister says that the lady must ^{go} ~~know~~ through the labour office, ^{to know} ~~to know~~ that this ~~is~~ ^{directed} Question was ~~asked~~ ^{Since} to the Ministry, ~~and~~ ^{why does} he is answering on behalf of the Ministry of Labour; ~~so~~ ^{can} he not help this lady, ~~as~~ ^{being} an Assistant Minister?

MR. MIBEI: Mr. Speaker Sir, I am at a ~~great~~ ^{say} loss as to ~~what~~ ^{reply} to ~~reply~~. I would, however, assure the hon. Member that we are ready to assist this lady to get her terminal benefits. However, we can only do that if she can report to our nearest offices.

End B.....


MR. MANG'OLI: On a point of order, Mr. Speaker Sir.

MR. SPEAKER: Mr. Mang'oli, you are raising too many points of order. What are you raising this time?

MR. MANG'OLI: Mr. Speaker Sir, I would like to seek clarification from the Assistant Minister because from his reply, there is no report of the beneficiary ^{which was made} to the Ministry. It is written in the Question that she was declared redundant. Before she was declared redundant by the Ministry, the record of this lady was reported—

MR. MANG'OLI: What is your point of order, Mr. Mang'oli?

MR. MANG'OLI: Is the Assistant Minister in order to say that the lady should report to the nearest ~~office~~ Ministry of Labour office when the case has been reported to his office formally before this lady was declared redundant? The Minister said that she should report to the Ministry's office as if there was no report forwarded there.

MR. SPEAKER: Mr. Mang'oli, if you are not satisfied with ~~any~~ a reply from any hon. Minister, that is not the way to pursue the issue. You should get in touch with me and we can raise it elsewhere. Do not try to get answers through points order which are very irrelevant.

Question No. 438

MR. MOMANYI, asked the Minister for Education:-

- (a) why casuals of Kenya National Examinations Council take too long to be placed on permanent and pensionable terms;
- (b) whether he is aware that the Kenya National Examinations Council does not have terms and conditions of service for its employees; and
- (c) whether he could, therefore, instruct Kenya National Examinations Council to establish a scheme of service for its employees immediately.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot): Mr. Speaker Sir, I beg to reply.

(a) My Ministry through the Kenya National Examinations Council hires casuals only during the examinations peak seasons. However, due to the security nature of work of the council, the recruitment of the staff requires very careful

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot) ctd:

scrutiny and vetting to ensure that the integrity of the casuals is creditworthy. The casuals who are found suitable are absorbed by the council on temporary terms with the view of taking them later on permanent and pensionable terms, when vacancies arise in the establishment.

(b) My Ministry is in the process of finalising terms and conditions of service including the pension arrangements which will ensure security and continuity of service of the current and future employees of the council. This involves consultations and legalisation processes which my Ministry has already taken up with other relevant Government agencies. (c) The preparation of the scheme of service for the Kenya National Examinations Council employees will be taken up as soon as the process of finalising the terms and conditions of service is completed.

MR. MUMANYI: While appreciating the reply given by the Assistant Minister, I would like him to tell the House why it takes too long for casuals to be employed on permanent and pensionable terms. The Assistant Minister should tell us the length of time it will take them to employ the casuals on permanent and pensionable terms. I have been working for the council for the last eight years and I know that the casuals take too long before they are employed on permanent and pensionable terms. In part (c) of his reply, he said that the Ministry is in the process of finalising the terms and conditions of service. How long does it take to finalise the scheme of service? The council was formed eight years ago and this is enough time to finalise the scheme.

MR. CHERUIYOT: Mr. Speaker Sir, as I said earlier on, the hiring of casuals requires a lot of scrutiny and vetting to determine the integrity of workers. On terms and conditions of service, it is not only my Ministry which decides on this issue. We need to consult the Directorate of Personnel Management and Treasury to finalise the scheme. Up to now, discussions have been going on and soon we will finalise terms and conditions of service of the council's workers. Thank you Sir.

MR. KUFO: Mr. Speaker Sir, part (b) of the Question is inquiring whether the Assistant Minister is aware that the council does not have terms and conditions of service for its employees. Is he now ~~was~~ admitting that the council does not have any scheme of service at all? Does it take all that long to at least have some working document ~~or~~ ^{to} ^{to} showing how they are recruited, their benefits and so forth?

MR. CHERUJYOT: Mr. Speaker Sir, I admit that the scheme of service has taken too long to be produced. The hon. Member will realise that even the scheme of service for the entire teaching force in this country has just been published this year. Though it has taken long, the scheme of service for the council has been thoroughly discussed.

MR. MANG'OLI: While appreciating the Assistant Minister's reply, I would like him to ~~the~~ tell this House, the number of casuals who have been identified to be of the integrity they require and ^{who} have been considered for joining permanent and pensionable terms for the last eight years.

MR. CHERUJYOT: Mr. Speaker Sir, the ~~exz~~ council has so far taken nine casuals on contract terms. ~~and on the same terms.~~ ^{produce a of} In case, the hon. Member requires me to list their names, I can do so.

MR. MOMBANI: Mr. Speaker Sir, as I said earlier on, I have been working with the council and I know that it is not only nine people who have been identified to be of the integrity the council requires. I know very ~~well~~ many capable workers there who have been working for over two years and have not been absorbed into permanent and pensionable terms. Furthermore, there are other workers who have been sacked and some who have ~~h~~ retired from service but have not received their benefits due to ~~h~~ the inexistence of a scheme of service. What is the Assistant Minister going to do to assist these people who have been sacked and those who have retired? If the Assistant Minister is interested in these workers, I can bring the list here which will show those people who have been working there for over three years and have not been employed on permanent and pensionable terms. I am sure these people are more than nine.

MR. CHERUJYOT: Mr. Speaker Sir, I admit that they are more than nine. In fact, I have a very long breakdown of all the cases but as I said earlier on, the scheme of service and the pension scheme have now been finalised and they are going to be published by the Minister, probably next week. But, for those who have been retired, there is nothing we can do so far, Mr. Speaker Sir.

MR. KUBO: Since the Assistant Minister admits that the council does not have a scheme of service, will he agree with me that his Ministry should take into account the number of years these people have already served before they retire when they will be calculating their terminal benefits?

MR. CHERUJYOT: Mr. Speaker Sir, those are the details of the document which will be published. I am sure the experts who are discussing this issue must have considered the years the workers had worked and they will be paid their salaries in arrears. I am not very sure of the situation, but if the hon. Member requires more details, I beg to leave to be able to obtain full details.

Question No.437

MR. KAGVIMA asked the Minister for Education:-

- (a) why construction work of a water tank at Tharaka Secondary School intended for irrigation purposes was abandoned; and
- (b) when work would resume.

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karuri): Mr. Speaker Sir, I beg to reply.

(a) construction work for a water tank and irrigation system at Tharaka Secondary School which was started in 1982 at an estimated cost of Shs.156,760.00 was voted for two years because of lack of adequate funds to complete the construction of this project.

(b) Treasury has remitted an additional authority to incur expenditure, amounting to Shs.94,449.00 on 30th October, 1988, to the Maru District Development Committee to facilitate the construction of phase II of this project which is estimated to be completed by June, 1989.

MR. KAGWIMA: While appreciating the Assistant Minister's reply, I would like to know the amount of money that was spent out of the estimated Shs.156,760.00 for the phase I of the project. I would also like to know how much money was required to complete the project. We are told that the project is estimated ^{to cost} at Shs.156,760.00, but we ~~are~~ ^{have been} not informed of how much was spent so that we may know the amount that was missing ~~to complete the project~~.

END C....



MR. KARAURI: Mr. Speaker, Sir, we are only ~~and~~ answering this Question because it involves a secondary school, otherwise, the implementing officer is the one incharge of ~~agrcz~~ agriculture in Meru District. So, the project is under the Ministry of Agriculture. The project was initially ~~zixz~~ started as a pilot irrigation project intended to facilitate the growth of ~~fxsz~~ food crops, vegetables, and fruits for both the school and the community around Tharaka Secondary School. During ~~the~~ implementation of the phase one of the project; ^{forms the basis of} which ~~is~~ the Question of the hon. Member; a 100 acres of farming land was ~~ix~~ fenced; a 50 inches ~~xxx~~ hoarse water pump was intalled at the river; and 63 inches pipes have ~~ix~~ already been installed. Therefore, the ~~distrix~~ District Development Committee (D.D.C.), Meru has ~~asked~~ asked for Kshs.94,449/- to complete the project, and they have already been given the money ^{and} so we hope ~~ixz~~ the project will be completed.

MR. KAGWIMA: Mr. Speaker, Sir, there is a problem in this Question, because the Assistant Minister has given ~~ixz~~ the House a misleading answer. In 1985, the D.D.C. Meru was given Kshs.153,000/- to carry out a further construction of the project, and ^{this} ~~ixz~~ year ~~later~~, about ~~ixz~~ Kshs.115,000/- was returned to the Treasury, and I now I understand the same D.D.C. has asked ^{for} Kshs.94,449. Can the Assistant Minister tell us why Kshs.115,000/- was returned to the Treasury ~~ixz~~ before the completion ^{of} ~~ixz~~ the project?

MR. KARAURI: Mr. Speaker, Sir, I will go to Tharaka Secondary School tomorrow at 10.00 a.m., and the hon. Member will take me round the project and if there ^{are} ~~ixz~~ any problems that we need to raise to the ~~ixz~~ District Development Officer, Meru, then we will do ^{so} ~~ixz~~ together.

(applause)

Question No.433

MR. SPEAKER: Mr. Wakole not here? We will leave his Question until the end then.

Can we go back to Mr. Bujra's Question?

Question No.447

MR. MADHUBUTI, kwa niaba ya Mr. Bujra alimuuliza Waziri wa Afya:-

- (a) kama ~~ama~~ anafahamu kuwa Hospitali Kuu ya Wilaya ya Lamu haina mlinzi yaani watchman;
- (b) kama pia anafahamu kuwa wauguzi yaani nurses na wafanya kazi wa ngazi ya chini yaani ~~or~~ subordinate staff wa hospitali hii hawatoshi, na
- (c) kama anaweza kupeleka wafanya kazi hawa mara moja ili watoe huduma inayotakikana katika hospitali hii.

THE ASSISTANT MINISTER FOR HEALTH (Mr. ole SOMPISHA): Bw. Spika, naomba kujibu.

- (a) Sina habari kuwa hospitali kuu ya Wilaya ya Lamu haina mlinzi.
- (b) Hospitali ya Lamu ina wauguzi ~~kumi~~ ¹³ na tatu wa cheo cha "Kenya Registered Nurses" na wengine ~~ishirini~~ ²⁶ na sita wa cheo cha "Kenya Enrolled ~~Nurses~~ Nurses". Kwa upande wa wafanya kazi wa ngazi ya ~~kat~~ chini yaani subordinate staff, hospitali inahitaji wafanya kazi ~~kumi~~ ¹¹ na moja tu na hali kwa hivi sasa kuna wafanya kazi ~~kumi~~ ¹⁵ na tano katika ngazi hii wanaofanya kazi katika ~~kazi~~ hospitali hii.
- (c) Kulingana na viwango hivi, Hospitali ya Lamu ina wafanya kazi wa kutosha.

MR. MANG'OLI: Bw. Spika, kulingana na jawabu la Waziri Msaidizi, sehemu ya (a), amesema kuwa hafahamu kwamba hakuna mlinzi. Kwa vile sasa amefahamu, atafanya nini ili hii ~~hisi~~ ^{hospitali} hospitali ya Lamu ipate mlinzi?

MR. ole SOMPISHA: Bw. Spika, nimesema kwamba sifahamu kuwa hakuna ~~hisi~~ mlinzi. Nimesema hivyo kwa sababu mlinzi huwa subordinate ^{staff} na nimesema kuwa hiyo hospitali ina subordinate staff 15, na hali tunahitaji ili tu kufanya kazi ya hospitali, kwa hivyo, kuna watu wengine ambao ni subordinate staff na wanafanya kazi ya ulinzi.

MR. MANG'OLI: Bw. Spika, kulingana na jawabu la Waziri Msaidizi, ni wazi kwamba hospitali hiyo haina mlinzi, lakini ina subordinate staff. Iko tuf tofauti ya mlinzi na subordinate staff. Anaweza ^{ku} kuhakikishia Bunge hili kwamba mlinzi ataturwa huko?

MR. ole SOMPISHA: Bw. Spika, nimesema kwamba hata mlinzi ni subordinate staff. Subordinate staff anaweza kufanya kazi yoyote, kama vile kukata nyasi, kufagia, na hata kuchunga usiku. Kwa hivyo, mimi sioni ~~hizi~~ tofauti iliyoko kati ya subordinate staff na mlinzi. ~~Subordinate~~ Subordinate staff anaweza kupewa kazi ya kulinda hospitali usiku.

MR. arap CHEPKOK: Bw. Spika, ~~Waziri~~ Waziri Msaidizi amesema kwamba kuna subordinate staff ambao wanaweza kufanya hiyo kazi ya ulinzi. Lakini inaonekana kwamba hawa subordinate staff wana kazi yao ^{na} kila mtu ana kazi yake, na ^{ndiyo} tunaona mhe. ^{Swali kutusua} M. Bujra anauliza mlinzi. Mlinzi hawezi ~~kupata~~ kupatikana kati ya hawa subordinate staff kwa sababu kila mtu ako na kazi yake. Anaweza kutuambia vile atafanya ili ~~hii~~ hospitali ya Lamu ipate mlinzi wa kuchunga usiku?

MR. ole SOMPISHA: Bw. Spika, nimesema kwamba Hospitali hii ya Lamu inahitaji subordinate staff 15 na kwa sasa ^{kuna} 15, yaani wako na subordinate staff wanne zaidi. Subordinate staff ni wengi kuliko ^{wale} ~~wenye~~ ambao tunahitaji. Hatuwezi kuwajiri mlinzi lakini tunaweza kuchukua mtu mmoja kati ya hawa subordinate staff na ^{kumpatia} ~~tunapatia~~ kazi ya ulinzi. Hatuwezi ~~kuwajiri~~ ^{kuwajiri} wengine kwa sababu ~~we~~ tayari wako wengi kuliko kiasi.

Question No.433

MR. GALGALLO, kwa niaba ya Mr. Wakole alimuuliza Waziri wa Utalii na Wanyama wa Porini:-

- (a) ni watu wangapi ambao ~~xxx~~ wameuawa na wanyama mwitu katika Wilaya ya Tana River ~~kak~~ kati ya mwaka wa 1980 hadi 1988;
- (b) kati ya hao, ni wangapi wamelipwa ridhaa na ni kiasi gani; na
- (c) yeye anatosheka na kiasi cha ridhaa inayolipwa na muda unaochukuliwa kulipa ridhaa hiyo, na anachukuwa hatua gani kupunguza vifo na maafa yanayosababishwa na wanyama wa porini.

THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Leakey):

Bw. Spika, naomba kujibu.


- (a) Watu wapatao 84 wameuawa na wanyama mwitu katika Wilaya ya Tana River kati ya mwaka 1980 na 1988.
- (b) ⁵⁴ ~~Hakuna~~ ~~na~~ ~~na~~ kati ya waliouawa wamelipwa ridhaa. ⁴⁹ ~~Arabiano~~ ~~na~~ tisa wamelipwa Kshs.30,000/- kila mmoja, hali watano wamelipwa Kshs20,000/- kila mmoja, jumla ya ridhaa iliyolipwa ikiwa Kshs.1,570,000/-
- (c) Hakuna kiasi chochote kinachoweza kutosha kama ridhaa ya maisha ya binadamu.

Muda unaochukuliwa kulipa ridhaa unategemea uwezo wa Serikali kutoa pesa za malipo ya ridhaa, ambazo kwa kawaida zinazidi kiasi cha pesazinazopatikana.

Ili kupunguza vifo na maafa ya yanayosababishwa na wanyama wa porini, Wizara yangu inajitahidi kuongeza walinzi (rangers) na vifaa ili kuimarisha ulinzi ~~na~~ ^{wa kuu} maisha ya wananchi na mali yao. Vile vile, Wizara inazidi kuwahimiza wananchi kujiepusha kuingia mitoni yenye mamba ama porini kwenye wanyama hatari bila uangalifu.

MR. GAI GALLO: Bw. Spika, ~~kutaka~~ Waziri Msaidizi amesema kuwa Serikali haina pesa za kutosha ^{za} kuwalipa ridhaa watu hao ~~wote~~ wote kwa wakati ufaao. Wizara inaweza kuanzisha mpango bora kuliko huu wa kuwalipa watu ridhaa? Katika Wilaya ~~z~~ ya Tana River tuna Game Reserves tano, ^{na kwa} hivyo sisi tunaishi na wanyama hawa wakati wetu wote, na Wizara inatuhimiza tualinde hawa wanyama sawasawa. Ikiwa ~~hiki~~ huu mpango wa kuwalipa watu ridhaa unadhoofika, Wizara inaweza kutoa utaratibu mwingine bora zaidi wa kuwahudumia watu katika wilaya hii kuliko kuwalipa ridhaa?

(EN--D)



MR. LEAKEY: Bw. Spika, Serikali inaifahamu shida iliyotajwa na mhe. Mbunge huyu. ~~Na~~ Lengo la Serikali ni kuyalinda maisha ya wananchi. Nafikiri mhe. Mbunge huyu atakubaliana nami hapo. Lakini kama tujuavyo, wanyama wa porini ni turadhi ya k Kenya, na kwa hivyo, kama kulivyo na sheria inayowalinda wananchi, kuna sheria inayowalinda wanyama wa porini. Kama nilivyosema, ridhaa imelipwa kwa wale watu waliouawa na wanyama wa porini ---

MR. CHEPKOK: Jambo la nidhamu, Bw. Spika. Kulingana na vile Waziri Msaidizi anavyosema, inaonekana kama ni jambo zuri sana kwa binadamu kufa ili alipwe ridhaa. Je, ridhaa inayolipwa kwa mtu aliyeuawa na mnyama wa porini ni kiasi gani?

MR. LEAKEY: Bw. Spika, hilo si jambo la nidhamu; tafadhali toa uamuzi wako.

MR. SPEAKER: Order! That ^{was} ~~is~~ not a point of order, Mr. Chepkok, but ^{a supplementary} ~~another~~ question. The Assistant Minister is, therefore, not under ~~an~~ any obligation to respond to it.

MR. LEAKEY: Ahsante sana Bw. Spika. Acha nimalize kumjibu mhe. Galgallo. Kuna mipango ya kuzingira sehemu ambapo wanyama wa porini wanafugwa kwa seng'enge. Tunatarajia kupata pesa za kuifanyia kazi hiyo. Hata hivyo, Serikali inaendelea kuwalinda wananchi kama iwezekanavyo.

MR. M.S. AMIN: Bw. Spika, kulingana na jibu la Waziri Msaidizi, inaonekana kuwa kuna watu ambao hawakulipwa. Watu hao watalipwa lini?

MR. LEAKEY: Bw. Spika, Wizara yangu inalipa ridhaa kulingana na mahitaji k ya kama ti za wilaya ambazo ndizo hutupatia mawaidha kuhusu malipo - tulipe au tusilipe. Ingawa kuna watu ambao hawajalipwa ridhaa, tunatarajia kuwalipa tukipata

MR. LEAKEY (Ctd.):

pesa zilizoidhinishwa hapa Bungeni hivi majuzi.

MR. MADHUBUTI: Bw. Spika, kwa kuwa mara kwa mara hutokea visa vya aina hii, na inaoneka binadamu wengi wamepoteza maisha yao katika Wilaya ya Tana River, kwa sababu kuna wanyama wengi wa porini huko, ^{wi} kwa nini Waziri hawaruhusu watu au makampuni kuwaua mamba walioko huko? Hivyo ikifanyika, ngozi zao zitauzwa katika nchi za Uropa na tutapata pesa nyingi za kigeni.

MR. LEAKEY: Bw. Spika, hata sasa hivi tunapongea hapa, kuna kampuni moja iliyoruhusiwa kutega mamba huko wilaya ya Tana River.

MR. GALGALLO: Bw. Spika, kama nilivyosema, katika Wilaya ya Tana River, kuna wanyama wengi sana, na kwamba watu wengi wamepoteza maisha yao kwa sababu ya wanyama hao. Je, Wizara inaweza kufikira kuwalipia ^{jami ya} ridhaa watu waliouawawa na wanyama hao kwanza, kabla ya kuwalipa wale walioharibiwa mimea yao? Ingefaa watu hao walipwe kwa haraka kwa sababu wamengojea kwa muda mrefu sana.

MR. LEAKEY: Bw. Spika, kwa kawaida, tukipata pesa, kwanza tunawalipia ^{jami ya} ridhaa wale watu waliouawa na wanyama wa porini halafu baadaye ndio ~~tu~~ tunapoangalia malipo mengine mbali mbali. Katika Wilaya ya Tana River, wengi wa watu waliouawa na wanyama wa porini waliuawa na mamba wakienda mtoni kuchota maji. Serikali imezidi kuchukua hatua; inajenga bomba la-maji ~~xi~~ ili maji yatolewe mtoni na kupelekwa kule wananchi wanakoishi.

MR. GALGALLO: Bw. Spika, kama nilivyosema, sehemu hiyo ina wanyama wengi sana. Waziri Msaizidi analipotosha Bunge kwa kusema kwamba wengi wa ~~xi~~ watu wanaouawa na wanyama wa porini katika wilaya hiyo wanauawa na mamba na hali tunajua

nyati na ndovu, ambao wanawaua watu zaidi

QUESTIONS BY PRIVATE NOTICE

MR. MWENJE: Mr. Speaker, Sir, on behalf of Mr. J.N. Mungai, I beg to ask his Question by Private Notice.

MR. SPEAKER: That is totally against the provisions of this distinctive House.

(MR. J.N. MUNGAI) to ask the Minister for Livestock Development:-

- (a) Since there has been heavy rains in Molo Constituency from March, 1988 to date thereby adversely affecting the roads, could the Minister consider despatching four-wheel trucks to collect all milk around Olenguluone, K Kirobon and Chebara?
- (b) Could he also consider extending these services to Langwenda, Boron, Siqito and Tomoyetta Settlement Schemes?

MR. SPEAKER: Let us move on to Mr. Chepkok's Question.

MR. CHEPKOK Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

- (a) Is ~~the~~ the Minister aware that Mr. ^{Chbogey} ~~Chbogey~~ has not been paid his claim No. CND/18E1/14/1 dated 12th November, 1983?
- (b) What has delayed this payment?
- (c) When will Mr. Chebogey be paid?

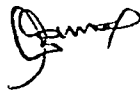
THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Leakey):
Mr. Speaker, Sir, I beg to reply, but before I do that, I would like to apologise to the House that we were unable to answer this Question yesterday; we were trying, upto the last minute, to get information concerning this Question. Even now, I have to sadly say that we do not have any record of this claim.

E.5....3.11.88

THE ASSISTANT MINISTER FOR TOURISM AND WILDLIFE (Mr. Leakey) (ctd.):

Yesterday, the hon. Questioner gave me a photocopy of a piece of paper with some details which are, undoubtedly, incomplete. Therefore, I hope the hon. Member will go back and get more details so that we can answer his Question.

END E.



MR. CHEPKOK: On a point of order, Mr. Speaker, Sir. Is it really in order for the Assistant Minister to tell me to go ~~z~~ back and bring him further details while I provided him with the necessary details regarding this Question? He could have contacted his office in Iten to receive the details. Is he in order?

MR. SPEAKER: What is really in order is to make sure that this gentleman, Mr. Chebogegey is assisted. So, if you or the Assistant Minister have ~~has~~ the relevant information, could you kindly pass it over to the relevant authorities so that this gentleman can be assisted?

MR. CHEPKOK: Mr. Speaker, Sir, I got the details from his office in Iten and since this office ^{has} ~~is on~~ telephone, the Assistant Minister ought to have rang there to get the proper information. I am not earning from the Ministry of Tourism and Wildlife; he is earning from the Ministry and he is therefore supposed to have looked for this information himself. Is he therefore in order ~~for me~~ to tell me that I was supposed to go back and get further information? This is impossible!

MR. SPEAKER: Order! Order! What is now in order is that this Question has been deferred. Next Order!

(Question deferred)

MR. MANG'OLI: On a point of order, Mr. Speaker, Sir, —

MR. SPEAKER: Not on that issue again! I do not want to hear anything more about that Question!

MR. MANG'OLI: Unfortunately, Mr. Speaker, Sir, it is about the same Question.

MR. SPEAKER: Order Mr. Mang'oli! Will you sit down?

MR. CHEPKOK: On a point of order, Mr. Speaker, Sir, — — —

MR. SPEAKER: I said not on that Question again!

MR. CHEPKOK: Mr. Speaker, Sir, I am not satisfied with the ruling given by the ~~Assistant Minister~~ Chair. When will the — — —

MR. SPEAKER: Order Mr. Chepkok! If you are interested in challenging my ruling, you know the channel to take. Can you kindly carry on, Mr. Mibei.

MINISTERIAL STATEMENT

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): On a point of order, Mr. Speaker, Sir. While I was answering Question No.411 yesterday which was raised by the hon. Member for Changamwe, there ^{arose} ~~was~~ a question as to whether the employer used the correct procedure in declaring Mr. Morris Ogutu redundant. After checking the details, I have found out that, first, the employer terminated the services of Mr. Ogutu without following redundancy procedures. The Transport and Allied Workers Union who had been informed by the employer, took up the matter on behalf of Mr. Ogutu but they could not reach any agreement. My Ministry intervened and an agreement was reached by the two parties, for Mr. Ogutu to be paid Shs.10,385.15. Mr. Ogutu has already been paid a sum of Shs.6,436.40 leaving a balance of Shs.3,948.75. If this balance could be paid, the matter would be settled.

Mr. Speaker, Sir, I may add here that there is no penalty in our laws for an employer who declares an employee redundant without following the procedure. Thank you, Sir.

MR. WASIKE-NDOMBI: Mr. Speaker, Sir, while thanking the Assistant Minister for that clarification, is he aware that there is a provision in the Trade Dispute Act, Section 4, Sub-section 5, which requires an employer to report his intentions of declaring an employee redundant to the Minister for Labour. In this case, Mr. Speaker, it is noted that it is the Union which realized that this employee had been laid off through redundancy. Will the Minister use this particular example of a case to advise all the employers about the provisions of Section 4, Sub-section 5 of the Trade Dispute Act which says that before an employee is declared redundant, the employer must report his intentions of declaring the person redundant to the Minister?

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir; I would like to thank the hon. Member for expressing those sentiments and I would like to inform him that we have noted them.

MR. MANG'OLI: Mr. Speaker, Sir, while appreciating the clarification made by the Assistant Minister, could he make sure that he amends the provisions of that clause to incorporate another provision for penalty where an employer declares somebody redundant without being penalized. If we are penalising other people, including those who steal maize, why is it that the Assistant Minister has not brought an amendment to this House so that any employer who does such a mistake is penalized.

THE ASSISTANT MINISTER FOR LABOUR (Mr. Mibei): Mr. Speaker, Sir, I think we are all responsible for initiating amendments to our laws. Each one of us in this House should be concerned about this matter so that if we find a loophole in any of our laws, we inform the Law Reform Commission through the Attorney-General to redraft the law for amendment.

MR. SPEAKER: Next Order.

BILL

First Reading

The Appropriation Bill.

(Order for First Reading read - Read the First Time - Ordered to be read the Second Time today)

Second Reading

The Appropriation Bill

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Speaker, Sir, I beg to move that the Appropriation Bill be read the Second Time. As hon. Members are aware, the 1988/89 Recurrent and Development Estimates have already been discussed at great length in this August House. The hon. Members have had the opportunity to make their contributions and observations to a number of important votes, and in particular, the votes relating to the following Ministries: Vote 31 - Ministry of Education, Vote 11 - Ministry of Health, Vote 13 - Ministry of Public Works, Vote 14 - Ministry of Transport and Communications, Vote 30 - Ministry of Energy, Vote 20 - Ministry of Water Development, Vote 16 - Ministry of Tourism and Wildlife, Vote 10 - Ministry of Agriculture. Mr. Speaker, Sir, all the other votes which were not ^{discussed} discussed,

were then guillotined on the 27th of October, 1988 in accordance with the provisions of our Standing Orders, No.147 (7).

Mr. Speaker, Sir, the purpose of the Appropriation Bill is clearly stated in this paragraph, namely that it is a Bill for an Act of Parliament to authorize the issue of a sum of money from the Consolidated Fund and its applications towards the services of/year ending on the 30th June, 1989 and to appropriate that sum and a sum voted on Account by the National Assembly for certain public services and purposes. As the hon. Members are aware, the Ministries or Departments are now meeting their expenditures for the current Financial Year, namely, 1988/89, on the basis of the Vote on Account which was debated and authorized by this August House on the 23rd June, 1988.

END F

THE MINISTER FOR FINANCE (CTD.):

Hon. Members are aware that at that time, the very basis of the Vote on Account ^{was} ~~is~~ to allow us to acquire 50 per cent of the issue so that Government services can be continued.

Mr. Speaker, Sir, the Bill now before the House seeks to allow the issuance of the total amount of money asked for in order to be able to meet all the services of the Government up to the end of this financial year, that is up to 30th June, 1989. It is also the purpose of the Bill to seek the approval of this House in this respect. We are, indeed, just about to finish the first six months, the amount of money approved in the Vote on Account is coming to an end. If this Bill is approved and it gets the assent of His Excellency the President, it will enable me, as the Minister for Finance, to appropriate the necessary amount of money needed to meet all Government services up to the end of the year.

The total amount of money that is being asked for in this Appropriation Bill is £1,723,510,006, a sum which will ^{be} ~~is~~ deemed to have been appropriated as from 1st July, 1988. Of course, this figure also contains the amount of money which was approved within the framework of the Vote on Account.

This is not a Bill on which I need to dwell ^{on} ~~at~~ length, since its purpose is clear. Much of what it is asking for and the framework within which it is set has been debated by this House at great length, both in debating the various Votes that came before us and during the debate on the Budget. The Schedules which start on page 292 of the Bill and go all the way up to page 302 give the breakdown of the amount of money to be appropriated in respect of both Recurrent and Development Votes.

Mr. Speaker, Sir, I know that hon. Members may wish to air their views, but it is, of course, important that we pass this Bill without very much ado because failing to do so will hamper Government services.

THE MINISTER FOR FINANCE (CTD.):

and, indeed, even hon. Members will not be paid. Generally speaking, this is a routine Bill. Nevertheless, hon. Members are at liberty to air their views on it.

With these very few remarks, Mr. Speaker, Sir, I beg to move.

THE ATTORNEY-GENERAL (Mr. Muli) seconded.

(Question proposed)

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Karauri): Thank you, Mr. Speaker, Sir, for giving me the opportunity to support the Appropriation Bill. In passing this Bill, we wish the implementing officers to know that we are relying on them to implement the projects that have been approved by the Government and for which money has been set aside. The best thing here would be ^{to} ~~move~~ ^{move} straightaway to these ~~projects~~ ^{which have been allocated} ~~with money and spend it.~~ ^{it.} If the money is not sufficient, that is better than some implementing officers saying at the end of the year, "We were not able to do this", in which case money goes back to the Treasury, while wananchi really need these projects.

I know that we have debated at length various Ministries' Votes, and it is not necessary to touch on these Ministries again. However, it is important for this country to know that we rely on implementing officers. If some of these officers feel that they are incapable of doing their jobs properly, I think they should resign and give way to those who can implement projects and are willing to work promptly.

Mr. Speaker, Sir, I beg to support.

THE ATTORNEY-GENERAL (Mr. Muli): Mr. Speaker, Sir, I just want to confirm that this Bill is in accordance with our laws, particularly the Constitution. As you know, no money in the Consolidated Fund can be touched by any Minister unless this House passes an Appropriation Bill.

Kenya is renowned for its adherence to the laws that this House makes. We do not wish to appear at any given time as if we could

THE ATTORNEY-GENERAL (CTD.):

bypass the provisions of our laws. That is the key note that makes the harmony, peace, love and unity of this country remain and continue to grow from strength to strength.

Mr. Speaker, Sir, having read section 101 of the Constitution, I know that the money that we are seeking to appropriate by this Bill will be deemed to have started being spent on 1st July, 1988 although we are now in November, 1988. Hon. Members may be wondering what we have been spending from 1st July, 1988 upto now, but our Constitution is very clear in this respect. It provides for what we call the Vote on Account. That money was voted here; and it is now going to be consolidated with the money to be spent in the remaining part of the year so that it is contained in one Appropriation Bill.

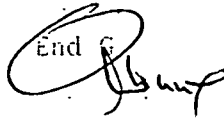
As the Minister for Finance has said, there is very little we can really say on this Bill because the Votes of various Ministries have already been debated exhaustively. However, we must warn those who are charged with the actual expenditure of these funds to be very scrupulous and careful. The Consolidated Fund gets money from the tax-payers of this country. So, this is public money which belongs to the members of the public, and it is really sad to hear that this money has been misappropriated in certain areas in one way or another. Our only caution is that ~~the~~ ^{Government officers} have been given a specific sum of money to spend for specific purposes. We would like that money to be spent for those, and no other, purposes.

I concur with my friend, hon. Karauri, that existing projects should be completed when money is available. That is very important. To keep on dragging these projects, hoping that money will come in a future date, does not really augur well as a matter of fact. This keeps on increasing your deficit aspect as we go along. Those projects that can be feasibly ~~be~~ completed should be completed first, and because services

THE ATTORNEY-GENERAL (CTD.):

are of a continuous nature, the money should be applied to the purpose for which it has been voted as soon as the Bill obtains presidential assent and the Minister for Finance is authorised to withdraw money from the Consolidated Fund. As the Minister put it, I think the Bill is appropriate because it is a routine one. Of course, hon. Members have a right to air their views.

End

A handwritten signature in cursive script, appearing to be 'J. B. ...', written over the word 'End'.

THE ASSISTANT MINISTER, OFFICE OF THE VICE-PRESIDENT AND MINISTRY OF HOME AFFAIRS AND NATIONAL HERITAGE (Mr. Nooru): Thank you, Mr. Speaker, Sir, for giving me this chance. As my hon. colleagues who contributed earlier said, the Bill has no much details to go into because we have already discussed the Votes / major Ministries in detail and the others were dealt with as a group.

I have two points to touch on. The first one concerns the ^{costing} implementation of projects. When the district development committee proposes a particular project, the implementing officers do the costing before the funds are given. In most cases, we get surprised to hear from the implementing officers who did the costing that the money which was voted for a particular project was not enough to complete it. If you look at the time the project has taken to reach a certain stage, you will realise that it does not allow a sharp increase in the amount required to complete it.

I would like to request the Ministry of Public Works who are charged with the duty of construction, doing costings and bills of quantity to do accurate work. They should give estimates in terms of costs of a particular project because it sometimes becomes very embarrassing to have half-done projects which in the end do not benefit the public.

The other point I would like to talk about is the implementation of projects. Projects which are financed by the Rural Development Fund fall under the Ministry of Finance. These projects give us a headache during district development committee meetings when we have to bring in Earambee contributions to complete them in a particular area.

When financing a project which has been done half-way by the public, it becomes a problem when technical officers say that they have to follow the tendering system where the District Tender Board has to do actual tendering. It also becomes difficult when there is a contractor on site who was contracted by the community and who may have done the job half-way. When the District Tender Board gives the tender to a different contractor, thereby removing the one on site, ^{and} it becomes a problem. I would like the Minister for Finance to clarify ~~the issue~~ this issue with regard to when the Rural Development

THE ASSISTANT MINISTER, OFFICE OF THE VICE-PRESIDENT AND MINISTRY OF HOME AFFAIRS AND NATIONAL HERITAGE (Mr. Nooru)(Ctd):

Fund is brought in to supplement the efforts of a particular community in a given project.

Implementation of projects should be co-ordinated closely and the concerned Ministries should work as a team. There are bottlenecks in the District Focus for Rural Development Strategy as far as the Ministry of Public Works and the Supplies Branch are concerned. The officers involved should be told to speed up the process of tendering - when funds have been made available - so that projects can be completed on time for the benefit of the community.

I beg to support.

MR. MALEBE: Thank you, Mr. Speaker, Sir, for allowing me to contribute on the Appropriation Bill. I have two points to raise here. Among other things, this Bills refers to the Fisheries Department which is under the ^{Ministry}~~Ministries~~ of Tourism and Wildlife, and the Fisheries Research Institute which is being taken care of ~~xxx~~ by the Ministry of Research, Science and Technology. There is also the Fisheries Development which is being taken care of by the Ministry of Regional Development. I find it a little bit difficult to understand it because money which is voted for the Fisheries Department is dished to all the three Ministries. I wonder whether it is an oversight in the budgeting procedure or it was intended that the funds should be shared by the three Ministries.

My second point is in relation to budgeting in areas where Non-Governmental Organisations are predominant. We have districts where Non-Governmental Organisations carry out ~~activities~~ various activities of community development. My experience has shown that the relevant Ministries take it for granted that it is the duty of Non-Governmental Organisations to look after the development of those areas and they, ~~xxx~~ therefore, do not budget for projects in those areas. We know that Non-Governmental Organisations do not do everything in their areas of operation. There are some services which are not considered at all and ^{which} ~~they~~ are not included in the Budget.

I would like to request the relevant Ministries to ^{identify} ~~look for~~ those districts where Non-Governmental Organisations are predominant and budget for services which may not be ~~para~~ provided by such organisations.

Those are the two points I wanted to make and I beg to support the Bill.

MR. JALANG'O: Thank you, Mr. Speaker, Sir, for giving me the opportunity to comment briefly on the Appropriation Bill. I do not have much to say at this stage, but I would like to comment on two aspects.

The first one is that we are now in the fifth month of the 1988/89 Financial Year, that is, from 30th June, 1988. What concerns us most is that some of the district development officers tend to wait until it is too late before they start implementing projects which have already been approved. These projects are usually rushed through at the last minute. We know that some tendering procedures take a long period of time. This is so because ~~there is~~ there is pre-qualifications for tenders, tender processing and so on before the tender is finally awarded.

Why are some of these projects not implemented as soon as funds are approved instead of waiting until the ~~is~~ last minute? The rush to implement projects starts around the month of March of the following year. The result of this is that when the month of April comes, a freeze is given by the Ministry to cancel further expenditure.

Man on These projects should be started immediately. We should not wait until the last minute and then we start implementing development projects.

There is also the other aspect of Appropriations-in-Aid. This is one aspect which sometimes ~~may~~ may kill certain projects if it is not collected in time. Certain projects are tied up so much in the Appropriations-in-Aid such that if ^{it is} ~~they are~~ not collected, then those projects cannot proceed. In this case, certain activities of a given Ministry may not proceed. It is important that those responsible for the collection of the Appropriations-in-Aid do their work on time.

MR. JALANG'O (Contd.):

There are certain documents which the donors insist on before they can release Appropriations-in-Aid (A.I.A.). It is important that those charged with the responsibility of ~~looking~~ following up A.I.A. ^{should} start this extremely early. If the donor insists on this document and it is a procedure, let it be done instead of waiting until it is the end of the financial year when it is realised that several A.I.A.'s have not been collected for a simple reason — lack of documentation.

Mr. Speaker, Sir, the third item is the overexpenditure in certain Ministries. This House takes such a long time to look into the various Ministerial Votes, and once those Votes are approved, Accounting Officers should act within those approved Budgets. Questions of overexpenditures and, conversely, underexpenditures — I am sure we would be happy about underexpenditures but certain underexpenditures are dangerous because certain projects ~~perhaps~~ may not be implemented because of underexpenditures. But I think this House is concerned with overexpenditures, and a Budget is given to guide an Accounting Officer that this is your Budget, and work within that framework. But when we look at certain Ministries occasionally and see huge overexpenditures, then we begin to wonder. Why on earth, in the first instance, is a Budget or a Vote given to the Ministry? I think it is high time, during this year of ^{that} discipline, those put responsible or those Accounting Officers given responsibility to look at the Ministerial Funds work within those Votes that are given to them so that there are no huge unexplained ^{huge} overexpenditures. So, I would urge the Accounting Officers to be more vigilant during this year of discipline so that what is set for them they act within that framework.

Finally, Mr. Speaker, Sir, I would like, once again, to congratulate the Minister for Finance for ^{the} timely presentation of The Appropriation Bill so that the Government machinery can start to act without further delays.

With those few remarks, Sir, I beg to support.

MR. WASIKE-NDOMBI: Thank you, Mr. Speaker, Sir. I rise to support
The Appropriation Bill as moved by the Minister for Finance..

This Bill, as the Minister said, is more or less like a procedural
motion. Everything that is contained here we have already spoken about it.
However, I only want to say that after the Minister for Finance presented a
very inspiring Budget, some of the manufacturers embarrassed us in this House.
They also embarrassed the Minister for Finance by raising prices of essential
goods. I hope that in the coming years the Minister will stick to his guns,
and that when he says that there will be no ^{mini-budgets} ~~mean budgets~~, they will ^{not} be there.

Mr. Speaker left the Chair

The Temporary Deputy Speaker (Mr. Kabingu-Muregi) took the Chair

We were embarrassed this year just a week after we had received the
Budget Speech. Some manufacturers raised the prices of essential goods. Also,
the other aspect of it is that when the Government decided to decontrol the
prices, some firms woke up the following morning and raised the prices. So,
I hope that the Minister for Finance will stick to his guns in future, and that
prices of consumer goods which are essential, like unga, bread, sugar, and so
on, should not just be increased every now and then. These are the things that
really affect every mwananchi.

Mr. Temporary Deputy Speaker, Sir, I would also like to urge the Ministry
of Local Government and Physical Planning to speed up what we recently passed
in this House. This is about the service charge. They should speed it up so
that the local authorities can survive. It has now taken about three months
since the Bill was passed. The Bill was signed on 8th August, 1988, by His
Excellency the President, but up now nothing has been done. I urge that this
be done quickly so that we do not have local authorities "drying up".

With those few remarks, Sir, I beg to support.

MR. MAKAU: Thank you, Mr. Temporary Deputy Speaker. As it has been said
earlier, ~~that~~ this is The Appropriation Bill and it is very clear, but there are
a few points that I would like to request the Ministry of Finance and the other
concerned Ministries to consider.

MR. MAKAU (Contd.):

First, the recurrent expenditure in this country is rising everyday. So, I would like to urge all the Ministries to take a measure of control so that we do not get into a recurrent expenditure crisis in this country.

One of the areas that I thought I would comment on is in Clause (b) 1. Now that we are giving money to the Office of the President, I would like to urge the officers concerned to look into the problems that afflict police officers in this country. This is about houses. We have said here, time and again, and especially in my Mbooni Constituency, ^{that} police houses have been leaking for a long time. Now that we have authorised for money to be spent, this matter needs to be looked into because these people offer a very essential service and they need to be catered for.

At the same time, there is need for the police and Administrative Police to be offered a number of amenities so that they can relax. After working for all those hours one is very tired. Research work has shown that people who work in situations like that of the police and Administration Police, when they go home and find that the life there is boring, they just become difficult. That is probably why we have some of these ^{ugly} incidents of policemen here and there trying to shoot without knowing what they are doing. So, I would like to urge the ^{Office of the President} ~~officers concerned~~ to have recreational centres in all the police stations and Administration Centres so that those people have places to relax after they have done a good job.

The other point I wanted to make is on Vote D.12 - ^{Ministry of} Local Government and ^{Authorities} Physical Planning. There is that aspect of loans to be given to local ^{government} I would urge the Ministry of Finance and the Ministry of Local Government and Physical Planning to be very concerned as to the use of this money. Before this money is released, the Ministry should make sure that those who are going to use this money are competent enough. ^{Recently} ~~Recently~~ KSh.4 million was released as a loan to Machakos Municipality to construct a bus station, but when you go there now all you see is nothing. It is a place where lizards live and hawkers are also using the place for selling ~~of~~ second-hand ~~in~~ clothes. However, the United States ^{Agency for International Development (USAID)} ~~of America~~ came up recently and put up a very beautiful bus station.

MR. MAKAU (Contd.):

As regards

The KSh.4 million which was borrowed to construct a bus station, people are still paying the money, but there is no bus station that was constructed with that money. So, this is an area that needs to be looked into and those who are caught misappropriating the money should be asked to pay for whatever amount. People in Machakos Town continue repaying the loan of KSh.4 million, but where the bus station was supposed to be constructed at Mjini, nobody is using the area. It is only a place where lizards are lying there and hawkers are selling second-hand clothes. The ^{USAID} ~~United States of America~~ came up with a beautiful bus station, and I understand that the ~~Municipality~~ still repays that loan that is supposed to have gone probably into some people's pockets. This is an area that needs to be looked into.

The other area that I feel that I should have mentioned is on Vote D.1. Now that we have this money allocated to the Office of the President, it is necessary that the appointment of chiefs and assistant chiefs should be speeded up. In my constituency we have a vacancy of an assistant chief, and various sub-locations have stayed for years without assistant chiefs. These are very important people as far as Administration is concerned. ~~The local mwananchi~~ ^{or} ~~the only person based on~~ ^{coordinating} the link between the Government and the mwananchi is the assistant chief. So, now that we have got this money we would like to see this speed up.

End I

R/Jmk

MR. MAKAU (Ctd.):

Sir, the other area that needs to be considered in light of the cost-sharing policy is in connection with Vote R31 - Ministry of Education on the question of The Kenya School Equipment Scheme. The money that is normally voted for the Kenya School Equipment Scheme after decentralization is most of the time used on administrative purposes and the schools are left without the essential supplies. If you go round the country you ^{will} find that the Kenya School Equipment Scheme which is supposed to purchase books which are very essential for the students to pass examinations does not purchase. This money is mainly spent on administrative work and the students go without books. Besides textbooks, you ^{will} find that exercise books are also not purchased. Also you ^{will} find that after decentralization, the Kenya School Equipment ^{Scheme} gives tenders to people from outside ^{the districts} ~~that area~~. I have in mind Machakos District where tenders are given to suppliers from outside and not people within the district. The idea of decentralization was to make sure that the people within the area benefit from the tenders that are given in those areas. So I will urge the Ministry of Education and the officials concerned to make sure that the local people within a given area are given these tenders and not ^{just} to get one Asian from Nairobi ^{to supply} ~~supplying~~ the whole country. We should not have only one Asian in ~~the~~ River Road benefiting. If it is for instance, Kajiado, people within that area should ^{supply} ~~supply~~ ^{books} and not an Asian from Nairobi. In fact, it is very embarrassing to find that if you go to a certain Asian bookshop you find very ^{many} Government vehicles being ~~sent~~ loaded with books ready to ferry them to wherever they are going to be supplied. This is an area that needs to be looked into seriously.

Another area in that Vote R31 that needs to be looked into is that there is a lot of money being used on University Students Accommodation Board (U.S.A.B.). I think the most important thing here is to look into ^{this} and try as much as possible to try to save ^{money} on that one. This is because I think we are spending a lot of money on this one. We should also do something on the amount of money allocated to the Teachers Service Commission. When ~~h~~ you

MR. MAKAU (Ctd.):

look at the Ministry's Vote and the money that is spent, you will find that there is so much money spent on the Teachers Service Commission instead of spending more money on the inspection of schools. So I think there is need to look into those areas.

The other area that I feel I should touch on is Vote R20 - Ministry of Water Development. Now that we have ~~we~~ voted the money which is going to be used, there is need for the maintenance of boreholes especially in the arid and semi-arid areas. We should also look into areas where the local authorities cannot afford to maintain them and hand the boreholes ~~is~~ over to the Ministry of Water Development. Here I have in mind Kikima Water supply in Mbooni Constituency which is supposed to be maintained by the county council but they cannot afford. Since we want to give service to the mwananchi, it would be better to transfer such projects to the Ministry of Water Development so that at least those areas are maintained.

Another area that I thought I should comment on is on Vote R16 - Ministry of Tourism and Wildlife. We have talked here about the problems of poaching and other related issues that face the Ministry of ~~Wildlife~~ Tourism and Wildlife. When the Minister for Tourism and Wildlife was presenting his Vote here he and his Assistant Ministers kept on telling us that we have to bear with them because the money available in the Ministry is not enough to pay all the pending compensation claims. But then, here we ask ourselves; where does the money go? This is because people are always paying money in form of gate collections whenever they visit our national parks and game reserves. Recently the Minister said that they have sacked people because those people had embezzled money realised from the gate collections. To be able to get these national parks and game reserves work, what I would suggest is that the Ministry or those concerned should be thinking in terms of creating a parastatal body to manage them. This is because national parks and game reserves are our assets since tourists will always keep on coming and thus we shall always be collecting revenue from them. The money that they generate can be used for the development of the national parks and the

MR. MAKAU (Ctd.):

game reserves. If a parastatal is ~~is~~ started for the national parks and the game reserves like the one which has been suggested for the Voice of Kenya, then the money that will be generated would be used by that a parastatal to improve the parks and we will be able to employ more qualified game rangers. That way, we will be able to buy better guns for the game rangers to be able to handle the poachers who have become a menace to this country.

Finally, I would like to say ~~say~~ something about the Ministry of Information and Broadcasting. I can see that we are voting a lot of money for them to improve their services. Since it appears that our television station has gone colour, I would urge the Ministry to ensure that these facilities are extended to areas which do not have them. This is because previously, whenever there was a function in Machakos, an officer from the Ministry would come to cover it but the camera he was using was black and white. So when it came to processing, those films could not be processed because the station seems to have gone colour. So I would like to urge the Ministry of Information and Broadcasting to consider areas which are very big like Machakos District to be provided with colour cameras instead of saying that we get them from Kajiado or from Embu. Machakos District is a very busy area.

With those few remarks, I beg to support.

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Lijoodi):

Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance. I also rise to support the Appropriations Bill which has been so ably moved by the Minister for Finance. One of the reasons for the budgeting system is to ~~en~~ enable Government Ministries and Departments to plan their activities throughout the 12 months of the year so that they are seen to be providing services to the country. We have experienced quite a number of difficulties with the Government Departments not being able to issue A.I.E.s in time to their field officers and as a result many of the officers who have been so well trained and are ~~is~~ ready to provide services to the people are not able

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Lijoodi) (Ctd.):
 to do so because they are ^{not} provided ^{with funds} for their expenditures in time. We would like to urge the Ministries concerned to ensure that as ~~soon~~ soon as money is released by the Ministry of Finance it can be made available to the field officers so that they are able to provide services to ~~the~~ wananchi throughout the 12 ~~month~~ months period.

We ~~are~~ are also concerned that the Government services do not appear to be present in the country-side on even basis ^{because} so that expenditures are concentrated in a few months during the year and during other times of the year services are completely absent. For instance, the other day we had the opportunity of discussing ~~the~~ the Vote D10 - Ministry of Agriculture and ^{the} Minister himself informed us that ~~at~~ by this time we have now posted officers ~~at~~ at diploma level upto the divisions. It is true that these officers have been posted. But unfortunately, they are not able to ^{render} provide ~~their~~ their services because they do not have their allocations in time. Even when they do, most of ~~the~~ ^{them} officers are not provided with the transport and therefore, they are not able to go round the country-side to provide the technical assistance which our small-scale farmers require to improve their output. So we ^{would} will urge the Ministry of Agriculture in particular and the Ministry of Livestock Development to ensure that those competent officers that we have ~~now~~ now posted to the countryside are able to provide the ^{necessary} services they ~~should~~ to wananchi. ~~He~~ ^{livestock}

In our own division we have had a very competent ^{livestock} officer, in fact, a veterinary doctor posted to a division but he did not have acaricides nor did he have the transport ^{him} ~~that~~ that would enable ^{him} to provide his services to wananchi. Therefore, this is one ~~an~~ area where we will need improvement in order to avoid ~~the~~ the losses that we are incurring through the idleness of very competent staff who have cost the Government a lot of money to train.

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K.I.....3.11.88

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Lijoodi)(Ctd.):

Mr. Temporary Deputy Speaker, Sir, I also wish to comment briefly about the allocation of ~~tenders~~ Government tenders for provision of goods and services. The provision of goods and services is one area where projects and programmes have been delayed due to defaulting suppliers. We would like the Ministries to be a little bit ^{more} strict with the people who are allocated with Government & tenders so that they are able to provide services in time so as not to delay projects. People who default should not be allowed to be allocated tenders again. This applies not only for building but also for construction of roads.

We have had experiences where materials which are below the prescribed standards have been provided, resulting into the Government losing millions of shillings because of materials ~~being supplied~~ of lower standard being supplied. We have also had ^{buildings} certified to have been built according to standards, ~~but~~ ^{but which} ~~and~~ ^{down} ~~over~~ in certain areas, they have fallen because care was not taken to ensure that inspection ^{was} ~~is done~~ done effectively. The defaulting suppliers ~~or~~ or builders should have been made to repeat the job accordingly.

I would also like to commend the Government for the present system of procurement and distribution of medicine to the hospitals in the countryside which has been adopted in the last few months. At least, for now, we are able to find the medicine which ~~is~~ is required to deal with the common diseases. I would like to urge the Ministry of Health to ensure that adjustment in the supply of medicine is done in such a way that during the rainy months, for instance, when malaria is common, a bigger supply of malarial medicine is provided to the affected areas, ^{particularly in} ~~the~~ like Western Kenya. There ^{was} ~~is~~ a time last year when

K.2.....3.11.88

THE ASSISTANT MINISTER FOR INFORMATION AND BROADCASTING (Mr. Lijoodi)(Ctd.):

~~the~~ malaria drugs were ~~&~~ not available at a time when the rainy season was at its highest and mosquitos were in plenty. A lot of deaths at that time were as a result of insufficient medicine.

^{an}
~~the~~ overall, I would say that the present system that has been implemented during the last few months is extremely effective and we would like to commend those who are involved. We would like to encourage them to improve the system even more so that whenever deseases occur, they are easily treated.

With those few remarks, I beg to support.

THE MINISTER FOR RESEARCH, SCIENCE AND TECHNOLOGY

(Mr. Ndotto): Mr. Temporary Deputy Speaker, Sir, since what we are discussing now has been covered quite a lot during our ~~dis~~ discussions on various Ministries' Votes, I beg to move that the Mover be now called upon to reply.

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

THE MINISTER FOR FINANCE (Prof. Saitoti): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to thank the House for not dwelling at great length on this particular Bill in view of the fact that ^{its} ~~the~~ contents ~~of~~ ^{are} ~~is~~ part of the substance~~s~~ which was discussed at very great length during the Budget; during the time of the Vote on Account and during the various Votes under the Committee of Supply. So, to a ~~ex~~ certain extent, the House has made all the necessary observations and I would only like to assure the hon. Members that I have already taken notes of the various views they ~~express~~ expressed during the debates on all the various items I have mentioned, which are relevant to the Appropriation Bill.

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THE MINISTER FOR FINANCE (Ctd.):

As I said on the outset when I was moving this Bill, ~~the~~ its purpose is to urge the House to ~~approve~~ approve it so that upon the assent by His Excellency the President and it becomes an Act, the Minister for Finance will be in a position to appropriate the ~~residue~~ ^{residue} ~~of~~ of the money from the Consolidated Fund. The money can then be used to provide essential services for the development of this nation. Of course, it is important that this money is ^{available} ~~obtainable~~ as soon as possible because the Government has ^{an} ~~got~~ accountability to the people. More importantly, this is a Government elected by the people -- a democratic Government which owes its own ^{existence} ~~existence~~ to the will of the people. For that reason, it is important that this House, which also is elected by the people should, as it has ~~always~~ always done, pass a Bill such as this so that the people can be properly served.

Essentially, Mr. Temporary Deputy Speaker, Sir, it is important to say here the meaning of the Budget. On the part of the Government, the meaning of the Budget is a plan of a process by which the Government finds out the various ways of raising the monies required for both Recurrent and Development Expenditure. Really, we have got two sides of a coin here. ~~The~~ One side of the coin has got to do with the expenditure programme of the Government in terms of the Recurrent and Development. That expenditure programme has got to be worked out and formulated realistically in accordance with the resources available to finance it. The Finance Bill or the Finance Act is ^{the} ~~the~~ one that normally details the means by which the Government is going to be able to raise the money to finance the expenditure programme. This, of course, entails ~~the~~ personal taxation, sales tax, customs and ^{excise duty} ~~taxes~~ and various other things.

THE MINISTER FOR FINANCE (ctd.):

If we underpay the producers of milk and if they find that what they get out of their milk is much less than the input that they put in, then we should not expect them to be in ^a position to continue as dairy farmers. They will only remain as dairy farmers as long as they believe that it is profitable to remain dairy farmers. At the same time there is no way that our own farmers are going to continue being cane growers if at the very end of it they will find they are the ultimate losers as cane farmers. If we do not do anything to give them incentives, then there will be a shortage of sugarcane and with the shortage of sugarcane our own factories will be under-utilised and this will result in a shortage of sugar, and we will then be forced to import sugar. As a result, this sugar will be more expensive and it will consume some of our foreign exchange earnings.

In the same way, Mr. Temporary Deputy Speaker, Sir, we do not expect our own farmers who are growing maize, wheat, beans and so on to continue growing these things beyond their own satisfaction if they believe that by the end of the day, they are subsidizing farming. So they must be paid correct prices. There must be a realistic review of producer prices to ensure that our own farmers continue to farm, feed this nation and to continue to produce surpluses and strategic stocks so that this country does not go on a begging mission. I think that it ^{is} important to understand that the increase on sugar is a direct result of the fact that the ^{sugar-cane} prices were reviewed to ensure that the sugarcane growers continue to grow sugarcane. This would make this country self-sufficient in sugar and even be in a position to have surplus of sugar. The increase in ^{the price of} maize meal is a direct result of the increases awarded to the growers of maize so that, to repeat, this country does not face a shortage of food. This affects also milk whose prices ^{were} increased.

I submit to the hon. House that this is an important policy

THE MINISTER FOR FINANCE (ctd.):

to be followed in agriculture. If we were to make the mistake of ~~writing off~~ ^{Writing off} that policy, this country could be in serious problems as far as food shortage is concerned. I am sure that the hon. Members do not have such an intention. I am sure that they want to ensure that at all times, this country is ^{Self-sufficient} ~~self-sufficient~~.

Having said that, Mr. Temporary Deputy Speaker, Sir, let me ^{finally} state that the Government also recognises the fact that our own producers in the private sector unless properly checked, they are apt to increase haphazardly the prices of consumer goods which could affect the standard living of our own people. The Bill before the House which was moved yesterday goes a long way to indicate the Government determination to ~~see~~ ensure that at any given time, the majority of the people, and the rightful owners of this country will never be left at the mercy of exploiters who will charge any price at any time. I say so because ~~ex~~ as I said this Government is elected by the people and it will work for the people.

With these few remarks, 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) today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

The Temporary Deputy Speaker (Mr. Kabingu-Muregi) left the Chair

IN THE COMMITTEE

The Temporary Deputy Chairman (Mrs. Ndeti) took the Chair

The Appropriation Bill

(Clause^s 2 and 3 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

THE MINISTER FOR FINANCE (Prof. Saitoti): Madam Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of The ^{Appropriation} Appropriation Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

The Temporary Deputy Speaker (Mr. Kabingu-Muregi) in the Chair

REPORT AND THIRD READING

The Appropriation Bill

MRS. NDETEI: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The ~~Appropriation~~ Appropriation Bill and approved the same without amendment.

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree ~~z~~ with the Committee in the said ~~z~~ Report.

THE ATTORNEY-GENERAL (Mr. Muli) seconded.

(Question proposed)

(Question put and agreed to)

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Appropriation Bill be now read the Third Time.

THE ATTORNEY-GENERAL (Mr. Muli) seconded.

(Question proposed)

(Question put and agreed to)

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

MOTION

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Temporary Deputy Speaker Sir, I beg to move the following Motion:

THAT, pursuant to Section 3B of the Guarantee (Loans) Act, Chapter 461 of the Laws of Kenya, this House approves, with effect from 30th June, 1988 the increase of the total contingent liability in respect of the principal amount of money borrowed or credit obtained under Section 3A(2) of the Act from the sum of three million six hundred thousand pounds to five million pounds.

If I may refresh the memory of hon. Members of the appropriate clause in question, Section 3B, or for that matter the whole Section, states as follows:-

h/c
"3A(1) The Government may guarantee, in such manner and upon such conditions as ~~if may~~ think fit, the due performance of any person who is a member of the National Assembly, public officer or teacher employed by the Teachers Service Commission the terms of any agreement entered into by such person with the National Bank of Kenya Limited for the purpose of enabling such person to purchase a motor vehicle.

(2) Notwithstanding subsection (1), the extent of the contingent liability of the Government under any guarantees given under that subsection shall not, save as provided by Section 3B, exceed the sum of two million five hundred thousand pounds".

Of course, that particular aspect has been reviewed continuously.

Now, the more relevant part here states:-

"3B The National Assembly may, by resolution approve the increase of the limit of any contingent liability specified in Section 3 or 3A".

In refreshing the memory of the hon. Members of the relevant provisions of the Act, & I believe that I have touched upon the purpose of this Motion, namely to allow the amount of money to be guaranteed by the Government in respect of the purchase of vehicles for the said officers, including, of course, hon. Members, to go up. I think all of us are aware that the price of motor vehicles has increased considerably since this particular ceiling was revised. These prices have gone up for various reasons.

THE MINISTER FOR FINANCE (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, in reply I only want to thank the hon. Members. It is quite clear that this Motion is fairly straightforward, and it is realistic.

With those very few remarks, I beg to move.

(Question put and agreed to)

Second Reading

The Restrictive Trade Practices, Monopolies and Price Control Bill

(The Minister for Finance on 2.11.88)

(Resumption of Debate interrupted on 2.11.88)

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS (Prof. Ouma): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to continue with the contribution I was trying to make on this Bill. I think I should stress, as I was trying to do ~~that~~ yesterday, that the important thing is for us to try to ensure that the laws which relate to restrictive practices and monopolies actually work. This is because in practice what will matter is that these practices are restricted or eliminated. If these laws do not work, then the future security of our ~~xxx~~ economy is at stake.

I would particularly like to say the following. First, let me talk about the factors related to the dangers of restrictive practices and monopolies in this country, as has also been previously mentioned by some of my hon. colleagues. Commerce and industry, along with other sectors in ^{our} economy, form a system; if they do not form a ~~xx~~ system, they must be made to form it. This is because unless the economy of a country is a system, it cannot be controlled, governed, or saved from evil practices. In this case if these restrictive trade practices, which have been seen in this country over the last 25 years, are allowed to continue they will distort the system.

END 

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS (Prof. Ouma)(ctd.):

This will make the system have anomalies in growth; it is going to make the system not grow as planned. In the end, it becomes a malformed system and the future of a malformed system is like that of a malformed body organ. It is impossible ~~to~~ to forecast what the future of an economy can be if these factors ~~at~~ which encourage its malformation are not restricted or eliminated. In the end, you may find that the very growth of that economy is endangered. You may even find that very important sectors of that economy grind to a halt.

For example, in our commerce and industry, you find that the agricultural sector contributes very significantly to what composes commerce and to what goes ~~in~~ into industry. If these restrictive trade practices and monopolies are not ~~checked and~~ checked effectively, it is possible that the malfunction of commerce ~~and~~ industry will ^{bounce} ~~reflect~~ upon agriculture - the very basis of ~~our~~ our existence; the very foundation of the nation's economy. It is very important, therefore, that to ensure that the ~~commerce~~ commerce and industry, as well as the rest of the economy which function^s as a unit and as a system, ~~to ensure that these~~ grow as planned, these restrictive trade practices and other malformations which are brought in by individualistic and self-interested groups must be eliminated.

Another ~~a~~ danger that comes in over and above the ^{the} prospects of distortion of economy and over ~~it~~ and above ~~and~~ the final distortion of the growth pattern of the economy ~~and over and above~~ ^{is} this danger of non-implementation of ~~effectiveness~~

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS (Prof. Ouma)(ctd.):

effective and functional indigenization. How would indigenization ever come to fruition when a new entrepreneur, or a new company, is going to be strangulated like a chicken before it is even able to squeak? For the future of the industry, and the whole economy of this country, there are few Bills as important as this one which the Minister for Finance introduced here today. Indigenization is only possible where there is equitable opportunities for young entrepreneurs and companies to have a fair play.

There are other factors which I may mention. It is very important to realize that the security of a nation is integrally interwoven with the security of its commerce, industry and the whole economy. There is no nation which can exist securely, or forecast a secure future, if its economy does not rest on a firm foundation. Likewise, there is no nation which can forecast a healthy future unless its economy, as a whole, is integrated into the system and safeguards are made to ensure that that system will work. Some of the very distorting factors, ~~are~~ ^{if you like,} ~~like~~ some of the industrial economic diseases that this country has been grappling with, and must grapple with and overcome, are these ~~evil~~ evil trade practices and monopolies. They undermine the very factor of integration and fair play. They undermine the very necessity for mutual fortification. The various parts of the economy as a whole must mutually fortify each other or one another. There is no way in which these parts can fortify one another when restrictive ~~practices~~ ^a practices make it impossible for industries to have ^{on} free flow of goods ^{of} first come, first served ^{basis}.

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THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS (Prof. Ouma)(ctd.):

To give an example, in the timber industry, you may find a group of sawmillers restricting as to where they shall sell their timber. They ensure that they have ~~got~~ a furniture making yard and ~~be ensure~~ ^{ensure} that they are the only people who, within a given area, will retail the furniture. Whoever starts a new, as the Minister for Finance told us yesterday, will be undersold, undercut and he soon finds that the losses are too heavy to bear and so he finds himself out of the job. You cannot indigenize such an industry where chain monopolies exist; where there ~~is~~ are restrictive practices ensuring that only certain people who are already earmarked shall continue to get the essential goods for the industry or for any kind of commerce.

Mr. Temporary Deputy Speaker, Sir, when first the Africans went into River Road or into Biashara Street, it was a gleeful sign. It was announced with fanfare and we thought that the future of the economy, as far as Africanization, ~~at~~ ^{as} ~~time~~ it was called at that time, was concerned, was going to be bright. But, as has been said by many ~~in~~ of my other colleagues, commerce cannot continue unless the shopkeeper or the salesman - wholesaler or retailer - continues to get the inflow of the required goods. That inflow of required ~~it~~ goods is impossible to have if there are people determined to undercut and to ensure that you do not have access to the goods. This is the type of economic malpractice which should be eliminated by ensuring that these laws will work. Unless these laws work, there is no way indigenization will work.

This means a much bigger danger.. It will perpetuate a certain economic hegemony of certain groups within the country if perpetuated. Perpetuation of that sort of economic hegemony,

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AFFAIRS (Prof. Ouma)(ctd.):

by preventing any other new entrants, and the success of any other legally permissible competition, that sort of thing will ensure that they cannot be guaranteed security of that economy. This is the type of thing which, to my mind, ~~we~~ should be eliminated by this Bill when it becomes law.

Mr. Temporary Deputy Speaker, Sir, an economy is as secure as the clear aims and policies which are supposed to be implemented. In the absence of laws eliminating, or at least ~~x~~ reducing to a minimum, restrictive ~~x~~ trade practices and monopolies, there is no guarantee that the clear policies which are supposed to be implemented can be implemented without confusion or without being thwarted.

Kenya is not unique in trying to eliminate these restrictive trade practices and monopolies. Every country has ~~got~~ its own individual peculiarities which means that ^{even} ~~if~~ its economy has ~~got~~ the general run of characteristics of economies as well as what is peculiar to itself. In Kenya, there are certain things that we have take into account when we are trying to ~~x~~ see why this type of law is necessary. ~~x~~ First, there is the ~~xxxx~~ peculiar composition of the commercial and industrial syndrome of the country. By the very composition of that ~~xxx~~ industrial and commercial syndrome today, if we want fair play, and if we want indigenization, it is imperative that ~~x~~ these trade practices be eliminated or curtailed to an effective minimum.

The next thing, and this is a difficult field to measure, is the effect of unpatriotism. We have had innumerable examples in the ~~xxx~~ last one year of unpatriotic people; people

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THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS
(Prof. Ouma)(Ctd):

not imbued with and convinced with being nationals of this country
to work to its maximal benefit.

END E

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS

(Prof. Ouma)(Cont'd.):

Sobriety of the economic

In places where you find doubts about the economic community or doubts as to their committed patriotism, it is essential that this type of law be there so as to curtail the excesses of non-patriotism and non-sobriety. I am saying this because in absence of economic ~~of loyalty~~ ^{Sobriety} committed and permanent loyalty to the future of the nation, you cannot be sure that the policies of that nation will be allowed to ~~fruitify~~ ^{fruitify} and bring benefits to the majority of the people, especially where such practices as these do go on.

Temporary Deputy Speaker,

Mr./some of the peculiarities as I see them in Kenya today which make it imperative that such a review as the hon. Minister has found necessary, are the following. The composition of the commercial and industrial community in the country and the sobriety and loyalty ^{of the commercial and industrial community} require that we review these practices and the laws relating to them. Over and above that, there are many other matters of economic dynamics which I cannot enumerate now, but which will ensure that such laws as we are trying to solicit ~~to~~ through this Bill, are necessary.

Finally, Mr. & Temporary Deputy Speaker, Sir, there is the question of internal expansion. This internal expansion must be planned for in all sectors of our economy. Unless this internal expansion is achieved, job opportunities, the supply of necessary materials, the supply of the necessary services and products cannot be ensured for a growing population. Therefore, ^{part} ~~some~~ of the economic management requires that ~~this~~ this expansion is ensured. This internal expansion can be partly ensured by eliminating or reducing to the minimum level, such bad practices as the Minister is now trying to do.

Secondly, and very important too, there is the question of export promotion. It has been said by some of my colleagues in this House that monopolies encourage shoddy goods and goods of deficient quality. It is our duty to ensure that every ^{Sector} ~~part~~ of our ~~community~~ economy, as far as it can, is able to promote exports. Those exports cannot be promoted if only a few

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(Prof. Ouma)(Ctd.):

or
restricted/industries given/undue favour by restrictive services, are going to continue manufacturing goods. Competition is ^{healthy} ~~healthy~~ and essential for the upgrading of the quality of the products. We in Kenya happen to be within the Preferential Trade Area, leave alone in the markets beyond Africa. However, even within the Preferential Trade Area, we must compete effectively against other manufacturers and other sellers of goods. Therefore, our export promotion, will partly be a success in as far as we have reduced these bad practices to a minimum level to enable us to have more industrialists and more producers of competitive goods.

Mr. Temporary Deputy Speaker, Sir, there are also opportunities which cannot be lost sight of here. One of them is ~~at~~ our presence within the Preferential Trade Area which I have already mentioned. We could lose opportunities if we allow these restrictive trade practices to give us a bad name in the market. Once you have a bad ~~name~~ name in the market, it is very difficult to re-enter the market effectively. Therefore, it is imperative that we see to it as quickly as possible, that there are respective laws and effective provisions for minimizing or eliminating these bad practices so that we do not lose opportunities to other competitors.

Mr. Temporary Deputy Speaker, Sir, the last thing which I would like to talk about is the question of confidence. Unless these restrictive trade practices and monopolies are eliminated or reduced to a minimum level, what confidence has an entrepreneur that he is likely to succeed? It is only ^{by} making ~~it possible~~ it possible for a new entrant to have an equitable opportunity for success by making it possible for him to have access to either the raw material or manufactured goods or whatever other goods he is going to deal with in the market. It is only in this way that an entrepreneur can have confidence. In the end, this Bill will try to help us to have confidence in the commercial and industrial sector and in the whole economic pattern in the country. This is because it will protect new comers in the economy.

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS

(Prof. Ouma)(Ctd.):

Mr. Temporary Deputy Speaker, Sir, I have also said that it is very important to have an economy whose security is ensured through a system which can be monitored; through a system whose diseases can be diagnosed and treated. One of the very big diseases from which the ~~our~~ economy should be ^{innoculated} inoculated against, if you would like to put it that way is these restrictive trade practices and monopolies.

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

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill which is very important in this country of ours. As many hon. Members who have contributed to this Bill have done, I would like to thank the Minister for Finance for the way in which he has moved this Bill. We are in a country which right now, we cannot deny it to be a capitalistic country. In a capitalistic country, we have a situation where nearly everybody is seriously chasing money. So, we ^{have got to be} ~~are~~ prepared to know the procedure, the techniques, the tricks and the intrigues of carrying out business. Many hon. Members here have aired their views regarding the monopolistic practices in this country. I would like to join them in expressing my concern about these practices, particularly on ^{the} part of our Asian Community in this country. On many occasions, we have talked about goodwill in business but we have now reached a stage where these Asians have become very skillful, very tricky and cunning and there is no way right now in which we can control the economy in this City of Nairobi. This is supposed to be our City but we do not control the economy here because - You will realize, Sir, that the only way in which these Asians have managed to be monopolistic is ~~to be~~ through the question of goodwill. This has brought about the danger which we cannot deny that it is there.

Nairobi
Mr. Temporary Deputy Speaker, Sir, unfortunately, the City Commission is so much concerned about chasing away our people who sell

THE ASSISTANT MINISTER FOR NATIONAL GUIDANCE AND POLITICAL AFFAIRS

(Prof. Ouma)(Ctd.):

things in the streets of Nairobi, that is, the hawkers. There is no ^{other} reason ~~why~~ why these hawkers have come to the streets of Nairobi apart from the fact that they are not able to own shops or rent them. So, in the event of panic and desperation, these people go to the streets to sell their vegetables and so on because they cannot get anywhere else to sell them.

This is a very bad situation, particularly after so many years of Independence.

This has been brought about by this ^{restrictive} trade practices and monopolies and now our people are tending to be poorer and poorer while ~~other~~ other people are amassing a lot of wealth.

Mr. Temporary Deputy Speaker, Sir, all of us in this country will now realize that the Asian community is now moving from being industrialists to commercial ^{magnates} ~~business~~ in this country.

END O

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot)(Std.):

If you go to the streets of Nairobi right now, you will see that even coffee shops are not owned by our people. This is not very fair. We would rather have places in Industrial Area which are very technical and demand a lot of capital investment being owned by, say, Asians. However, when it comes to selling chips, coffee, and so on in the streets of Nairobi, this should be done by our people. The present situation is very dangerous in that in future our people are going to become very envious and jealous, which is going to create very bad relationships in the commercial sector.

Mr. Temporary Deputy Speaker, Sir, I have a ~~very~~ few more points to make. One of them relates to awareness. We have talked about, and are very seriously chasing, this idea of foreign currency as is everybody in the whole world. We said that wherever we are able to identify an area from which we can obtain foreign currency, we should exploit it with all our energy.

We are very lucky in this country and God has blessed us with plentiful rains. We have enough communications system right now. Our horticultural sector is an area that we need to promote. We need to promote the overall export-import trade in this country, and the only way in which we can do this is create big awareness throughout the country. I would like to thank the Kenya Industrial Estates (K.I.E.) because it occasionally has seminars which go into the details of where our people fail or succeed in business and how to operate basic bookkeeping and maintenance of accounts. This a very technical area, and our people need to know how to compete favourably and very effectively in the export-import business. This area is very technical, and anybody who has tried to export or import anything knows that the documentation involved is so enormous and complicated that many people get very discouraged. Things like Freight on Board and Cost Insurance and Freight which may

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot)(Ctd.):

look simple and basic to businessmen would not look so to our people who are upcoming. The only way in which to encourage our people to break away from this monopolistic system is to expand by training and motivating them to move on well, knowing that they, too, can export a lot of things.

we can export a lot of horticultural crops, such as flowers, vegetables and so on. As we know, we see so many tourists who come here ~~at~~ ^{getting} excited about our commodities. This means that if we were to motivate our people into knowing the business deals and markets overseas, they would be able to bring in a lot of foreign exchange. This area has been monopolised by a very few individuals. The rackets we saw recently in exporting coffee and retaining our little foreign currency were due to the Asians who operate in a very awkward way and monopolise our good coffee and tea. This is very bad. We should think of ways of completely denying any foreigner the export business. We face the same syndrome, if I may use this word, in that the same people who are doing this export business have brothers overseas who are importing what is exported. In fact, it is the same family dealing with a very vital foreign exchange earner.

Another area, Mr. Temporary Deputy Speaker, Sir, which has denied our people free ability to move into business is collateral requirements. Whenever our people look for as small loans as Shs.10,000/=, they are required to produce land securities and title deeds. This practice is very restrictive because we are all aware that the people who own property in this country are becoming fewer and fewer, when the "army" of unemployed people is growing in number every other day. Time has come when we should, in fact, revise our attitudes and laws so that our unemployed youth who have a bias towards business may find it easy to start off with as little as Shs.3,000/= or 5,000/=. In

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cherujyct)(Ctd.):

any case, many businessmen and rich men will tell us the history of how they started off with only Shs.100/=. These are now very wealthy people. I notice that even in our districts - many hon. Members will support me here - even the Joint Loans Committee is asking for very strict requirements, such as putting up a very big shop, owning property in a shopping centre, having started business, and so on. This is not conducive to good business for our young people who want to start business.

We cannot deny that we have reached a stage where unemployment is becoming very critical. We should be bold in our thinking and ~~not~~ ~~only~~ live up to the example set by His Excellency the President, who has gone out of his way to think of the "Jua Kali" industry, when he saw our desperate youth panicking and being very concerned about how to make a living. In saying this, I am suggesting that the only thing which is restrictive here is the Joint Loans Committee. The Industrial and Commercial ^{Development} Corporation, for example, should think of ways of easing the conditions under which it awards loans to people. Ultimately, you will make somebody who is already a businessman become richer and richer when many of our people cannot get jobs and have no land nor homes. We are not encouraging these people to start a living and come up as useful citizens of this country.

Mr. Temporary Deputy Speaker, Sir, the other situation which, in my view, is restrictive is human resources. We know many multi-national firms which have moved away from industrial countries to places like Korea and Africa because the labour here is very cheap. We should also think of creating incentives for our own people. Many of the things that we can produce here, such as Kenyan kiondos, are now being produced in Korea in a very fantastic way because that country has stolen our technology and knowledge. It is now exporting these kiondos and getting

THE ASSISTANT MINISTER FOR EDUCATION (Mr. Cheruiyot)(Ctd.):

a lot of foreign exchange. I say this because we have many Maendeleo ya Wanawake groups in this country which are becoming a very vital wing of the development of this country. We should enable these groups to know that in India, there are things like cottage industries which engage in weaving baskets and embroidery. We should encourage our people to broadly expand what we export since we have a lot of cheap labour in this country. As long as our population is growing, labour will continue to be cheaper and cheaper. We should cleave to this export business which is now being controlled by a few foreigners.

Finally, I would like to propose to the Minister for Commerce to train people much more. He should carry out more field training and seminars so that our youth may know which areas are monopolistic and how they can go about knowing how to trade and engage in business in order to bring in foreign exchange and earn better living.

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

MR. MWENJE: Mr. Temporary Deputy Speaker, Sir, my speech will be very brief. You realise that when we talk of price control and the goods that are actually price-controlled, some traders are quite unscrupulous and have no respect at all for those commodities that are under this particular schedule. It is for this reason that it is necessary to mobilise the staff in this particular field so that they may be able to reach all areas where these commodities are displayed and sold to make sure that this schedule is followed.

End P

MR. MWENJE (ctd):

Mr. Temporary Deputy Speaker, Sir, it is not uncommon to find items whose prices are controlled being sold at very exorbitant prices, at prices negotiated by the willing buyer and the willing seller or at prices fixed by certain individuals in this country. Such businessmen are aware that price control officers are not able to reach them and they, therefore, have an upperhand to sell certain items at their own prices. They sell certain items exorbitantly either because such commodities are rare or the public in certain areas may not be aware of the controlled prices.

It is, therefore, necessary for our price control officers to work a little bit harder and ensure that they are able to reach these particular areas. As leaders in this country, it is our responsibility to ~~xx~~ make sure that our officers are given the right facilities to be able to do their work effectively. If officers continue to work under fear, they will not be effective in their duties.

I do not want to give a particular example, but I would like to say that there is a rumour in this city at the moment that certain officers in some local authorities, particularly the Nairobi City Commission, will be sacked tomorrow. It is rumoured that about 14 chief and senior officers will be relieved of their duties tomorrow. If officers work under this kind of fear, they will not be able to do their duties effectively.

If these officers are going to be sacked tomorrow, I would like to request the Minister to give it a second thought. These officers should be investigated to establish what they have done before they are sacked. In the past, officers have been removed from office without any reasons being given. This tendency has particularly been with the Nairobi City Commission.

The Ministry should desist from this kind of thing. It is not possible for all officers---

THE ASSISTANT MINISTER FOR WATER DEVELOPMENT (Mr. Mweu): Jambo

la nidhami, Bw. Naibu Spika wa Kuda. Mhe. Mwenje amesema kwamba kuna uvumi
~~unaendelea~~ ^{ya} kwamba maafisa wa Tume ya Jijini la Nairobi watafutwa kazi kesho.
 Je, ni sawa kwa mhe. Mbunge kuleta maneno ya uvumi katika Bunge hili?

MR. MWEUJE: Mr. Temporary Deputy Speaker, Sir, I clearly said that that is what is being rumoured. Whether it is true or not, it is up to the Minister for Local Government and Physical Planning to tell ^{us} what he knows about it. I only said that if this rumour is true, then the Ministry should desist from such practices. I never said that these people are going to be sacked. If the Assistant Minister has further information about this issue, it will be very welcome.

Before I was interrupted, I was saying that our officers should be given the opportunity to work effectively. In this way, they will be able to give this country proper service and ensure that corrupt traders are checked and disciplined when they go out of the required regulations in this country.

It is common to find double licences being issued to businessmen, particularly in Nairobi. For example, a certain local authority will issue a licence to a businessman wishing to sell items which ^{are} price controlled and at the same time he will be required to get another licence from the Ministry. ~~These~~ This kind of thing should be looked into. The officers of the Nairobi City Commission go ^{around} shops inspecting what is happening and, at the same time, Government officers go to the same shops to check on the same items. Why should this happen when we are all under one and same Government? This anomaly should be removed. The traders should also be informed whether it is the local authority or the Government which should licence them.

We also have officers checking the prices at which traders sell their commodities. It is not the duty of the officers of the local authorities to do this because we have price control officers.

QUORUM

MR. KIMORIR: On a point of order, Mr. Temporary Deputy Speaker, Sir. We do not have a quorum in the House.

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): ^{Yes,} ~~No,~~ we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

END Q

R/Ink

THE TEMPORARY DEPUTY SPEAKER (Mr. Kabingu-Muregi): We have a quorum now. You may continue, Mr. Mwenje.

MR. MWENJE: Thank you very much, Mr. Temporary Deputy Speaker. I think we have more than a quorum, and I can continue. I hope hon. Members will not go out again.

As I was saying, it is ~~is~~ necessary to remove this kind of an anomaly where we have two licensing authorities. For instance, in Nairobi the City Commission has been licensing these kind of shops and the Central Government has also been licensing the same. The officers of the City Commission go round checking the prices of these commodities displayed in the shops and the officers of the Price Control ^{department} still go out to check the same. This is an anomaly that needs to be removed so that the public and, in particular, the Nairobi traders, are aware of who should be officers checking their businesses and the way they are trading.

So, the same applies when we come to the premises. We have a lot of premises here. Some are authorised and others are not. But even those which are authorised have not been properly demarcated or surveyed. I am aware that some of the problems that create this kind of situation is because we have very few surveyors in this country. This is because to become a licensed surveyor in this country is actually a nightmare. It is a very long procedure. You need to be a qualified land ^{economist or} ~~surveyor~~, a lawyer, and so on in order to become a qualified surveyor or a licensed surveyor. I appeal to those concerned to look again into this particular law, ~~and~~ possibly with a view ^{to} of allowing those qualified in surveying to be licensed in this particular field. As long as we continue ^{having to} have difficulties in ^{registering} ~~qualifying~~ our officers as qualified surveyors, it is going to be a very difficult task. We shall continue having very few surveyors in this country. As ^{my} hon. colleagues said here the other day, shortage of surveyors is not only in this City but ^{also} in other areas as well. To have ^{and} ~~this~~ demarcated and properly surveyed, we shall require additional officers. But the law that we continue using to license these officers is still the colonial one. It needs to be reviewed because it is very old. For instance, if you take a large local authority like the City Commission of Nairobi, it does not have a

MR. MWENJE (Contd.):

single surveyor. It is only in the districts where we have the district surveyors who are allowed to carry on this job because they are licensed in the name of the Government. But those who are licensed privately to do this job are very few, and this needs to be reviewed and rectified so that we can our business premises properly demarcated and surveyed to enable our traders to ~~be able to~~ develop their areas ^{And} premises; and ~~be able to~~ keep ^{up} with the required standard of business in this country. So, it is, therefore, necessary to make sure that our traders do understand their role, what is meant by price control, the purpose of controlling these prices and the schedules of commodities that should be controlled. It is with this understanding that we will be able to carry on our business effectively and ~~also be able to~~ serve this country properly.

Mr. Temporary Deputy Speaker, the Price Controllers should not only check the traders. They should also try to educate the traders so that they know what is meant by price control and why it is necessary to keep it, and why this august House has to enact this kind of law. ^{This is why} you will find that there are numerous complaints ^{raised by} with some of them who do not understand why we have to do this. Some, of course, do understand. We had it the other day when the Minister for Finance had to decontrol some commodities. But this is a field that affects wananchi at the lowest level. So, it should be taken very seriously. ~~It should be made to understand~~ ^{should} All members of the public ^{should} be made to understand why the price control is necessary and what the duties of a Price Controller are. ^{Price inspectors} They should also not harass the public when they find them not displaying ^{prices on} some of these commodities. It is not possible to display the prices of all commodities particularly in a big shop. So, they should also try to understand the problems of the traders. They should not just harass them because a price list has not been displayed. We have seen these kind of cases, and we hope that this will be refrained from. We also hope that the officers will work in conjunction and also in harmony with the traders so that the traders are able to give the required service to our people.

MR. MWENJE (Contd.):

It is also necessary to keep business premises clean. I will appeal to traders that our trade premises should be kept clean because of health hazards. For instance, you have witnessed some particular areas in this City which are becoming health hazards, particularly where businesses are carried on. Those charged with the responsibility of checking this should step ^{up} their jobs. They should make sure that the City is kept clean as well as the business premises. For instance, some traders are selling commodities which are for consumption and yet the premises remain filthy. Those officers charged with this particular duty should also make sure —

MR. MANG'OLI: Maliza sasa!

MR. MWENJE: Mr. Temporary Deputy Speaker, ^{Can} you can protect me from Mr. Mang'oli. They should keep these premises clean, and our officers should not just check the price ^{displays} ~~control~~. They should also be able to check the cleanliness of these particular areas.

End, R.
S. J. M. B.

MR. MWENJE (Ctd.):

I wish to thank the Nairobi City Commission because they are now improving in this particular field and employing those required.

I also wish to take this opportunity to thank His Excellency the President who said that those vacancies which have not been filled should now be filled when he addressed the nation at Nyayo National Stadium. The City Commission should now fill their vacancies particularly ^{in the} on the side of cleansing department and make ~~me~~ sure that this City is kept clean. ~~En~~ particularly ⁱⁿ areas where businesses are being carried on because these are the areas where more rates are collected by this Commission.

I would appeal to everybody to make sure that we do assist these traders in making them understand. When this Bill is passed, it should be used to promote ~~the~~ business and it should also be used to ensure that those commodities which have not been available before because of hoarding, and price control effects will now be available in the shops. Those who will try to hoard some commodities whose control has not been effected should be punished and the commodity should be available to the public at all times. It is, therefore, the duty of these officers to make sure that this is adhered to, it is done well and all commodities ^{that} are essential for human consumption in particular and those ones which are necessary are made available to the public.

To allow other hon. Members to contribute to this particular Bill, I beg to support.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this ~~an~~ opportunity to also contribute to this very important Bill. At the outset, I would say that this Bill is timely. As a matter of fact, this can be considered to be a bonus for the celebrations we are continuing ~~is~~ with of ten years of Nyayo and the 25 ~~ya~~ years of our Independence which we are preparing to celebrate on 12.12.88. This Bill aims at helping the ~~commerce and the~~ industrialists people in this country ⁱⁿ towards running businesses that will help the economy to expand. There could not be anything serious ^{with} ~~as~~ our people in commerce and industry practising bad methods

2.000.3.11.88

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo):

and ways of running businesses. Therefore, this Bill aims at ^{ensuring} things that will allow the right people to carry on business and to be encouraged to enter into more production of goods. They will be able to produce quality goods which would compete favourably with goods produced in other countries. That way we shall increase our ~~own~~ exports which will earn this country the ^{much} most needed foreign exchange.

When we said that we needed Independence in this country, the aim was to see that the economy is managed by our people and also the running of the Government. So far we have succeeded in the running of our Government. Our President is very effective; all his Ministers are very effective in seeing to it that they discharge their responsibilities for the benefit of this nation. The only one small thing that we need to do now is having succeeded administratively, we want to succeed economically. Therefore, much as ~~we~~ we will require and we will still ^{need} foreign investors in this country, our people have got to see the need to enter the commercial and industrial sector. In fact, this Bill is very timely so that we open the 11th year of the Nyayo Era and also the 26th year of our Independence after 12.12.88 with a lot of vigour and ^{SERIOUSNESS} seriousness. It is in that light that openings like the Preferential Trade Area (P.T.A.) should ~~not~~ ^{only} encourage our people ~~business~~ to do business following the right method; doing away with under-cutting other people and helping other people to grow because this country has got more than 22 million people today. If it has more than 22 million people, their needs of those people ~~we~~ would be catered for by expanding our economy. As such employment will be hampered with if our commercial sector does not expand. This is because as much as the Government would want to create employment opportunities, it cannot absorb ~~the~~ the number of people coming out of universities, colleges, high schools and all other training institutions alone. Therefore, anybody who has got this country's interest at heart, should help in every way possible to see that commerce and industry is helped to expand.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo) (Ctd.):

I am happy that of late the Jua Kali ^{people} ~~that is the~~ small up-coming
 industrialists have been given a lot ^{encourage} ~~importance~~ to develop their small industries
 by none other but His Excellency the President. That is a personal ^{boost} ~~best~~ these
 people have been given by His Excellency the President. Those who are serving
 under the President, especially ^{we} ~~we~~ Ministers and Assistant Ministers have no
 reason but ^{up-coming} ~~to~~ see the need to help the ^{up-coming} ~~young~~ indigenous businessmen to run
 their businesses without ^{hindrances} ~~hindrance~~.

END S....

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo) (Ctd.):

The Temporary Deputy Speaker (Mrs. Kabingu-
Muregi) left the Chair

The Temporary Deputy Speaker (Mrs. Ndetei
took the Chair

Madam Temporary Deputy Speaker, it really surprises me at times - and I am sure other Members of Parliament feel the same - when people come and tell you that they are able---

MR. MAKAU: On a point of order, Madam Temporary Deputy Speaker.

In view of the fact that most of the hon. Members seem to have exhausted debate on this Bill, would I be in order move that the Mover be now called upon to reply?

(There was noise in the Chamber)

THE TEMPORARY DEPUTY SPEAKER (Mrs. Ndetei): Order! Hon. Members, I think we should go on a bit so as to give chance to two or three more speakers and see how we will get on. Continue, Mr. Thuo.

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Thank you, Madam Temporary Deputy Speaker, for protecting me because I have also seen other hon. Members wishing to contribute. I am, therefore, going to conclude quickly so that I give them ^a chance to make their remarks, and do not ~~also~~ think that the Bill has been exhaustively concluded.

We have cases where our people are being used by those who are clever enough to use them for their own ways of making money. There cases where you hear, for example, that some Matatus are now ^{owned} ~~run~~ by a given mwananchi. Some of these Matatus are bought by certain person who then gives them to our people on commission basis. That, I believe is not proper. There are ~~xxx~~ areas where you hear that ~~xxx~~ our people have been made

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo)(Ctd.):
have been made shareholders of a certain business, but when you look
at that particular person-----

(Mr. Arte crossed the Floor from on side to the other)

MR. MANG'OLI: On a point of order, Madam Temporary Deputy
Speaker. The newly elected Members of this House, including myself, should have
respect for you and your Chair. Hon. Members are not supposed to cross
from one side of the Floor to the other when going to discuss with the
Clerk at the Table, right in front of the Chair. Can this be strictly
observed so that the respect of this House is protected?

THE TEMPORARY DEPUTY SPEAKER (Mrs. Ndetei): I call upon the
hon. Member who did so - because he knows himself - to apologise before
Mr. Thuo proceeds.

MR. ARTE: Madam Temporary Deputy Speaker, I apologise for doing
that.

QUORUM

MR. MAKAU: On a point of order, Madam Temporary Deputy Speaker.
I think there is no quorum in the House.

THE TEMPORARY DEPUTY SPEAKER (Mrs. Ndetei): Yes, we do not
have a quorum. Ring the Division Bell.

(The Division Bell was rung)

THE TEMPORARY DEPUTY SPEAKER (Mrs. Ndetei): We have a quorum now.
You may continue, Mr. Thuo.

END T..

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo): Madam

Temporary Deputy Speaker, before I was interrupted, I was saying that when people engage themselves into business, they should be seen ^{to be} and as a matter of fact make sure that they themselves are practically involved in the running of those businesses.

Before I conclude, I would like to say that I am very happy to see that many of our people have started showing a lot of seriousness in running their businesses. I commend them for this. I would like to ask the others who may be lagging behind because of some problems here and there to also find a way of coming up. This is because we would not like to see our own people become the laughing stock. If a one is a director of certain company, let him understand the obligations and responsibilities of such a position. He should ^{also} undertake the business itself. These are very serious matters.

We have of late heard of companies going out of business. We have also at the same time seen many good companies selling their shares to the public through the Nairobi Stock Exchange. We welcome more companies to come to the stock market to list their shares. We should like to see that our people are not only involved in the buying of the shares but also in the management of these companies. That is the only ^{way} through which we can ^{enter} join the commercial and industrial sectors.

It is the wish of the Government and of His Excellency the President that our people are allowed to play their part in this economy. Anybody, therefore, trying to drive us away from that aim should be condemned. Infrastructure is the basis of good business or of running a good industry and also of helping ^{to} train those that will carry on with the business that we have in this land. We would like the Ministries ~~to be~~ involved with the provision of water, electricity, telephone communication and so on to expand their activities in the rural areas. This is because we at the Treasury can give them the money

THE ASSISTANT MINISTER FOR FINANCE (Mr. Thuo) (ctd.):

but the speed of carrying out the projects lies with them. If these Ministries did this because as the population of the country grows the economy requires to grow also which means that facilities need to be stepped up and quickened so that all those commercial and industrial projects can progress quickly.

With those few remarks, I support.

(laughter)

MR. MANG'OLI: Madam Temporary Deputy Speaker, these good friends of mine are laughing because I have ^{been} trying to catch your eye for a very long time so that I too could contribute to this Bill. Thank you very much for noticing me at last.

I would like to start by saying a few things about the various officers mentioned in the Bill who will be charged with various duties to ensure that everything runs smoothly and according to the provision of the Bill. One of the areas that I would like to touch on that concerns these officers is price control. ~~There are some price controls on the products that are produced by our local indigenous industries which are not doing very well like~~ Our local indigenous industries are not doing very well. We would like the Ministry to survey and ascertain whether it is because of price control that our African companies are going under.

The other area is monopoly. If this Bill is passed and these monopoly companies are ^{protected} restricted, how is the price control department going to check the prices vis-a-vis the quality? This is the area that has been giving us a lot of problems. It is ~~an~~ an area that has further enhanced ~~not~~ people's belief in foreign products like clothes and tyres. This department should check on this issue.

~~The~~ The other areas that I would like to emphasise and ones that I would like the Ministry to check are those ^{that} ~~that~~ concern mergers and ^{taken over} ~~taken over~~ by ^{taken over} ~~taken over~~ by

MR. MANG'OLI (ctd.):

foreign companies with the consent of the Ministry of Finance. Most of these companies use imported materials. ^{Measures} ~~Measures~~ should be taken to encourage African industrialists because of late instead of developing and progressing they have been going under. If they go under, ~~then~~ they fail to make profits and generate employment. Why are these industrialists and businessmen not doing well? Is it because of their management policies or is it because ^{of} importation of similar products?

Madam Temporary Deputy Speaker, nails are in short supply in this country today although they are under price control. In fact, today, the price of the raw materials for producing nails is higher than that quoted by the price control department. This encourages corruption and black ^{market} ~~marketing~~. The Ministry should review the prices ^{of} ~~for~~ nails. And if an industry asks for a price adjustment, the Minister should also act very quickly. That way we would put a stop to some of these evils like the importation of nails when we have them in the country. In Webuye a kilogram^m of nails, and ~~although~~ this is illegal, is shs.60/=. One is thus forced to buy the nails at that price or make do without. We need corrective measures to stop this kind of thing before it takes roots.

Let me say something about the establishment of new industries. I wonder whether the Ministry of Finance can tell us why for sometime we have not established any new industries. Could it have something ^{to do with} ~~to do with~~ price control and monopolies? We realise that if the Minister is not careful when we pass this Bill he is going to give monopoly powers to some non-Kenyan firms. This is because foreign companies are the ones that are taking over most of our local indigenous companies. Companies like JK Industries and Madhupaper International Company are sooner or later going to be taken over by the Asians. I say this because Firestone Company Limited and Marshalls East & Africa

MR. MANG'OLI (ctd.):

Company & Limited have already been taken over by Asians, and we
not know anything about the African participation in these com

~~XX~~
~~XX~~

END V.....

MR. MANG'OLI (contd.):

We would like to know the African participation in industries because it seems as though sooner or later they will be ~~taken~~ ^{thrown} ~~over~~ ^{cut} by the Asians through the backdoor techniques. We have already seen some examples where African entrepreneurs were ^{being} restricted; making it difficult for them to operate, forcing them to close down their factories, ~~and~~ ^{businesses} their being placed under receivership, and finally being bought by the same Asians. Another case is the case of Biashara Street where shops were initially given to indigenous Africans to run, but were finally bought ^{cut} by the Asians. I am not racial ^{being a racist} ~~when~~ ^{is} by giving these examples, but what I am, however, saying that if we are serious about ^{indigenising} ~~indigenising~~ the economy of this country then we must be practical. The man ~~in~~ whose jurisdiction it is to ensure our success is the Minister for Finance. This is because everything, be it raw materials or ~~the~~ the issuing of licences are controlled by the Minister. He should care to see that indigenous Africans are the ones who are ~~are~~ encouraged to participate even in the import business, so that they can benefit 100 per cent from this country's trade. It is not fair to issue these licences to Asians who later on sell them to their own brothers. We should strive to open up businesses overseas. It is a high time that we took over these ~~our~~ businesses. When you look at the industries in the Industrial Area, you ~~will~~ discover that they are almost back to the Asians.

It is this particular Bill that will protect us if properly drafted. I would like to emphasise here that while the Minister for Finance ^{is establishing} ~~established~~ the Restrictive Trade Practices, Monopolies and Price Control Bill ^{he} should bear in mind a number of factors. He should consider items

MR. MANG'OLI (contd.):

V. 2 ... 3/11/

those soaps with highly dangerous chemical content in the market.

I cannot understand how they find their way into the market because all commodities sold in this country must pass through the Price Control Board. This is where the Minister should help us: He should find out how such things get into the market and how they are priced. It is important for the Minister when replying to tell us how this menace can be eradicated. He should also ensure that those trades which are restricted go to the indigenous Africans. They must not be done by non Kenyans or Kenyans who are not Africans. He should also tell us why medicines are in short supply. I am saying this because there are no medicines in City Commission hospitals. You cannot find even aspirin tablets in these hospitals. The Minister should instruct the City Commission to order medicines because Kenyans today are suffering due to lack of medicine. If the Minister can do that, then we shall all support him, and this Bill will be passed in this House in order to protect us.

Monopoly means giving the African the first preference, and not otherwise. If we give other people the first preference, then we do not know where we are heading to. The Minister for Finance is the one who can ensure that these businesses are restricted to indigenous Africans alone. If this Bill is passed, I am sure that we shall receive the commodities which we sometimes miss on our shelves. At the moment most of the things whose prices are controlled are not available in the market. Collective measures should be taken to ensure that those items are made available in the market. I do not know whether they are not available at the moment because their

V.2..... 3.11.88

MR. MANG'OLI (Ctd):

prices are controlled or it is because they are not trully available. The respective personnel should check to find out the truth so that we can ensure that the commodities are available to the common mwananchi. Decontrolling some prices has far reaching effects since some of ^{the} commodities are so popular and their prices will always go up.

END V

MR. MANG'OLI (ctd.):

I am sure when the Minister decides to decontrol prices of items, he will do some research first so that ~~it~~ this does not create a monopoly. For example, most of the East Africa Industries items have no price now. So, when he decides to decontrol prices of ~~the~~ items, he should see how the decontrol is going to benefit the common mwananchi. He knows that Kimbo can be substituted for Cow Boy, but if a person was used to Kimbo, or Omo, even if its price goes up, he will not stop using it, because he likes it.

With those few remarks, I beg to support.

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT

(Mr. Kitele): Thank you very much Madam Temporary Deputy Speaker, for giving me a chance to air my views on this Bill. ~~I stand~~ I stand here to support the Bill. ~~It~~

First of all, may I thank the Minister for Finance for bringing this important Bill. This Bill is important because it has enlightened us quite a lot. We have had some monopolies in this country and there is a clause here which states that a Commissioner for Monopolies is going to be employed together with other officers who will be helping him. In this country, there are some manufacturers who manufacture ~~and~~ do the wholesale and retail at the same time. Why I am saying that this Bill is important is because the Commissioner will make sure that if somebody is ^{manufacturing} ~~manufacturing~~, he will only ^{sell} ~~sell~~ his goods by wholesale to other people so that those other people can earn their living ~~in~~ ~~in~~ dealing in wholesale or in retailing. When this happens, a manufacturer will earn

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THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. Kitele)(ctd.):
his living; a wholesaler will earn his living, and a retailer will earn his living. Therefore, three people will earn their living, ~~whereas~~ whereas previously, the manufacturer was wholeselling and retailing at the same time. But ~~his~~ after the Bill becomes a law, things will be straightened.

Madam Temporary Deputy Speaker, the Minister for Finance has appointed a Commissioner for Insurance and we hope he is doing quite well. Insurance is a very big bank in this country or in any ~~other~~ country for that matter. That commissioner, therefore, ought to ~~do~~ do that job properly. I say this because insurance companies collect a lot of money. All ^{the} vehicles we see, and all the houses we see are all insured, and all the insurance money goes to the insurance companies. Does this money go to the banks? Insurance firms are big banks and we would like them to be taking their money to the banks so that the economy of this country can grow as anticipated.

END W.



THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. Kitele)(Ctd.):

Madam Temporary Deputy Speaker, we have companies in this country which are certain manufacturing/items and selling the same items. This Bill is going to do away with that a bad practice and we would like to thank the Minister for that. However, there is some technicality involved here. I have gone through the Bill and I would like the Minister to look into this technicality. At the moment, there are people who are assembling motor vehicles in this country. We would like to know whether these people are, in fact, assembling these motor vehicles or manufacturing them. We would like the Ministry to look into this. We would like to know whether when a vehicle is assembled it can be said to be manufactured. Can this be given to an agent to investigate so that something is done? Technically, I am not an expert and I cannot therefore ~~not~~ know whether that vehicle has been assembled or manufactured here. We know that they put together the parts of a vehicle to assemble it, ~~the~~ but I think this is manufacturing and not assembling. I think it would be best to appoint an agent so that he can earn his living as well. The person who assembles these motor vehicles also earns something from this business.

Madam. Temporary Deputy Speaker, Sir, the manufacturers should do the work of manufacturing goods and those goods should be given to the wholesalers who should in turn sell the goods to the retailers. In this way, we shall be able to create employment for our people so that they can also earn their living. I know there are certain companies which may not be telling the truth. They bring certain products in the liquid form and then put them into tins or bottles, and without much labour, they sell the products and say ^{are} they/manufactured here in Kenya. They should manufacture everything in this country so that wananchi can get employment. Let them bring the machines for manufacturing those goods here and wananchi will be able to service them and provide the labour so that everything is produced here in Kenya instead of importing ready made products.

Madam Temporary Deputy Speaker, Sir, I would like to say something about the Kenya Bureau of Standards, which I believe is under

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. Kitele) (Ctd.):

the Ministry of Industry. I think the Kenya Bureau of Standards should investigate about a certain soap which is said not to be good. Our ladies are using this soap to lighten their skin but they should know that their skin is beautiful the way it is. The black man's skin is beautiful. You can even write on a black man's skin just as you would write on a blackboard, but you cannot do the same on a white man's skin. I can write on my skin and be able to keep a note of something on it. However, if a white man tried that, he would not succeed. I challenge any white man to try this but he would not succeed. Our skin is beautiful and I do not know why we should try to change it. We would like the Kenya Bureau of Standards to look into this because we do not want that kind of soap here in Kenya. The cosmetics which are manufactured in this country are enough. However, our ^{ladies} should not over-use these cosmetics because they can spoil their skin.^s Last night, on the ~~the~~ television, it was said that some men do use these cosmetics too. I would not like to encourage men to use these things. However, the Kenya Bureau of Standards should look into this so that we do not have cosmetics imported into this country. The Ministry of Finance should make sure that there is a restriction on the importation of ~~some~~ soaps into this country.

The manufacturing of medicine should also be looked into as well. I would like to thank the Ministry because they have been doing a good job. They have done exactly what they did with the ~~the~~ insurance companies in this country. As a result the insurance companies in this country are now well streamlined. All I would like to ask the Ministry is to make sure that the indigenous people are able to participate in the local companies which manufacture the various goods in the country. We would ~~like~~ like the Minister to ensure that there is local participation in these companies.

END

THE MINISTER OF STATE, OFFICE OF THE PRESIDENT (Mr. Kitele)(Ctd.):

Let the Ministry consider this practice of monopoly and ensure that there is local participation.

Madam Temporary Deputy Speaker, we are talking about business for our wananchi. Let me thank the Father of this nation, His Excellency the President, for having tried to do all he can. He is issuing land title deeds. When you go to a bank for a loan, you will be asked, "What is your security for the money you want to borrow?" If you do not show a land title deed or something else similar to it, you will not get that money. The Father of this nation is issuing title deeds to wananchi so that they may be able to borrow money from banks and do business.

I want to ask the Minister for Finance whether wananchi can be looked after by giving them soft conditions. We would like our people to participate fully in business. We do not want to be foreigners in this country. We want to participate fully in business, but at times the mwananchi cannot do so because he has no capital to start a business with. He may be an expert who wants to do business or who has already started business in a small way. He may want to expand his business but, because everything is not within his reach, he will not be able to do so. All that I am asking the Minister for Finance ^{to do} is to provide some facilities to our wananchi so that they can get shorter-term loans even if they may be small ones. They will repay whatever loans they are given, so that these loans may be given to other people. If we do this, you will see a lot of local participation in business.

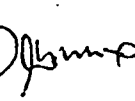
With these few remarks, Madam Temporary Deputy Speaker, I support the Bill.

THE ASSISTANT MINISTER FOR COMMERCE (Mr. Gakunju): Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to contribute to the Restrictive Trade Practices, Monopolies and Price Control Bill. I would like to start off by thanking the Minister for

THE ASSISTANT MINISTER FOR COMMERCE (Mr. Gakunju)(Ctd.):

Finance for bringing up this Bill although, in my view, belatedly. I am sure that the business community and wananchi of this country have been waiting for it for a long time now. We listened to many hon. Members of this House this afternoon describe the discrimination and restrictive trade practices and monopolies that exist. We hope that when this Bill is enacted, the resulting law will be properly enforced. We have many Acts relating to business which are not fully enforced. If ~~this law~~^{it} that is going to come out of this Bill is properly enforced, it will help our people to get into business and also encourage many people who are frightened of getting into business to go into business.

We know of the discrimination in supplies, as many hon. Members have said this afternoon. We know that currently, there is a very big shortage of nails all over the country. I was talking to a trader last night who cannot sell his corrugated iron sheets alone because the manufacturers of nails cannot supply him with nails, although they supply their own friends and their friends' allies ~~with them~~ so that they sell their corrugated iron sheets together with the nails. No one is able to buy corrugated iron sheets unless he buys nails too.

End Y 

THE ASSISTANT MINISTER FOR COMMERCE (Mr. Gakanju) Ctd:

For that reason, Madam Temporary Deputy Speaker, my friend, the trader, has been stocking his iron sheets while his fellow traders have been selling theirs.

This is the kind of monopoly we are talking about where the manufacturer is also the distributor and the retailer. In some instances, he is also the importer of raw materials and the exporter of the raw materials on the other side. We have heard - and this could be true - of some importers who make proforma invoices in this country purportedly being made in Japan or the United Kingdom. They have blank forms ^{on} ~~here~~ which they type the specification of prices of commodities because their own brothers and relatives are the importers and also ^{confirming} ~~confirming~~ houses on the other side.

We feel that this is something which will, perhaps, be curbed by this Bill when it becomes law. Reading ~~it~~ through this Bill, I find that the Commissioner will have a lot of powers. I would like to suggest to the Minister for Finance that consideration be given to the appointment of commissioners rather than a commissioner. In this way, we will have a court or a commission which will look into these matters and, perhaps, have this main commissioner as an administrator of the commission. Instead of having to appeal to a tribunal at the initial stage, we should have a court of commissioners who are experienced businessmen, experienced lawyers and scholars because business is very widespread. This needs to be looked into so that a decision of one individual will not ~~not~~ necessarily interrupt business. Before an order is issued, the matter will have been gone into thoroughly.

Another point which I want to speak about is the requirement of traders ^{to keep} ~~keeping accounts~~ a full set of books of accounts. I am aware that there is a provision that they can be exempted, but I am afraid that because of the lack of knowledge and the restrictive nature of ^{the} facilities that these people have, most of them would qualify for exemption. It might be as well to look at this matter at the initial stage and see what illustrations can be made to cover most of them so that instead of being assisted by the ~~enactm~~ enactm

THE ASSISTANT MINISTER FOR COMMERCE (Mr. K Gakanju) Ctd:

of this Act, they will be restricted and constrained.

I feel that this area should be looked into so that when this Bill becomes law, there will be no problem when putting up our businesses, of, perhaps, being required to employ qualified accountants to take care of a business which is subsistence. Such a business could be a family concern where, although they sell controlled ~~item~~ items - because it is mainly the controlled items that the retail shops go for - they will not be required to engage the services of qualified people in certain fields.

END

D/Z Jmk

THE ASSISTANT MINISTER FOR COMMERCE (Mr. Gakunju) (Contd.):

They will not, by the nature of their ^{knowledge} requirement in law, be made to employ extra people with extra ~~allowance~~ ^{allowance} to take care of the legal requirement of their businesses. I agree that there is need to look at the various licences a trader is required to have so that this Act is also harmonised with The Trade Licensing Act. I know that part of the Trade Licensing Act requires that you meet certain conditions in order to get certain licenses. It also specifies General and Specific Licenses or special business areas that one should operate Restrictive Trade from. And because this is Practices Act it perhaps will be parallel or Complementary in ensuring complementary, and that the ~~restricted areas~~ or restricted businesses are only reserved for the small people; the less fortunate members of our society..

We do not want to have foreigners running food kiosks in our main buildings ^{for} selling soda and cakes when we have our own indigenous people loitering in the streets without business. If you look through you will find that those ones owning and running those kiosks are also ~~the~~ manufacturers of goods elsewhere in this country. Those small things should be left to the small people and, therefore, those people that manufacture should go into manufacturing. If you look around this country, you will see that practically all the industries making consumer goods are owned by non-indigenous people. What the indigenous people are supposed to go in for now are the high-technology industries which require a lot of finance and very qualified personnel. A way should be found where the consumer industries should be left to those people with less technical knowledge and less finances/so that this can be given to the people who have graduated in those industries.

Madam Temporary Deputy Speaker, I would like to take the opportunity to join my colleagues on the quality control and also on the safety of some manufactured goods that are available to our consumers. Dermatologists have told us that petroleum jelly is not good for our babies and even for our own skin. However, you will find that almost every shop sells petroleum jelly. ~~Not~~ If these jellies are not good for our skin, why should they continue to be sold in our shops? Why should they be allowed to ~~be~~ continued to be manufactured here when we have a Bureau of Standards that is supposed to check the quality,

THE ASSISTANT MINISTER FOR COMMERCE (Mr. Gakunju)(Contd.):

safety, and usefulness of all the manufactured items in this country?

hrs. The other thing perhaps that needs to be looked into while we discuss this matter of monopolies and price control is the work of the industries. Now, that ~~there is the registration of industries that~~ all industries are being registered under the new Act, we have to have priorities of our industries. We should ask ourselves before an industry is registered whether we need it ~~or~~ ~~not~~ in this country *or not.*

ADJOURNMENT

THE TEMPORARY DEPUTY SPEAKER (Mrs. Ndetei): It is now time for the interruption of the ~~House~~ ^{Business.} The House is, therefore, adjourned until Tuesday, 8th November, at 2.30 p.m.

The House rose at thirty minutes past Six o'clock.

End AA.

R. J. J. J.