

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 23rd October, 2002.

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya Medical Research Institute for the year ended 30th June, 2000, and the certificate thereon by the Auditor-General (Corporations)

(By the Assistant Minister for Finance and Planning (Mr. Marrirmoi) on behalf of the Minister for Health)

Annual Report and Accounts of Mt. Elgon Lodge Limited for the year ended 30th June, 1997, and the certificate thereon by the Auditor-General (Corporations)

(By the Assistant Minister for Finance and Planning (Mr. Marrirmoi) on behalf of the Minister for Tourism and Information)

Annual Report and Accounts of the Registration of Certified Public Secretaries Board for the year ended 30th June, 2000, and the certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of the Registration of Accountants Board for the year ended 30th June, 2000, and the certificate thereon, by the Auditor-General (Corporations)

(By the Assistant Minister for Finance and Planning (Mr. Marrirmoi) on behalf of the Minister for Education)

The 10th Monetary Policy Statement of June 2002.

(By the Assistant Minister for Finance and Planning (Mr. Marrirmoi) on behalf of the Minister for Finance)

Annual Report and Accounts of Kenya Accountants and Secretaries National Examination Board and the certificate thereon, by the Auditor-General (Corporations)

(By the Assistant Minister for Finance and Planning (Mr. Marrirmoi) on behalf of the Minister for Education)

The Report of the Joint Departmental Committee on Agriculture, Lands and Natural Resources and the Committee on Finance, Planning and Trade on Sessional Paper No.2 of 2002, on Revival of the Kenya Meat Commission.

Report on the AFC Loans and the List of Debtors.

(By Mr. Sambu)

ORAL ANSWERS TO QUESTIONS

Question No.344

PAYMENT OF DUES TO MR. WAWERU'S DEPENDANTS

Eng. Toro asked the Minister of State, Office of the President:-

- (a) whether he is aware that the DC, Murang'a wrote a letter to the DO, Kandara, Ref.BDM/538/96/4 dated 16.7.97 asking him to advise the dependants of the late Ngugi Waweru to collect Kshs50,712.25 from his office,
- (b) whether he is further aware that to date, the money has not been paid despite the dependants paying several visits to the DC's office; and,
- (c) when this money will be paid.

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

- (a) Yes, I am aware.
- (b) Yes, I am aware, but due to the streamlining process in the management of the Deposit Accounts, there was delay in effecting payments. This has been rectified.
- (c) Payment was effected by cheque on 11th July, 2002, which the dependants may collect from their DC's office if they have not done so yet.

Eng. Toro: Mr. Speaker, Sir, I would like to thank the Minister, if the answer he has given me is true. However, in part "c" of his answer, he said that a cheque dated 11th July, this year, should be collected from the DC's office. I would like the Minister to be specific and tell me the cheque number. I do not want the dependants to go there only to be told that the cheque is not there. Could the Minister give us the details of the cheque number? Secondly, that cheque should be taken to the DO's office in Kandara and not the DC's office.

Mr. Sunkuli: Mr. Speaker, Sir, the cheque number is 004155 which is dated 11th July, this year. The cheque is for an amount of Kshs50,712.25. It was forwarded to the DC under Ref.No.AC14/1/30/2 Vol.V34 which is dated the same day. The DC will, therefore, make the necessary arrangements for the cheque to be taken to Kandara and I will let him know that.

Eng. Toro: Mr. Speaker, Sir, I would like to thank the Minister. I have no further questions if the cheque is with the DC's office.

Mr. Speaker: Very well. Next Question!

Question No.328

POVERTY ERADICATION COMMISSION PROJECTS IN NYERI

Is Dr. Murungaru not here? The Question is dropped.

(Question dropped)

Question No.461

SUPPORT FOR HIV/AIDS ORPHANS

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

- (a) the current number of orphaned children in the country as a result of HIV/AIDS related deaths of their parents; and,
- (b) how many of them the Government is taking care of and how much money has been spent in each constituency for their support since the declaration of the scourge as a national disaster in the year 2000.

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

- (a) It is currently estimated that there are 1.1 million orphaned children as a result of HIV/AIDS related deaths

of their parents.

(b) The actual number of the orphaned children that the Government is taking care of is not available. The Government is in the process of quantifying the figure and the related funds in each constituency since the declaration of the scourge as a national disaster in the year 2000.

Mr. Muithia: Mr. Speaker, Sir, you can see how the Government is not serious in tackling questions. The Minister told us that we have about 1.1 million children who are orphaned. He did not even tell us how many the Government is taking care of. He also told us the actual number of the orphaned children that the Government is taking care of is not available. Approximately how many orphans is the Government taking care of and in which constituencies is this being done because in my constituency we have more than 2,000 orphaned children?

Mr. Haji: Mr. Speaker, Sir, there are several projects around the country undertaking care and support of HIV/AIDS orphans. The projects are currently being coordinated by the Children Service Department which falls under the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports. Orphans' homes are in all the provinces. Community projects are predominantly found in high HIV/AIDS prevalent areas.

Mr. Muithia: Mr. Speaker, Sir, that is a very sensitive area. I beg you to allow more questions. Could the Minister tell us how much money the Government has used on HIV/AIDS since the year 2000, when we put in place the Constituency AIDS Committees to help the Government in identifying the children who need to be assisted?

Mr. Haji: Mr. Speaker, Sir, it is not possible for the Government to give the figures because that is being funded by the Non-Governmental Organisations (NGOs) and various Government agents.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. HIV/AIDS is ravaging this country! We have got thousands of orphans---

Mr. Speaker: Order! You must understand what a point of order is all about! You must point out to Mr. Speaker what particular Standing Order has been breached!

Mr. Angwenyi: Is the Minister in order to mislead this House that the Government does not know the number of HIV/AIDS orphans and yet, they are budgeting money for assisting those orphans? If they did not know the number, how do they budget for it?

Mr. Speaker: That is an argument!

Dr. Kulundu: Mr. Speaker, Sir, the Minister seems to be treating this Question in a very flippant manner. Last year, we passed the Children Act. In that Act, it was envisioned that the Government would allocate money to orphanages which it has yet to establish. Could the Minister tell us how much money the Government has set aside for the care and management of HIV/AIDS orphans in this country?

Mr. Haji: Mr. Speaker, Sir, as I said earlier, the National AIDS Control Council (NACC) and the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports are in the process of quantifying the actual amount of money being spent on orphans, as the project involves several partners, including local and international NGOs.

Mr. Kathangu: Mr. Speaker, Sir, there are groups in this country that have been very concerned with cases arising from HIV/AIDS. We have the Kotolengo and the Nyumbani Children's Home that have been caring for children with HIV/AIDS. Father D'Agostino was awarded US\$1 million to care for the old people and children affected by HIV/AIDS in Kenya. He has gone to the Office of the President seeking about 1,000 acres, so that he could start constructing premises for those groups. How far has the Office of the President gone in considering that particular application?

Mr. Haji: Mr. Speaker, Sir, in the first place, I am not aware. Secondly, I do not know how 1,000 acres relate to HIV/AIDS projects in the country.

Mr. Muithia: On a point of order, Mr. Speaker, Sir. The HIV/AIDS money is controlled by the Office of the President. Is the Minister in order to say that he does not know, when every donor money that comes into this country is taken over by the Office of the President? Is he in order to say that, when millions of shillings have been given?

Mr. Haji: Mr. Speaker, Sir, that is not true. The Office of the President does not control or handle money. All it does is to coordinate with various Ministries.

Question No.374

PAYMENT OF MRS. MAKESI'S PENSION

Mr. Sifuna asked the Minister for Finance:-

(a) whether he is aware that Mrs. Mary Nakhumicha Makesi, TSC No.56648, Pension File No.120519, retired on 1st September, 2000; and,

(b) when her pension will be paid.

The Assistant Minister for Finance and Planning (Mr. Marrirmoi): Mr. Speaker, Sir, I beg to reply.

(a) I agree that the payment of Mrs. Makesi's pension was delayed owing to the large volume of claims that were processed in the Pensions Department at that time.

(b) Mrs. Makesi was paid a commuted pension gratuity cash lumpsum of Kshs595,700 and a monthly pension arrears at the rate of Kshs7,446.25 for the period of 1st September, 2000 to 31st December, 2001, totalling to Kshs119,140. The total amount paid to her was Kshs714,840 through Cheque No.199381 dated 6th February, 2002, and paid to her Bank Account No.0120132524004 at the National Bank of Kenya, Bungoma. Her monthly pension of Kshs7,446.25 has been entered in the payroll for the month of July, 2002, and will be settled in full, including the outstanding arrears for the period 1st January, 2002 to 30th June, 2002.

Mr. Sifuna: Mr. Speaker, Sir, arising from the Assistant Minister's reply, you can agree with me that today is 23rd of October, 2002, and Mrs. Nakhumicha has not been paid her money and yet, he is telling this House that her arrears up to July has been entered on a payroll. Could he tell this House how much money has been paid, when and the cheque number?

Mr. Marrirmoi: Mr. Speaker, Sir, I have said that the total amount which has been paid through Cheque No.199381 was Kshs714,840---

Mr. Sifuna: Mr. Speaker, Sir, maybe, the Assistant Minister is not getting my question clearly! According to his reply, he said that her monthly pension of Kshs7,446.25 has been entered into a payroll for the month of July, 2002, and will be settled in full, including the outstanding arrears from the period of 1st January, 2002 to 30th June, 2002. My question is: Up to now, she has not been paid her arrears! We are not talking about the accumulated amount. We are talking about the monthly arrears which has not been paid.

Could he tell this House the cheque number and the amount? That is because, as I am talking now, she has not been paid! When was that amount for the arrears paid, the cheque number and how much was it?

Mr. Speaker: Order! You keep on repeating yourself, Mr. Sifuna! You have mentioned the cheque number about four times!

Mr. Sifuna: But he does not understand!

Mr. Speaker: Order! Proceed, Mr. Assistant Minister!

Mr. Marrirmoi: Mr. Speaker, Sir, I do not have the cheque number of the arrears. But I have given the other cheque number.

Mr. Angwenyi: Mr. Speaker, Sir, last year, the Minister for Finance told this House that he was going to put a system in place so that when a person retires, he or she gets his or her cheque within three months. When will that system be implemented so that our pensioners do not suffer unduly after they retire?

Mr. Marrirmoi: Mr. Speaker, Sir, I have said in this House that the Pensions Department has done a lot with regard to payment of pension. That is the reason why of late we have not been receiving many Questions in this House related to non-payment of pension. Re-deployment of officers to various departments and Ministries has been done. Also, computerisation in the Department of Pensions has been done.

Mr. Sifuna: Mr. Speaker, Sir, what should I do now? With due respect to the Assistant Minister, if he has said that he does know the case, could he tell us how much money has been paid in arrears? If he does not have the figure right now, is it possible for him to go back and bring the answer, maybe, tomorrow? This is because as I am speaking here, the lady has not been paid the money.

Mr. Marrirmoi: Mr. Speaker, Sir, I do not understand what the hon. Member means when he says that the lady has not been paid the money. We are now disputing the arrears. He can calculate---

Mr. Sifuna: She has not been paid!

Mr. Speaker: Order!

Mr. Marrirmoi: Mr. Speaker, Sir, as far as I am concerned the lady has been paid the money, unless the hon. Member has not been liaising with the Pensions Department.

Mr. Angwenyi: Mr. Speaker, Sir, although I do not have a copy of the written answer I beg to ask Question No.059.

Question No.059

PROVISION OF FACILITIES TO

GUSII MARKET CENTRES

Mr. Angwenyi asked the Minister for Local Government:-

- (a) how much money has been collected by Gusii County Council from each of the following market centres in each year from 1998 to date: Nyakoe, Marani, Rioma, Ruga, Gesieka, Mosochi, Kegogi, Tinga, Bobaracho, Matongo, Keumbu, Gesusu and Kiogoro; and,
 (b) what facilities and services have been provided to these market centres and the surrounding communities.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, this Question was supposed to be answered by my colleague, Mr. Sirma. I could as well have answered it, but the details are not yet with us and we shall get them as soon as possible. I have already talked to the hon. Member.

Mr. Speaker: Is that agreeable to you, Mr. Angwenyi?

Mr. Angwenyi: Mr. Speaker, Sir, if you look at the number of this Question, you will realise that it is very old. It has been in this House for almost two years.

The Assistant Minister talked to me, but he did not tell me when they will answer this Question. Will they answer it tomorrow afternoon?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, we shall answer it on Tuesday, next week.

Mr. Speaker: Very well! The Question is deferred!

(Question deferred)

Question No.410

RELEASE OF FUEL LEVY FUNDS TO
RACHUONYO DRC

Mr. Otula asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the Kenya Roads Board Act, 2000 stipulates that 24 per cent of the Fuel Levy Fund should go to District Roads Committees (DRCs) to open new roads;
 (b) whether he is further aware that this money has not been released to Rachuonyo District and that as a result, no new roads have been opened to date; and,
 (c) how much money is owed to the district since the Act became operational.

Mr. Speaker: Is there anybody from the Ministry of Roads and Public Works? Mr. Otula, the Minister is not here!

Mr. Otula: Mr. Speaker, Sir, I saw the Assistant Minister sitting somewhere there, but he has decided to disappear.

Mr. Speaker: Which Assistant Minister was that? Well, he is not here! Should I defer the Question?

Mr. Otula: Mr. Speaker, Sir, it was Mr. Mokku, who was consulting with another hon. Member.

Mr. Speaker: I am afraid he is not here! I would like to defer this Question!

(Question deferred)

Mr. Muya: Mr. Speaker, Sir, although I have not received a copy of the written answer, I beg to ask Question No.492.

Question No.492

TARMACKING OF MUTHINGA-ITHEKAHUNO ROAD

Mr. Muya asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the Nyeri District Development Committee recommended that Muthinga-Ithekahuno Road (D431/D 432), a three-kilometre extension be tarmacked along with the construction of Ngunguru Bridge in 1987;
 (b) what led to the dropping of the project after being provided for in the Estimates of Development

Expenditure for several years; and,

(c) whether he could consider providing for the project in the 2002/2003 Financial Year.

Mr. Speaker: Mr. Muya, I think the same fate befalls your Question! I would like to defer this Question until tomorrow!

(Question deferred)

Question No.029

ISSUANCE OF ALLOTMENT LETTERS
TO LIKII PLOT OWNERS

Mr. Kiunjuri asked the Minister for Lands and Settlement when the residents of Liikii Village of Nanyuki Town will be issued with letters of allotment for their plots.

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

It is not possible to say when the residents of Liikii Village of Nanyuki Town will be issued with letters of allotment of plots since the Government ban on allocation of public land is still in force.

Mr. Kiunjuri: Mr. Speaker, Sir, although the residents have been occupying the land for the last 30 years, they are squatters. What they want now is to legally occupy that land. We have already done that and the council has already issued letters of allotment. We have even paid the council some money so that it can pay the Commissioner of Lands. I would like the Minister to tell this House whether the council has submitted the list of the occupants of that land to his office so that we can know how to proceed from there.

Mr. Ngala: Mr. Speaker, Sir, I would like to inform the hon. House and the hon. Member that the list of squatters was prepared for purposes of issuance of letters of allotment, but it has not yet been submitted to the Commissioner of Lands by the Town Clerk's office. So, if the list is presented to the office of the Commissioner of Lands, the process of preparing letters of allotment will continue.

Mr. Muchiri: Mr. Speaker, Sir, if I understood the Minister, he said that the allotment letters have not been issued because there is a ban on the allocation of plots. I tend to think and I am right that the Minister is not in control of that Ministry. This is because I have seen letters of allotment that were issued as late as April this year. Is he not misleading this House?

Mr. Ngala: Mr. Speaker, Sir, we are in control and I am not misleading the House. What I know is that we have been given permission to issue letters of allotment in settlement schemes. Therefore, the letters the hon. Member saw are related to settlement schemes countrywide. We are not issuing letters of allotment on urban plots.

Mr. N. Nyagah: Mr. Speaker, Sir, could the Minister explain the circumstances which led to the allocation of Government land which belonged to the Kenya Air Force? This land has been allocated by the councillor of Eastleigh South.

Mr. Ngala: Mr. Speaker, Sir, it is irregular if the councillor of the area allocated that land to some individuals. This land belongs to a particular institution. Therefore, if we get evidence on that, we will take up the matter.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Mr. N. Nyagah, you are now re-locating Nanyuki to Eastleigh!

Mr. Kiunjuri: Mr. Speaker, Sir, now that the Minister has admitted that the list was written, but the Town Clerk has not submitted it to him, what action will he take, as a Kenyan and a person who loves squatters to ensure that, that list is taken to his office?

Mr. Ngala: Mr. Speaker, Sir, I do not think there is anything I can do. The hon. Member should get in touch with the Town Clerk and find out why they have not presented the list to the office of the Commissioner of Lands in order for the other processes to be taken up. The ball is in the hon. Member's court.

QUESTIONS BY PRIVATE NOTICE

NUMBER OF BURSARIES AWARDED BY VOI NGO

Mr. Mbela: Mr. Speaker, Sir, I beg to ask the Minister for Home Affairs the following Question by Private Notice.

(a) Is the Minister aware that an NGO by the name Youth Crisis Intervention Organisation operating from

Voi Town charges a bursary application fee of Kshs500 for needy children?

(b) What is the total number of applications received and how many bursaries have they awarded?

(c) What is the value of the bursaries awarded?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Ms. Mwachai): Mr. Speaker, Sir, I beg to reply.

(a) Investigations by the Ministry have revealed that the NGO by the name Youth Crisis Intervention Organisation has been charging Kshs500 application fee for secondary school applicants and Kshs250 for primary school applicants. They received 3,027 applications. Out of that 170 applicants paid the required fees and were subsequently interviewed. One hundred and five of these applicants were successful; that is 31 from secondary schools and 74 from primary schools. Thirty other applications are still pending awaiting consideration once funds are available.

(b) The organisation has spent Kshs110,000 to pay school fees for the 105 pupils and Kshs24,000 to buy uniforms, books, stationery and to defray transportation costs. The total value of bursaries awarded by the organisation so far is Kshs134,000. From this figure, it is clear that the NGO does not seem to be of much help to the needy children. The NGO Bureau has started investigations on the NGO, and the full force of the NGO Act will be applied when investigations are completed.

The District Commissioner, Taita-Taveta, is aware of this concern and he is helping the NGO Bureau with the investigations.

Mr. Mbela: Mr. Speaker, Sir, I want to thank the Assistant Minister for that reply and the recognition that, that is a con organisation. I do not know whether the Assistant Minister is satisfied that the money was actually paid to the schools because none of the local schools seem to have received any bursary for these children.

Ms. Mwachai: The certification is as indicated in the written reply. We are aware that whatever amount which has been paid, is what has been scheduled by the organisation. So, we are relying on that particular information.

Mr. Mwakiringo: Mr. Speaker, Sir, yes, I would like to agree with the Questioner that this is a con NGO. We have not seen the benefit of this NGO, because this fees that it is charging is a form of Harambee contribution. They divide the same money amongst those few who benefit, maybe, the relatives of the directors. Will the Ministry ensure that no more charges are levied on applicants by this NGO, if it cannot sustain itself by sourcing funds from outside the country to help those needy children?

Ms. Mwachai: Mr. Speaker, Sir, as required, when any NGO wants to register itself, it sets its own regulations and laws. Of course, when you look at it, it looks as if it wants to assist Kenyan needy children. But, as I said earlier, it seems that this particular NGO has done a lot of nothing to the needy children. So, because of that, the District Commissioner plus other officers of the Government are busy carrying out investigations in order to apply the applicable Act on this particular NGO, as required by hon. Mwakiringo.

(Applause)

Mr. Mbela: Mr. Speaker, Sir, the NGO does not have any office furniture or even the equipment, because its property was attached for nonpayment of a loan. It appears that they get this money as deposits from which they pay and enrich themselves. Could the Assistant Minister ensure that the NGO is not permitted to do indirect Harambee by charging applicants money which they do not remit in full to the schools?

Ms. Mwachai: Mr. Speaker, Sir, my hon. colleague is just repeating what hon. Mwakiringo had asked, and my answer remains the same; from little investigations done so far, this NGO seems not to do any good to the constituents of Voi Constituency. Because of that, we are carrying out investigations on this particular NGO. When the investigations will be completed, we will then take the necessary action against this particular NGO, as the hon. Member requested.

(Applause)

Mr. Speaker: I think the House is very much satisfied?

Hon. Members: Yeess!

Mr. Speaker: Well done! It is very rare for the House to be satisfied by an answer. Next Question by Private Notice, Mr. Muchiri!

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

Why has Kenyatta University put an advertisement in the media, for evicting the residents of Kamae, when the land was allocated by the Government on 22nd November, 2000 and allotment letters issued by the Commissioner of Lands?

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

Kenyatta University advertised in the local dailies, giving notice to all illegal occupants of Kenyatta University land to vacate. In September, 1989, the Government allocated 30.8 acres of Kenyatta University land to Kamae squatters. The remaining land which had been fenced off is utilized by Kenyatta University for research and teaching by the Department of Zoology, Botany, Geography, and the newly-established Centre for Contemporary Medicine and Bio-technology.

There has been no additional allocation of Kenyatta University land that the University is aware of and neither have there been allotment letters issued by the Commissioner of Lands; hence the Kamae squatters have not been formerly documented. The Commissioner of Lands confirms that Kenyatta University Title Deed No.33404 for land No.LR11026/2, with an area of 447.3 hectares is still intact.

Mr. Muchiri: Mr. Speaker, Sir, I am having some difficulty in asking this Question because I am told there is a rule here which says that you cannot put a Question referring to His Excellency the President. My Question is: 30.8 hectares are not in dispute, they were allocated long time ago. But His Excellency the President came to Korogocho on 22nd November, 2000, and allocated the land to the residents of Korogocho---

Mr. Speaker: Mr. Muchiri, you know the rule and after stating it, you deliberately go ahead to breach it. Why?

Mr. Muchiri: Mr. Speaker, Sir, let me put it this way: When I talk about the Government, I mean the Head of State. The Government allocated additional 70 acres of land to the residents of Kamae on 22nd November, 2000. Is the Assistant Minister casting doubt on the authority of the President? All over the world, people were informed that additional 70 acres of land had been allocated to Kamae residents.

If the Assistant Minister is doubting that authority, which other authority can he respect in this Republic?

Mr. Mugalla: Mr. Speaker, Sir, there is no evidence to this allegation.

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. What more evidence is required when the President of this Republic issued instructions that the land be allocated to squatters? What more evidence does the Assistant Minister want?

Mr. Mugalla: Mr. Speaker, Sir, we need documentary evidence.

Mr. Ndicho: Mr. Speaker, Sir, these are the people who are spoiling the good name of His Excellency the President. The President himself visited that place which borders Juja Constituency. When he was speaking to those squatters, we heard him very well. Whatever he said was aired in the mass media that evening. It was clear that he issued instructions that the 70,000 acres of land, next to Kenyatta University be allocated to squatters. Later, the management of Kenyatta University laid claim on that land. Is the Assistant Minister aware that it was after the President ordered the allocation of that piece of land that the management of Kenyatta University laid claim on it? This has brought the present confusion between the two parties. Could the Assistant Minister investigate whether the President gave the order for that piece of land to be allocated to squatters or not? We want the Assistant Minister to clear this confusion between the two parties.

Mr. Ndwiga: On a point of order, Mr. Speaker, Sir. I am at loss. On the one hand, there is an hon. Member who wants to derive his authority from the President, and on the other hand, is a Government Assistant Minister who says he does not have any evidence that this land was allocated to those squatters. Here is the House which you preside over, but it cannot sit here and deliberate on an illegality. Land cannot be given at a public meeting because there is an official procedure for allocating land. I am seeking your guidance on this because there are three very confusing things taking place here. Which way do we go as a House?

Mr. Speaker: Order! As a House, we must stick to the rules. Since Messrs Ndicho and Muchiri are not Ministers, they are not allowed by the rules of the House to base their argument on the authority of the President. They are actually out of order!

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. Although we are quiet here we all heard the voice of His Excellency President on television when he issued the instructions. Why is the Government then denying that the President did not issue instructions?

Mr. Speaker: Order! First of all, there are two rules being breached here. One, the hon. Member cannot use the name of the President as authority for what he says because he is not a Minister. Secondly, this House is not

supposed to proceed on the basis of media reports. Thirdly, the Speaker is not supposed to glue his ears to various television and radio stations to hear what is said by who.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I think your ruling is very confusing.

Mr. Speaker: How do you dare say the Speaker is confusing?

Mr. Ndicho: Not confusing, Mr. Speaker, Sir. But the Head of the State proposed Mr. Uhuru Kenyatta to be the next President and we all agreed. In fact, it has made me to cross over from that side to this side. Now you are telling me not to use that authority? I think I am confused.

Mr. Speaker: Order! Mr. Ndicho, I am now saying as the Speaker that I really have no control if you get easily confused. I think I am absolutely clear on the rules of the House. I do not even know what you are doing there, in the first place. May be you are a tourist and you are at liberty to visit any part of this House.

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

Mr. Speaker: Order! We are not going to have all these points of order! Mr. Mugalla, why do you not answer? You are the one who knows! By the way, Mr. Muchiri, you cannot force the Chair to allocate land, if the Assistant Minister says he cannot.

Mr. Mugalla: Mr. Speaker, Sir, I have said here that there is no documentary evidence that this land was allocated to those squatters.

Mr. Kathangu: Mr. Speaker, Sir, three people were summoned to take the instructions and orders of the President. These were the Minister for Lands and Settlement, Bishop Gaitho, the area councillor and the local Member of Parliament. The Minister for Lands and Settlement and Bishop Gaitho consulted. They both agreed before the President that they were to allocate the 70,000 acres of land to the landless people of Korogocho and Kamae. Is the Assistant Minister saying he has not been instructed about the handing over process or not? I think that is the problem.

Mr. Mugalla: Mr. Speaker, Sir, this is the signed answer by the Minister for Education.

Mr. Kiunjuri: Mr. Speaker, Sir, the Assistant Minister told the House that those squatters occupied that land in 1989. Since that time, it is now more than 12 years. Is he aware of the law of adverse occupation? He is now telling us that those squatters have no right to occupy that land. Could he tell the House whether those squatters have any right over that land considering the law of adverse occupation?

Mr. Mugalla: Mr. Speaker, Sir, as far as the Ministry is concerned, those squatters are there illegally.

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. I am seeking your guidance because the Assistant Minister is talking about the Minister for Education. Could this Question be directed to the proper Ministry?

Mr. Speaker: Why did you misdirect it?

Mr. Muchiri: Mr. Speaker, Sir, it is the Minister for Lands and Settlement who has issued the notice of eviction to these people.

Mr. Speaker: Well, I am sorry you put it in the wrong Ministry.

Next Order!

POINTS OF ORDER

RELEASE OF AKIWUMI REPORT

Mr. Wamae: Mr. Speaker, Sir, the Attorney-General released the Akiwumi Report on the Tribal Clashes. But he released it to the Press. In the past, you have told us that we should not rely on what appears in the Press. Could the hon. Attorney-General lay that Report on the Table of this House?

Mr. Thirikwa: Mr. Speaker, Sir, I rise to demand for some action from this Government.

Mr. Speaker: Order! There is no point of demanding action.

Mr. Thirikwa: The reason is that in Ndaragwa Constituency we had---

Mr. Speaker: Are you seeking a Ministerial Statement?

IRREGULAR CONDUCT OF NDARAGWA DO

Mr. Thirikwa: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of Provincial Administration. There is a DO in Ndaragwa Constituency who, for his own reasons, has declared Ndaragwa Constituency his own country. He acts as if he is a president of a personal state, operating under his own laws. Every day and night, no resident of Ndaragwa can enjoy freedom of movement simply because that DO has imposed an illegal curfew in that constituency. Therefore, I am demanding for a Ministerial Statement from the Minister. I would like him to investigate those allegations and if he finds them to be true, he must

take action against that DO. That DO collects people from social places and creates his own court where he solicits for bribes of between Kshs500 and Kshs1,000. Therefore, I am demanding that the Minister investigates those allegations and if they are found to be true, he should interdict that DO.

Mr. Speaker: Mr. Minister, do you know anything about this matter?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, since the hon. Member has really not demanded anything but rather reported a crime which is happening in his constituency, I urge that this House directs him to report those criminal activities to the police, because a Ministerial Statement will not assist his constituents.

Mr. Thirikwa: On a point of order, Mr. Speaker, Sir. Surely, the matter I have raised is very serious; it involves the Government. The District Officer (DO), Ndaragwa, is an employee of the Government. The Minister of State in charge of internal security is the boss of the DO. If in this House I cannot be taken seriously, where else can I be taken seriously? Therefore, I demand that the Minister investigates the DO, and if he finds out that---

Mr. Speaker: Order! Order! Mr. Thirikwa, you are just repeating what you said earlier. Honestly, there is nothing new you are telling the House.

So, let us proceed to the next Order.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. We understand the hon. Member's predicament. So, could I help him by re-phrasing his request? He has complained that the DO, Ndaragwa, is terrorising his people. He has asked the Minister in charge of internal security to investigate his allegations, and that after he establishes the correct position, he takes action.

Mr. Speaker: Order! Order! You are just repeating what Mr. Thirikwa explained better.

Mr. Ndicho: So, what is the problem?

(Loud consultations)

Mr. Speaker: Order! Order! Actually, Mr. Thirikwa's allegations consist of very serious criminal offenses. That is the net effect. The honourable Minister here--- I mean, the hon. Member.

Hon. Members: He is, indeed, a Minister in the alternative Government.

Mr. Speaker: Order! Order! Yesterday, I said that those hon. Members who derive pleasure in calling themselves Ministers are at liberty to do so. Occasionally, I have a slip of the tongue and refer to hon. Members as "Ministers". If that pleases them, I am happy to please them; there is no harm done. So, Mr. Minister and the hon. Member, the matter at hand is a serious one. So, could you get together and see what you can do about it?

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Speaker, Sir. You have asked us to get together and see what can be done about this matter. So, could the hon. Member be asked to move over here so that we can have a discussion over the matter?

Ms. Karua: On a point of order, Mr. Speaker, Sir. The way in which we are handling some issues raised here is likely to cause members of the public to lose faith in this House. Even though what my colleague has pointed out amounts to criminal offenses, there is still a responsibility for the Minister in charge of internal security to investigate the actions of that particular civil servant and take action. If he is found guilty, apart from having the relevant criminal charges preferred against him, he can also be relieved of his duties or recalled from that division. So, could you, kindly, give direction that a Ministerial Statement be issued in connection with the allegations. Otherwise, the Minister will be out of order if he neglects his duties.

Hon. Members: Yes!

Mr. Speaker: Order! Order! May I say the following. First of all, I do not want it to be the procedure that an hon. Member comes to this House and condemns a civil servant, or any other Kenyan for that matter, and on the basis of that condemnation, judgement is passed straightaway against that particular civil servant, or individual. I believe that it would be wrong for us to do that. The Minister should now liaise with the hon. Member and assist members of the public, if they are aggrieved. If, indeed, the said civil servant is innocent, he should be absolved of blame. The very articulation of that issue on the Floor of this House, assuming that the hon. Member's allegations are true, must call upon the Minister to take action. However, on the other side of the coin, suppose what the hon. Member has said is not true, do you know the effect that would have on that poor civil servant? We need to be responsible people. I am sure that there is nothing which hinders the hon. Member from getting in touch with the Minister. So, it is a difficult situation for the Chair. I have got to look at the interests of the general constituents and those of the individual Kenyan, who may have his name irreparably damaged in this House. So, I appeal for sobriety in dealing with this issue.

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Speaker, Sir. For the avoidance of doubt in future, would it not be in order for you to rule that the tools available for me to investigate a

matter such as that raised by the hon. Member is through complainants reporting their complaints to the organs that I am in charge of? Is it not proper for you to rule that a mere statement made in this House does not amount to an official report of the matter.

Mr. Speaker: Order! I cannot do that as well.

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

Mr. Speaker: Order! Order, all of you! I will not go to any of those extremes. I will not go to [Mr. Speaker] the extreme of saying that hon. Members cannot raise their main complaints in the House. Also, I will not go to the other extreme of saying that an issue raised by an hon. Member in this House must amount to a condemnation of an otherwise innocent Kenyan. That is why I have called for sobriety in the whole issue. There must be some way in which the veracity, or otherwise, of an allegation is established before, in fact, somebody's reputation is completely damaged. There must be such a way; there ought to be. It is only when those avenues are exhausted that an hon. Member can actually raise the matter before this House. That is my considered view.

Mr. Kathangu: Jambo la nidhamu, Bw. Spika. Bila shaka, sote tunaishi katika nchi moja. Yale yaliyotendeka katika sehemu ya uwakilishi Bungeni ya Bw. Chege Mbitiru hutendeka katika sehemu nyingi za uwakilishi Bungeni.

Mr. Speaker: Mr. Chege Mbitiru? Why should you bring Mr. Mbitiru into this matter?

Mr. Kathangu: Samahani, Bw. Spika; ulimi umeteleza.

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

Mr. Speaker: Order! Order! Sit down, Mr. Thirikwa. In any case, I know that you are not Mr. Chege Mbitiru, but recognise the fact that Mr. Mbitiru and you are actually neighbours.

Proceed, Mr. Kathangu.

Mr. Kathangu: Bw. Spika, katika mfano huu ningependa kutumia jina la Bw. Chege Mbitiru, na kusema kwamba yanayotendeka katika sehemu ya uwakilishi Bungeni ya Bw. Chege Mbitiru, na kwa kila mmoja wetu, ni yale yaliyosemwa hapa. Ni vibaya sana, tukiwa Wabunge, kusukumwa ili tuwe tukiripoti uhalifu katika vituo vya polisi kila asubuhi na kila jioni. Tunavyojua ni kwamba ni vigumu sana Waziri huyu kuzungumza na sisi kule nje juu ya mambo yanayotendeka katika sehemu zetu za uwakilishi Bungeni. Hii ndio maana tunamwambaia mbele yako kwamba aende kule akapeleleze ni mambo gani yanayoendelea; tunakuomba ukubali kumweleza tunayotaka. Ukikataa kutusikiliza hapa, naye akataa kutusikiliza kule nje, sisi tutakuwa taabani.

Mr. Speaker: Order! Order! I expect that all holders of public office must make their offices open to all and sundry, who may need the services of those officers. You are invited any time during working hours to my office. If you find me there, I will be working and listening to you. In the same breath, I hope that the Minister, too, discharges his responsibilities in the way he ought to. So, could we now keep this matter at that level.

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

Mr. Speaker: What is it, Mr. Twaha? Is it on the same issue?

Mr. Twaha: Yes, Sir.

Mr. Speaker: Please, sit down. Mjadala juu ya hilo jambo umekwisha.

Next Order!

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

I want to make an appeal to the House Business Committee through the Chair. As you are aware, we had the Pensions (Amendment) Bill, Bill No.29---

Mr. Speaker: Order, Mr. Musila! You, having sat on this Chair, should know better; that the fact that your Bill is not on the Order Paper is not out of order! The Business of the House is perfectly in order. You should find out, from your Whip, what happened to your Bill. You are not the only one affected.

Proceed, Mr. Minister!

MOTIONS

ADOPTION OF SESSIONAL PAPER NO.2 OF 2002 ON REVIVAL OF KMC

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, I beg to move the following Motion:-
THAT, this House adopts Sessional Paper No.2 of 2002 on revival of the Kenya Meat Commission (KMC), laid on the Table of the House on Thursday, April 25th, 2002.

Mr. Speaker, Sir, the main objective of this Sessional Paper is to facilitate the reopening of the Kenya Meat Commission (KMC) for operation. The KMC has gone through very many problems and, at the moment, as you all

know, the plant is closed. Its reopening has to be done within the context of declining financial resources and, therefore, there is need to adopt the cheapest strategy.

For purposes of record, the KMC is indebted to various institutions as I will indicate just now. The KMC owes Kshs1,268,000,000 to the National Bank of Kenya; Kshs1,298,464,128 to the Government of Kenya, Kshs179,999,725 to the Kenya Revenue Authority, Kshs372,316,760 to M/s Mitsubishi Corporation and a further Kshs150,381,346 to other creditors. The total sum of its indebtedness is Kshs3,269,161,959. The causes of the poor performance of the KMC are well known to most hon. Members of this House. But I would like to point out that, in all the years of its operation since its inception in the 1950s, the KMC made a profit only once.

Mr. Speaker, Sir, the cause of the poor performance of the KMC had to do with certain fundamentals, including the structure of its operations and the mandate it was charged with. The KMC served for many years as a buyer of last resort. Therefore, it was also charged, to a certain extent, with certain social obligations to assist livestock farmers, particularly during periods of drought. It was charged with the responsibility of buying animals and slaughtering them, not necessarily on a commercial basis or on the basis of their worth in the market, but on the basis of arbitrary prices fixed by the Commission. Secondly, towards the second half of the 1980s, Kenya lost its European market because we lost the status of being a disease-free zone. That placed even greater burden on the operations of the KMC.

Because of the deteriorating state of the KMC's operations, both the Commissioners and the Government decided to close down its operations in 1992. Instead, a decision was taken to embark on refurbishing the plant through introducing new plant, equipment and technology to make the plant modern and more efficient. This was done using Government resource. The objective was also achieved through a request made to M/s Mitsubishi Corporation, of the United Kingdom, which was asked to supply a plant which included a new canning line.

The arrangement for the supply of the equipment and the new technology to the KMC was as a result of an agreement signed in 1992 for financing the rehabilitation of the KMC's factory at Athi River. The initial amount of the loan was US\$3.3 million, which was borrowed by the Commission without a Government guarantee. The loan was lent to the Commission at an interest rate of legal plus 2 per cent, and was repayable over a period of five years through instalments which were supposed to have commenced in March, 1997. None of those instalments nor interest have been paid to date.

As collateral security, M/s Mitsubishi Corporation held a chattel mortgage on the equipment purchased using this loan. The equipment is spread throughout the plant, making it difficult to make any progress on the revitalisation of the plant before agreeing on the settlement of the loan. The Government has examined various options for making it possible for us to reopen the plant. Some of the options are very expensive indeed, and we have been trying to find out the most effective way to reopen the plant without necessarily over-burdening the taxpayer. It is for this reason that we have adopted this Sessional Paper, which seeks to release the assets of the KMC from the chattel mortgage in order to facilitate the revival of the plant. This august House is being requested to note that, in order to reopen the KMC, Kshs372,316,760 owed by the KMC to M/s Mitsubishi Corporation of the United Kingdom, and any interest that may have accrued since June, 2002, has been approved to be taken over by the Government, so that the charge on the assets of the KMC may be discharged. We believe that once these assets are released, it will be possible to invite the participation of the private sector. The private sector here includes livestock farmers themselves who would wish to make a bid to buy this plant in the condition in which it is. I would like to assure this House that the current plant, after all the rehabilitation that was carried out, is in excellent condition. It has been tried, tested and it is operating very efficiently. Unfortunately, it was not possible to continue to operate it because it was felt that the Government was no longer in a position to get involved directly in managing this kind of enterprise. We do not recommend that this approach is adopted where the Government is directly involved in running this enterprise because we do not have the skills to be able to do so.

Mr. Speaker, Sir, therefore, we are recommending and we believe this is the best way out and the cheapest option, to take over the Mitsubishi Corporation loan so that the assets which are charged through Mitsubishi can be released and, therefore, enable us with the National Bank of Kenya who have been appointed the Receiver Manager, to discuss, find out and agree on the best way forward; of putting the operations of Kenya Meat Commission (KMC) back. We believe that it is time now to do that. Every day that passes, we incur substantial costs through interests and wastage and we feel the time has come when this facility should be put in production and we recommend that the assets be released so that we can then enter into discussions with those who have appointed the Receiver Manager in order to involve the private sector, who would then utilise this national facility.

With those few remarks, I beg to move.

The Minister for Agriculture (Dr. Godana): Thank you very much, Mr. Speaker, Sir. I stand to second the Motion which has just been moved. The House will recall that we had begun to move this Motion and, indeed, got to the stage where the Seconder took to the Floor when the House decided, following an intervention by an hon. Member

from the opposite side, that the matter be referred back to the relevant Departmental Committee. So, we did not reach the point of actually moving the Motion finally and that is why we have to, again, go through the procedure of moving it although the arguments that we have adduced so far, and we will adduce, can only be the same as those we had already gone through.

Mr. Speaker, Sir, the story of KMC is a sad one and is one which is very well known to this House. Since it was closed in 1992, we have seen the suffering of people who depend on livestock alone as their source of livelihood. We are talking of four million Kenyans whose principal source of livelihood in the ASAL zones is livestock rearing. Whereas they do sell their livestock now in markets and sometimes even in residential areas in this City like if you go to Kariobangi you will see large herds of goats and sheep being slaughtered in various slaughter houses, these markets are very unstable. The KMC, as the Minister said, had above all a social function in the olden days and that was to act as a buyer of last resort in times of over-supply. I do know as somebody who comes from this super livestock producing area, that it worked well in the 1960s in particular. This is because I knew as a schoolboy doing calculations for livestock traders from the north, at the end of year after supplying 2,000 to 4,000 head of goats and sheep, the supplier would be given the surprise by way of a bonus. It worked on the same principle as the tea bonuses which go on in the case of the tea crop.

Mr. Speaker, Sir, it is also a sad story, as I said, because the equipment which was put in, with the Government guaranteeing, by Mitsubishi Corporation nine years ago was then state-of-the-art technology for canning and yet it was tested. However, because of certain misunderstandings within the country between the various Ministries and interested parties, that equipment has been allowed to waste away. I think we cannot tolerate this. The loan has been accumulating interest and it is right and proper that finally the Minister for Finance in consultation with the Minister for Agriculture, has decided to bring this proposal to end firstly, the charge on mortgage by Mitsubishi Corporation by paying them off and secondly to start the process of privatising the KMC. Whoever buys it, a KMC which is operational is better than a KMC owned by the Government which is lying idle and is not serving anybody. We do hope, of course, with the guarantee given by the Minister for Finance that when it is privatised it is Kenyans and particularly stakeholders who are interested, who will be allowed to buy the property.

Mr. Speaker, Sir, we are talking of four million people, as I said, who increasingly are dependent on famine relief come every drought and droughts are becoming increasingly common. Everybody recalls what happened in this City barely two years ago at the peak of one of the worst droughts. Maasai cattle were grazing even in the upmarket areas of this City whereas had the KMC been operational on the old principle or even on purely commercial principles, those people would have had a market for that livestock than roam around the City and, indeed, areas well beyond the City eating plastic papers and lying by the roadside with all kinds of well known consequences. So, I want to appeal to hon. Members to support this Motion. Let us for once put this matter behind us. I want to appeal to them in particular that, much as we are in an electioneering period, not to subject this matter to sectional interests. I think the coffee sector too will be salvaged since the hon. Members were asking me to do that. In fact, they know very well I am very sympathetic to coffee farmers and it is just a question of time before we bring something similar.

With those few remarks, I beg to second.

(Question proposed)

Mr. Ndwiga: Thank you, Mr. Speaker, Sir. We have listened keenly to the arguments advanced by the Government, and we have discussed this issue with both the Minister for Agriculture and Minister for Finance in the Committee. While we are sympathetic to what the Government wishes to do, we find it difficult at this point in time to support this move principally because, one, we have asked both the Minister for Finance and the Minister for Agriculture to tell us specifically what benefits the pastoralists will get from this write-off. If you look at it very carefully, there is none.

Mr. Speaker, Sir, if you look at this Sessional Paper carefully, there is no guarantee whatsoever that the moment taxpayers' money is used to write off these loans, the Kenya Meat Commission (KMC), as we know it now, will not be vandalised and spares sold elsewhere, like it happened to the Cashewnut Factory in Kilifi. So, we find it extremely difficult to support this Sessional Paper the way it is. We, as Members of the Committee, and as Members of Parliament principally, want to be concerned about the person referred to as the pastoralist. This Sessional Paper does not indicate or show how the interests of the pastoralists will be met. It is just the interest of the Government. Why are we writing off the loans? After they have written off the loans, what will happen to the pastoralists? Kenyans are willing to spend this amount of money to develop the livestock industry and anybody would support that. But if you look at what is in this Sessional Paper, there is nothing about building abattoirs in North Eastern Province or developing the livestock sector. I do not think any right-thinking hon. Member who represents taxpayers' interest would want to vote for such a Sessional Paper.

Mr. Speaker, Sir, even in the Committee---

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Speaker, Sir. The Sessional Paper is about the Kenya Meat Commission. So, the hon. Member is out of order to discuss the livestock industry and criticise the Sessional Paper for not dwelling on other issues in the livestock industry.

Mr. Speaker: Order! Order! Of course, hon. Ndwiga may talk about whatever he wants on the KMC, but maybe, the Chair can advise. You cannot put up abattoirs in northern Kenya if there is no factory. It is like saying, you get the eggs before you have a chicken, or the other way round.

Mr. Ndwiga: Mr. Speaker, Sir, we have discussed these matters at great length as a Committee and you cannot tell me that you will talk about the KMC without mentioning the livestock. What will we talk about? What is going to be processed at the KMC? It is not possible. I have consulted widely and we find it difficult to support this move.

Secondly, Mr. Speaker, Sir, the Minister is asking us to be gentlemen and support this move. We could even do that if we had an amendment that guarantees that the person who will eventually rehabilitate the Athi River Plant is the Government. But the way it is now, if we leave this plant to the receiver, we will live to regret the day we supported this move.

The other reason, Mr. Speaker, Sir, why we have vehemently opposed this is because we had a gentleman's agreement with both the Minister for Finance and the Minister for Agriculture; that by the time they table these two Sessional Papers, they will include the Sessional Paper on coffee. It is not here. If you recall, it was the first Sessional Paper even before these two Sessional Papers were introduced. It was then withdrawn. We asked them to reintroduce the Sessional Paper on coffee so that we could talk about the three of them and where we need to make amendments---

Mr. Speaker: Are you suggesting that the Sessional Paper on coffee should hold hostage the Sessional Paper on the Kenya Meat Commission?

Mr. Ndwiga: No, Mr. Speaker, Sir. That was the agreement with the Committee. These two Sessional Papers came to this House and they were referred to the relevant Departmental Committee. So, as Members of the Committee, we had a gentleman's agreement with the Ministers. The next thing we saw was that they brought these two without the Sessional Paper on coffee. I am asking this House not to support these Sessional Papers now. We will support them when the next Parliament convenes because, perhaps, then we might be talking to real gentlemen.

Thank you.

Dr. Ali: Thank you, Mr. Speaker, Sir. As stated, the Sessional Paper is not going to assist the pastoralists, because if the KMC is revived and then sold to a private developer, we have nothing to gain from that. The reason being that we do not have even holding grounds. If we bring our animals on lorries, they will be kept at the gates of that factory for days until they are about to die and they will take them for nothing. We might be forced to sell our animals for Kshs10 when we bought them for thousands of shillings. I can only support this Sessional Paper, as an individual, if the Government gives an undertaking that it will revive the KMC instead of selling it to an individual. According to the Sessional Paper, which I have just received, it is stated that the Government will not be directly involved in the revival of the KMC. If that is the case, and the National Bank of Kenya is going to sell the KMC to receivers, then who are these receivers? The person who buys the KMC can do whatever he wants with it.

Mr. Speaker, Sir, I do not want to waste more time. I do not support this Sessional Paper.

(Applause)

Mr. Keriri: Thank you, Mr. Speaker, Sir. I stand to oppose this Motion. The two Ministers pleaded with us to support the proposals made in this Sessional Paper, but it is so scanty that anybody supporting it would not have any reason to do so. One, in this Sessional Paper, the Minister is talking about only one loan, but when he stood up, he listed several loans from other institutions and he did not tell us what will happen to them. He did not tell us whether these other institutions are holding the Government at ransom.

Two, the Minister has not told us what plans he has to revive the KMC. He is just telling us that they want to take over these loans and then revive the KMC. How are they going to revive the KMC? We ought to have a project plan showing the feasibility of reviving the KMC. Where are they going to hold the animals when they revive the KMC after they have sold or dished out all the holding grounds that the KMC owned? Are the animals going to be taken from the dry areas and brought to KMC? Where are they going to be held before they are slaughtered? I think the Minister should give us a complete plan to tell us how they are going to revive KMC; what money is going to be spent, how much it will cost, and whether the Government going to borrow more money or they have got money in the Government kitty to revive KMC. Unless we are told that, I think we are being taken for a ride. I do not think any sane person would like to support this Sessional Paper the way it is.

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I am really surprised that even hon.

Members like Mr. Keriri who was very active in the setting up of KMC in those days can talk the way he is talking. Equally, I am also surprised that people who believe in poverty reduction and who know agriculture, like Mr. Ndwiga, can also talk negatively and hold hostage one sector when Kenyans are supportive of every sector so that our people, who live in the rural areas can benefit and be empowered to join in the gainful economy.

Mr. Speaker, Sir, in the early days when I was in the Ministry of Agriculture, I was involved in the development of the livestock sector, and KMC is crucial to the economy of the livestock people in the rural areas. It is a chain, because it starts from the person who is producing and there is the holding ground which holds these cattle up to KMC. It is at the KMC that you complete the processing of the product before marketing. Therefore, it is inconceivable that people should wonder why we are reviving KMC before the abattoirs. There is a small thing which can be developed parallel to the KMC. The KMC is a parallel to the KPCU in Nairobi, for the coffee people. I do not see any reason why those who are supporting the KPCU can attack the KMC which is only a few miles from where the KPCU is, in the case of livestock.

Mr. Speaker, Sir, this Paper has been gone through by experts within Government circles, chaired by the Minister. It has also gone through a Committee of this House which has scrutinised and has approved this Sessional Paper for deliberation in this House. I think if we are really truthful to our own people, and if we really want them to come out of poverty, we should support this Paper.

Mr. Katuku: On a point of order, Mr. Speaker, Sir. I do not wish to interrupt Mr. Biwott, but he has said that the relevant Committee has approved this Paper, while I have a report here which says that they recommend that---

Mr. Speaker: Order, Mr. Katuku! You do not rebuff the Chair! He is talking about the House Business Committee that brought the Paper for discussion.

Mr. Katuku: Mr. Speaker, Sir, he talked of the Departmental Committee on Agriculture, and that is why I am saying that the report is here---

Mr. Speaker: Wait for your time! I may come to you next!

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I think I said that the relevant Committee has looked at it, and I believe that they had approved it. That was actually the message we got in the House Business Committee, previous to the one held last night, which I did not attend. The House Business Committee which met yesterday approved that this Sessional Paper be tabled today, and rightly so, because we are concerned about poverty.

Mr. Speaker, Sir, today, UNIDO has singled out leather and leather products in this country as an example for other countries. They would like to develop it so that we can use it as an example. The whole AGOA is waiting and has given us unlimited access to that market for leather and leather goods.

Mr. Osundwa: On a point of order, Mr. Speaker, Sir. I hate to interrupt my friend, Mr. Biwott, but when he says that he wants to revive the leather industry, and yet he has misled the Government into signing trade protocols which have brought in cheap imports and even killed the leather industry---

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I think the hon. Member has been singing "Rainbow"! "Rainbow"! until he has forgotten the details. The protocols which I have signed are the ones which have given us duty free access to American markets and Europe. Leather and leather products are number one. We can actually sell a lot of goods from this sector to those markets, to the benefit of our own people.

Mr. Speaker, Sir, if we cared to listen to the Minister for Finance, when he was moving the Motion, this was an area where he was making it impossible for cheap imports to be brought into the country because we want to revive our own leather and leather products industries here. We would like to give more jobs to our women and *Jua Kali* people. We want to give people jobs through, for example, Bata Shoe Company and so on. The KMC is crucial if we are going to empower our own people in the nomadic areas of this country and those who are producing livestock. Whereas it would have been nice to have the Sessional Paper on coffee, we would have supported it if it was brought here. In the House Business Committee, we had agreed that if it came as a third Paper, we would support it.

I think the Minister for Finance has actually done a Paper which will show us how, if KMC is revived, it will benefit this country. The process of reviving it has actually been articulated in the sense that he has said how KMC, in the present state, will be transformed through all those legal stages which are acceptable as norm, until it is revived for the benefit of the livestock people.

With these few remarks, I beg to support, and I hope that all the hon. Members will support the Motion, because the *mwananchi* is listening.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Thank you, Mr. Speaker, Sir, for this opportunity. I applaud your choice because some of us are really interested in this matter.

I would like to thank the Government for bringing this Sessional Paper to the House. I think it is a rare opportunity for this House to rise to the occasion for once, in order to realise the aspirations of the pastoralist communities in this Republic. I say so because I know when the Kenya Meat Commission was founded---

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Would I not be in order to ask the House to suspend discussion on this Motion until they have Tabled a report of the relevant House Departmental Committee first, so that we can know what is involved?

Mr. Speaker: Order! Assuming even there was no report of the Committee, first it is not obligatory and second, you do not suspend the business of the House on a point of order! You have to go through the process. Could I appeal to the House to let the hon. Members, who have a contrary opinion, say it, and then you will have an opportunity to counter them? What is the whole big deal?

Proceed, Mr. Ethuro!

The Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, I think we are being intimidated here. This is the original seal between Abel and Cain, where the one who was keeping the livestock and the one who was an agriculturalist had a big contest. This contest continues to this day. This is why I am asking this House to support all initiatives for the pastoralist communities.

It is completely unfair to Kenyans that hon. Members cannot support the revival of the KMC because the Sessional Paper on coffee was not brought before the House. I would like to assure the House that I will be the first person to support a Sessional Paper on coffee, because I think it is good for Kenyans. I would like to urge the rest of us to support it. Just because it does not affect your corner of the Republic--- We should appreciate that this country is bigger and it has diverse interests. In order to meet self-sufficiency and our national objectives of food production, pastoral communities, who comprise a sizeable population of this country and have more than 50 per cent of our national herd size---. This is a population that is feeding this country every weekend on *nyama choma*. When tourists come to this country, we always advertise to them that they should wear *Safari* boots which say that they know Africa.

I think we need to be serious. In the dying moments of the Eighth Parliament, let us make Kenyans proud. If this House will not approve this Sessional Paper, we will mobilise our pastoralists so that any MP who votes against it will not come back to this House. I am extremely serious!

Mr. Speaker: Order!

Mr. Kathangu: Jambo la nidhamu, Bw. Spika. Mbunge anayeongea anatomia maneno makubwa sana yenye madhara na huku tunajua kuwa juzi katika sehemu yake kuliuawa mtu. Anasema kwamba atahakikisha kwamba kila Mbunge atakayeipinga Hoja hii hatarudi katika Bunge hili.

Mr. Speaker: Order! I would like to know what the hon. Member said because I was consulting. But it is wrong for Mr. Kathangu to point out that a former MP was killed in Mr. Ethuro's constituency as if that constituency is the only scene of a murder. A murder can occur anywhere in Kenya. What is the insinuation anyway? Mr. Kathangu, are you suggesting that he is the cause of it?

Mr. Kathangu: Bw. Spika, mimi ninashikwa na hofu kubwa sana kwa sababu anaposema tutaenda, hiyo inanikumbusha mambo yaliyotendeka juzi. Hiyo ndio shida niliyo nayo.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, for the record of the House, I said that I would mobilise the pastoralist communities not to vote. I think the hon. Member owes this House an apology because he is imputing wrong motives on me. He is basing his allegations on completely incorrect information because that death did not occur in my constituency.

Mr. Speaker: Order! If that is what he said, that he will mobilise the pastoralist communities to vote against anybody, that is perfectly in order. What is exciting you about that? Are they not supposed to vote?

Mr. Kathangu: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: By the way, Mr. Kathangu, you must give him his right to speak!

Mr. Katuku: But he should not threaten us!

Mr. Speaker: Order, Mr. Katuku! You are a developing a terrible habit of heckling everybody generally, including the Chair. Will you please keep peace for the balance of our stay here?

Now proceed!

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

Mr. Speaker: You are out of order!

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, given the various points of order, some from Mr. Kathangu, could I be added more time because of the time wasted? I was objecting to this casual attitude; to a very serious and grave matter about the lives and livelihoods of a significant proportion of the population of this country. This population is estimated to be about 4 million Kenyans. Every single Kenyan, in my view, is entitled to a livelihood. If this House can offer that Kenyan an opportunity to live and enjoy his life, then we will have made our contribution to this country, as a Parliament, worthwhile. There is a significant population that is completely reliant on a particular sub-sector known as pastoralism.

One of the greatest institutional constraints to livestock development is lack of access to markets. The KMC was purely formed in order to provide a market to this particular sector. Our people have become poorer by the day, especially in northern Kenya because of lack of a livestock market. Given that we are talking about poverty alleviation, and given the concern that the number of people living below the poverty line is increasing by the year, then we need, as a House, to put in place measures that will address poverty reduction. I want to submit that the KMC will address the poverty problem faced by the pastoral regions. I also want to add that hon. Members are keen to ensure that when that payment of Kshs372 million has been made to Mitsubishi Corporation, the Athi River plant will be revived in order to serve its intended purpose. That is a legitimate claim which we will all support so that we ensure that this payment is not made in vain, but that it will serve its intended purpose.

The issue of drought is a big problem in this country. This is one of the problems being addressed by the National Disaster Centre in the Office of the President. If you look at ---

(Mr. Ojode held consultations while on his feet)

Mr. Speaker: Order! Mr. Ojode, will you please observe the rules? If you are not contributing, sit down! You are not allowed to hold a public rally at the back there.

Proceed!

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, I was saying that the occurrence of drought has increased over time. You will appreciate that in the 1960s and 1970s, we used to talk about a ten-year drought cycle. In the 1990s, the drought cycle reduced from ten years to five years and this is a big problem. One of the ways in which we can improve the income of the rural folks is to allow them to do destocking when there is a drought. That destocking can only be possible when they have access to the KMC as was previously the case. The problems that caused the collapse of the KMC had nothing to do with the demand for goods. They were purely managerial problems. This is a matter of efficiency. When the new equipment, which has not been utilised, is put in place we should be able to realise efficiency.

We have a lot to learn from Botswana. This is a country that has thrived and developed on its cattle industry. We can do the same in this country. We have just seen cases where live camels are being shipped to Saudi Arabia. This demonstrates that we can do more than just what the KMC has done so far if the Government is serious. Since the Government has brought this particular Sessional Paper, then this House should be able to expedite the process so that our pastoral people can gain access to markets and increase their income on the basis of these markets.

With those remarks, I want to appeal to the House to support this Motion as I do.

Ms. Karua: Thank you, Mr. Speaker, Sir. I very much agree with the sentiments that we need to revive the Kenya Meat Commission (KMC), but I am very much disappointed with the Sessional Paper. I see here that the total loan owing to Mitsubishi Corporation is whatever millions that are shown and yet, the amount that is being prepared for that particular project is the exact amount of the loan. We know that the KMC is no longer operational. Where are they going to get the money to revive that particular project? I would have expected that we would be asked for an amount equivalent to the loan, plus an amount to revive the KMC. It now looks like somebody somewhere has a hidden agenda. You want to pay the loan and sell that plant to somebody. When this Sessional Paper was last tabled in August, the same questions were put to the Minister concerned. Assurances were required by the Members that once that loan is written off, we are not going to lose that plant to a private individual, and that the benefit is going to accrue to pastoralists and Kenyans in general. We very much need to alleviate poverty, but let somebody not hide behind poor pastoralists to benefit their own pockets. Unless we are told by the Minister where the money is going to come from to make that plant operational after the loan is written off, the next business is to go back to the drawing board, so that a proper plan is laid before the House, which includes the write-off and also the money to revive the plant.

We also need the assurance that, now that we do not have a State Corporations Divestiture Bill and we are yet to get the Private Member's Bill proposed by one hon. Member, we need assurances by the Government included in this Sessional Paper, that, that plant will not be sold once the debts are written off, without the approval of this House. If we do not do that, we have very real fears that we are going to write off that loan and when we are busy campaigning and there is no Parliament, somebody somewhere, through under-hand means, is going to acquire the KMC as a going concern, and the pastoralists and the people of Kenya will not have gained from that very huge investment.

[Mr. Speaker left the Chair]

[The Temporary Deputy Speaker]

(Mr. Imanyara) took the Chair]

Mr. Temporary Deputy Speaker, Sir, in a nutshell, we are saying that, although this Sessional Paper looks innocent, somebody somewhere may be having an improper motive. As Members of Parliament, we are supposed to be watchdogs of Kenyans---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Do I have a feeling that Ms. Karua is speaking about Mr. Biwott buying that thing?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I do not know where my colleague got that from, but I will proceed. I am saying that it is our duty as parliamentarians to satisfy ourselves that any public money that we commit, will be for the benefit of Kenyans. Let not any Member stand here to tell Kenyans that those opposing this Motion do not feel for the plight of the pastoralists. We do, but even more so, we do so for Kenya as a whole. We do not want any particular group of people to be used as a smokescreen by those who want to unjustly enrich themselves.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, could you protect me from loud consultations?

The Minister for Trade and Industry (Mr. Biwott): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to imply - I did not hear, but I have been told - that Mr. Biwott wants to buy the KMC?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I can harness what James Hardly Chase says: "The guilty are afraid", but I have not said any such thing! To conclude, I do not intend to be lengthy on this matter, but I want to say that we need to approach this issue with sincerity. Let some Members not make it look like those who are opposing this Motion are not concerned about the plight of pastoralists. We are very much concerned, but we do not want their plight to be used by an individual or a group of individuals to unjustly enrich themselves. We want a proper plan, and it is incumbent upon the Minister to explain to us how he is going to make those plans operational.

We also know that the holding grounds have already been grabbed. What is going to happen because we know that some of the assets of the KMC have already been vandalised? Could we be given an inventory of the assets? Could we be given a proper plan that can convince us that, that is a genuine plan? It is election time and we know a lot of things are done to raise campaign money. Let that not be a project to raise funds for campaigns. We want a genuine revival plan. I know that when the National Alliance of Kenya (NAK) finally wrestles power from KANU, those plans will be comprehensive and the pastoralists and all poor people of this country are going to have poverty eradication plans that are credible. We know that the plight of farmers---

Mr. Ndwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have listened to the contributions and I think the House has made the point that it wants to make. Could we ask the Mover to reply?

The Temporary Deputy Speaker (Mr. Imanyara): I will go straight on and put the Question.

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

(Loud consultations)

Order, hon. Members! Proceed, Mr. Minister!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me this opportunity to reply. I want to say one or two things. The first one is that, currently, the KMC is under receivership and, as I said, the KMC is indebted to the tune of close to Kshs3.3 billion. We must bear in mind that there is a facility out there, which---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Please, consult in lower tones, so that the Minister may be able to respond.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, it must be remembered that there is a facility out there, which has been rehabilitated and in excellent condition, and which can be put to productive use for the benefit of Kenyans, and towards poverty reduction initiatives. We must also remember that what we are trying to do is to open a marketing avenue---

Mr. Waithaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead the House that, because the factory is in good condition and can be sold, the Government should pay Kshs372 million instead of handling this matter professionally?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Waithaka! You know very well that, that is not a point of order, but you have made your point.

Proceed, Mr. Minister!

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, if the hon. Member would listen, we should approach this matter with utmost good faith, quite frankly. We are saying that nothing can happen to the assets of the Kenya Meat Commission (KMC) for the time being for as long as it is under receivership, and for as long as the assets of that organisation are charged to Mitsubishi Corporation under this chattel mortgage.

A question has been raised about holding grounds. The Auditor-General (Corporations) carried out a comprehensive audit and I will table a copy of that report here for the benefit of hon. Members. If you look at the audit report, you will find that many assets are still intact and in good condition. These include some of the holding grounds which are suspected to have been sold.

Mr. Kaindi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am wondering why the Minister keeps on misleading the House that, by paying this money to Mitsubishi Corporation, the KMC can be re-opened when he has said very little in this Paper about the sundry debts which are over Kshs250 million and are not covered here.

The Temporary Deputy Speaker (Mr. Imanyara): Could you repeat what you have said?

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to continue misleading the House that by paying Kshs372 million, the KMC will actually be opened when he knows very well that this Paper does not address sundry or other debts which today amount to Kshs250 million?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, by addressing the chattel mortgage, I am not saying that we will put the KMC into operation the following day. However, I am saying that, that is the first major step towards reviving that plant. This will enable us to start discussing with the debenture holders who have appointed a receiver manager so that we can agree on the modalities of moving forward.

We know that there is something in this country called "Receivership Laws". I do not know whether it is prudent for me to come to this Parliament to seek authority to write off Kshs3.3 billion when we can use a cheaper method to achieve the same through the receivership law. That is what we are trying to do so that the taxpayers' burden is reduced.

One of the conditions which have been put and we have agreed on with debenture holders; the National Bank of Kenya (NBK) is to ensure that the KMC is sold as one operational unit. So, there is no point of splitting the assets and selling them in piecemeal. This organisation will have to be sold as a slaughterhouse. I would like to say that our main objective is to make it possible for us to have another marketing avenue for livestock farmers. We believe that if we turn these assets into productive use, we will assist livestock farmers to have an additional marketing avenue. This will help alleviate their problems at the moment. I think this House should look at this matter with more sympathy than at the present.

Mr. Keriri: On a point of order, Mr. Temporary Deputy Speaker, Sir. When the Minister was talking about the holding grounds, he referred to an audit Paper which proves that the holding grounds exist. Is he in order to refer to a Paper which we have not received in this House to see whether what he is saying is true or not?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I am referring to a Paper which exists. I said that I am prepared to lay it on the Table of this House, if it will be required. This Paper has been made available to the Departmental Committee on Finance, Planning and Trade.

Mr. Musila: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt my friend. He has referred to an audit report on the holding grounds, when he is fully aware that we have Reports of the PIC which clearly state that the holding grounds around Athi River and even elsewhere in the country have been grabbed. Is he in order to mislead the House that there is another report when we have a Report in this House which he knows?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, Mr. Musila should listen to me very carefully. I said that I am aware that some of the holding grounds may have been given away, but I am also aware that there are several other holding grounds which are intact. I would like to say that, with or without holding grounds, we have a slaughter facility which is lying idle. The people who slaughter animals, for example, in Dagoretti do not require holding grounds. Therefore, I believe that this facility can be used with or without any holding grounds anywhere.

What we need to do is to put this production facility into use for the benefit of livestock holders and farmers, which I believe we can.

The second point we should consider is that everyday that facility lies idle, the taxpayer incurs interest. I have

advocated everyday that there is no point of postponing this decision because at the end of the day, the taxpayer will have to pay an enhanced cost. Therefore, the sooner we take this decision the better.

Once again, I would like to inform hon. Members that there are some Kenyans somewhere who are suffering because they have no avenue for selling their products. I believe that if we make this plant operational, not necessarily by the Government, but by the private sector or anybody else--- The most important thing is to put this facility into production. Therefore, I plead with hon. Members not to be subjective about this matter. This is an important matter because it affects the lives of Kenyans somewhere. I would like to say that whatever happened in the past--- Many of us were not there at that time, but it is important that corrective action is taken now. I would hate to come to this Parliament and ask for a write-off of Kshs3.3 billion. I would rather use the receivership laws which exist today to dispose of this facility.

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

(Question put and negatived)

(Mr. Nassir entered the Chamber and walked to the Front Bench as the Temporary Deputy Speaker (Mr. Imanyara) was on his feet)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Nassir, you should freeze where you are!

Hon. Members: Order, Mr. Nassir! Respect the Chair!

The Temporary Deputy Speaker (Mr. Imanyara): Order! I forgive him, probably he did not hear me. Next Order!

(Mr. Raila was applauded as he entered the Chamber)

ADOPTION OF SESSIONAL PAPER NO.1
OF 2002 ON RESTRUCTURING OF AFC

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

THAT, this House adopts Sessional Paper No.1 of 2002, on Restructuring of Agricultural Finance Corporation (AFC), laid on the Table of the House on Thursday, April 25th, 2002.

Mr. Temporary Deputy Speaker, Sir, before I say anything, I would like to make the following statement: I am aware that sometime last year, a Sessional Paper was laid before this House on the write-off of coffee loans and, at some point, that Paper was withdrawn. However, the Government is fully aware of the serious problems facing the coffee farmers in this country. I also come from a coffee-growing area and I know that, in recent months, coffee farmers have been faced with severe difficulties and that they have also been faced with the plight of increasing levels of poverty.

Mr. Temporary Deputy Speaker, Sir, I had also given an undertaking to both the Departmental Committees on Finance, Planning and Trade, and the Committee on Agriculture, Lands and Natural Resources, that at the time of tabling the Sessional Paper on AFC, I will also table a Sessional Paper on the write-off of coffee loans. But, I regret it is not ready because some reconciliation was required, which is going on at the moment. However, I want to give an undertaking here that we should be able to table a Sessional Paper on the write-off of coffee loans, tomorrow afternoon, at the beginning of business.

I will then proceed to say something about AFC---

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. The Minister has agreed that he promised to bring these two Sessional Papers together. Now that the Coffee Sessional Paper is not ready and that it is going to be ready tomorrow, why can he not just wait until tomorrow and bring them together, instead of bringing them separately?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Mutahi, you know that he cannot do that. Proceed, Mr. Obure!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I just wanted to clarify that the two Sessional Papers are separate and I hope that the hon. Member takes my undertaking seriously. I want to say the following: The AFC was established with a mission to assist farmers everywhere in the country. In the initial stages---

Mr. Wambua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it order for the Minister to tell the hon. Member for Mukurwe-ini to take his undertaking seriously while we know that he did give an undertaking to teachers, but he never paid them? Who will trust you?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I know that the hon. Member is not a teacher and he is not likely to be one. Therefore, he is not even aware that the teachers have reached an agreement with the Government.

*(Dr. Godana consulted with his colleagues
from the Back Bench while on the Front Bench)*

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Chair satisfied that Dr. Godana is behaving in an orderly manner?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Mwenje! Even if you stand on a point of order, you must catch my eye!

Mr. Mwenje: But I am on a point of order!

The Temporary Deputy Speaker (Mr. Imanyara): Overruled!

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I would like to inform the House that the AFC is presently technically insolvent as a result of a number of reasons. Some of the reasons include the fact that, from the time we abolished the Guaranteed Minimum Return Scheme (GMRS), the AFC has increasingly become vulnerable.

The second reason is that, with the introduction of liberalization in the agricultural sector, it became very difficult for the AFC to collect its debts and, therefore, its capacity for debt collection was adversely affected.

It is also important to note that the write-off of loans to farmers was done as a result of a directive from the Government following the severe drought of 1994. After that directive was given the amount was written off and the farmers were relieved. But, unfortunately, that amount was not written off from the books of the AFC. Therefore, that has continued to be reflected in the books of AFC, imposing a severe burden on that organisation.

Secondly, that write-off action should have been followed by an injection of additional funds into that organisation.

The third reason is the fact that the nature of securities, which are in many cases farm-based, made it very difficult to enforce repayment, as it would turn many borrowers into homeless citizens. The Chair would appreciate that this conflicts directly with the Government's socio-economic policies.

Mr. Temporary Deputy Speaker, Sir, it is also important to note that, on a number of occasions, the AFC was asked to give credit to farmers at certain rates. On a number of occasions, the rate of interest charged on this credit was lower than the rate at which the AFC itself borrowed the funds. Therefore, in a way, we were asking the AFC to subsidize credit to farmers without, at the same time, reimbursing that organisation. Therefore, it is necessary to come forward with a number of measures that will ensure that the AFC is maintained and its operations sustained. One of the major steps to be taken is to seek a write-off so that we can give this organisation a fresh start in its life.

I want to assure hon. Members that the loans that we are seeking write-offs for range and practically cover the entire country. They cover farmers from, as far as Mandera; South Coast, in the Ramisi area; Nyanza, in the sugar-belt area, farmers from the Rift Valley and Central Province. They also cover people involved in ranching everywhere in the country. So, I want to assure hon. Members that we do not intend to include loans, which are performing at the moment, in this write-off. The only loans that will be written off are those ones which are not performing. These include loans for which there are no securities, and those in respect of which the borrowers have died leaving behind orphans and widows. We are talking about the poorest categories of the Kenyan society. We are talking, in every respect, about loans which are completely irrecoverable. Therefore, I want to assure this House that the notion that we will be writing off loans in respect of prominent able Kenyans is not correct. The loans which we are seeking to write off were given to very poor category of our citizens.

I think it is important, at this point also, to state that when the AFC had money, and this could be one of the reasons why it collapsed, they extended their operations and established offices everywhere in the country. As a result, they incurred very high overhead costs. Adequate measures have been taken to improve the management of AFC and to ensure that we have people in place who are professionally sound. These are people who have a vision and who know where they want to take this important institution.

At this point, it is important to emphasise the fact that we need a strong farmers' organisation that will provide credit to farmers. If we talk about improving agriculture in this country, it is not possible to do so without a strong farmers' organisation that will assist farmers by providing credit.

Lastly, I want to say that in this year's Budget, in the process of reviving the KMC, we are talking about injecting fresh capital of over Kshs1.3 billion over a five year period. Therefore, in this year's Budget we have provided some Kshs260 million towards this cause and we will continue to do so over a period of five years to ensure that we have a strong viable organisation to serve the farmers.

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

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I rise to second the Motion on this Sessional Paper.

The AFC was one of the best organisations in the world. It was set up by the World Bank. It was modelled on a base system existing in other parts of the world. However, it failed because of mismanagement. It also failed because of the nature of agriculture in this country. Agriculture depends on weather. However, the vagaries of weather do not guarantee a farmer his produce. In the past, when this system worked very well and people were honest, there used to be the Guaranteed Minimum Returns (GMR). There was also the Minimum Guaranteed Financial Returns (MGFR). But because of various reasons, the AFC collapsed. As mentioned by the Minister, one of the reasons why the AFC collapsed was because of changes in the exchange rates and the cumulative burden which the farmer acquired as a result of failure of his crop because of drought, *El Nino* rains or other natural forces which were beyond his control. Equally, the fall of prices because of competition in the world market adversely affected the AFC.

I think the Minister for Finance ought to be congratulated for coming up with this Sessional Paper which will assist the poorest of our society in the farming community who depend on agriculture for their sustenance.

In the world today, millions of pounds are spent in the developed countries to subsidize their agricultural activities. They use subsidies to sustain their own agricultural activities. They pump in a lot of money to support agriculture by way of production support or export guarantee schemes. This distorts and undermines the sale of our own produce. This is a major item which is being negotiated at the moment in the WTO in order to make trade equitable.

Mr. Temporary Deputy Speaker, Sir, until those who need to finance their own agriculture realise the importance of agriculture, then it will continue to be a source of problems to the developing countries. In these countries, food security is a real risk and they use their meagre foreign exchange earnings to import food. There is food shortage because of high production costs in most developing countries. They run the risk of getting unsafe foods like the GMOs from the developed world because of poverty.

Mr. Temporary Deputy Speaker, Sir, I was looking at the Report by the Departmental Committee on Agriculture, Lands and Natural Resources which deliberated on this Sessional Paper.

Mr. Temporary Deputy Speaker, Sir, I was very pleased because they recommended that this Paper be adopted but ensure that, in future, there will be efficient management and that the Board will be diligent and supervise the activities of AFC. So, at least, hon. Members are contributing effectively to the fight against poverty and food shortage in this country. They want to provide the only means through which the agricultural sector can be supported. I would say that we are a leading light in this region. We are a role model and we must maintain this status.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to second.

(Question proposed)

Mr. Ndwiga: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.21 to request this House to adjourn debate on this Motion. I have two reasons to do so. One is that if we proceed in the same way, we are likely to shoot down a very important Motion that might give relief to poor farmers. I have discussed with my colleagues here. If you look at the list of debtors, you will see that the Minister has not effectively addressed it.

Mr. Temporary Deputy Speaker, Sir, we have certain people here who cannot have their debts written off. I want to give you a candid example of Mr. Parpai who had a loan and he paid it off. He was given back his title deed and he has since sold that land. His name is in this list. We are likely to cause a lot of hardship to poor farmers who really require their loans to be written off.

Secondly, we as hon. Members of the Departmental Committee on Agriculture had a gentleman's agreement with the Minister that he would bring this Sessional Paper together with the Sessional Paper on coffee. As the Minister initiated debate on this Motion, he said that it would be here tomorrow.

For those two reasons, therefore, I urge the House that we adjourn debate on this Motion until tomorrow, so that justice is done, and so that we can do the right thing.

With those remarks, I beg to move.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I am satisfied that the Motion moved by Mr. Ndwiga falls under Standing Order No.21(3). I will, therefore, put the question straightaway.

*(Question, that the debate be now adjourned,
put and agreed to)*

THAT MR. SPEAKER DO NOW LEAVE THE CHAIR

Adoption of National Assembly and Presidential
Elections Regulations, 2002

THAT, this House adopts the draft National Assembly and Presidential Elections (Registration of Electors) Regulations, 2002, and the Presidential and Parliamentary Elections (Amendment) Regulations, 2002, laid on the Table of the House on Thursday, 8th August, 2002.

(The Attorney-General on 22.10.2002)

(Resumption of Debate interrupted on 22.10.2002)

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Omingo was on the Floor when debate on this Motion was interrupted. Could he continue?

An hon. Member: He is not here!

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Omingo is not here. So, Dr. Wekesa, you may take the Floor.

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to contribute to this Motion.

I would like to address issues which my colleagues did not touch on. I have in mind mobile polling stations. There is need for the Electoral Commission of Kenya to think seriously over the possibility of introducing mobile polling stations. I happened to participate in a by-election for Kapenguria, where we spent two hours looking for a mobile polling station. Among those who waited were polls agents and officials of the ECK, who had the poll materials. It was difficult to pinpoint where the mobile polling station was located. So, you realise that some areas in this country need mobile polling stations. However, the location of such polling stations should be clearly defined. On that particular occasion, we were looking for a certain tree, which had been used as the polling station at that centre during the general election that preceded the by-election. However, when we arrived at that tree, there was no indication that there was going to be a mobile polling station.

Mr. Temporary Deputy Speaker, Sir, in West Pokot, there were areas which could only be reached on foot; you could not drive to those areas. Alternatively, you could reach them on horse or donkey back.

Mr. Mbitiru: On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that the House has exhaustively debated this Motion. So, it is important that we move to its next stage.

Therefore, I 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 Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, first of all, I would like to thank all the hon. Members who have positively contributed to this debate and, in particular, Messrs. Biwott, Raila, Prof. Ongeru, Messrs. Munyao, Dr. Omamo, Dr. Ochuodho, Messrs. Haji, Kihoro, Musila, Murungi, Mrs. Sinyo, Dr. Anangwe, Prof. Anyang-Nyong'o, Messrs. Angwenyi, Mutiso, Mwenje, Omingo, Nassir, Mwiraria, Karauri, Mboko and Dr. Wekesa.

Mr. Temporary Deputy Speaker, Sir, the fact that so many people contributed to this Motion within a very short time is, in itself, indicative of the importance of the elections regulations. I would like to, briefly, go through the various concerns raised during this debate.

Yesterday, Mr. Mutiso raised the issue of my draftsmen in my office. I believe that sometime this year, I informed the National Assembly that we had advertised for legal draftsmen three times not only in the local daily newspapers but also in the minutes of the Law Society of Kenya; but we have been unable to get the required response to the extent that, as I speak now, we still have ten vacancies for legal draftsmen. The job requires a very specialised skill. As I speak now, there are many draftsmen undergoing training in the United Kingdom as well as in the Caribbean countries. The Government has organised short courses locally and everybody in my Chambers has been trained in legal drafting, but we still need more experienced legal drafters. I have two experts, whom I am very proud of, who have helped in the drafting of the many Bills that are now waiting to be debated by this House. If the staff that I have could not be supplemented by the two experts, it is unlikely that we would be having as many Bills awaiting debate in the House.

Mr. Mutiso also raised an issue regarding the National Assembly and Presidential Elections (Registration of

Electors) Regulations, 2002, and the Presidential and Parliamentary Elections (Amendment) Regulations, 2002. If I may remind hon. Members, these regulations are similar to the previous regulations, with a few exceptions, where we had to amend them to take into account amendments effected to some the laws, to ensure that the registration of voters exercise goes on continuously. So, these regulations now take into account the fact that registration of voters must go on continuously. Further, Mr. Mutiso said that he would have liked Regulation 4(2) amended. He felt that the fine provided for under this regulation is not stiff enough, and I agree with him. If he brings the appropriate amendment, I will increase the fine from Kshs2,000 to Kshs5,000.

Also raised was the issue of the re-appointment of the Commissioners of the ECK and its Chairman, particularly in view of the fact that they now have the requisite experience which can be put to good use in the next general election. I discussed this issue with all the political parties, and it was agreed that the ball was in their court; every parliamentary political party was supposed to resubmit names of Commissioners for re-appointment by the President, as per the provisions of the Inter-Parties Parliamentary Group (IPPG) agreement. Political parties re-submitted the names of serving Commissioners for re-appointment only yesterday, and the reappointing process is under way.

Mr. Temporary Deputy Speaker, Sir, on behalf of the ECK, I would like to take this opportunity to thank hon. Members for the confidence they have reposed in the current ECK, under the chairmanship of Mr. Kivuitu. The confidence expressed by hon. Members is particularly important given that we are approaching another general election. This will enable us to have confidence in the ECK, so that it can conduct the elections fairly and objectively.

Mr. Temporary Deputy Speaker, Sir, Mr. Kihoro mentioned the contract between the Government and Messrs Smith and Wiseman. It is true that Messrs. Smith and Wiseman were awarded the contract as a result of tenders which were floated in accordance with internationally accepted procurement regulations. Messrs. Smith and Wiseman won the tender openly and fairly. If Mr. Kihoro had a firm that could undertake this work, he should have submitted application forms because the tender was advertised.

On the issue of transparent ballot boxes, the fact of the matter is that as we speak now, neither the European Union nor any donor has said that it can finance the purchase of transparent ballot boxes. We need 80,000 ballot boxes, and we have no donor to finance their purchase as we speak now. In any event, now that we have proposed that votes should be counted at the polling station, which means that the ballot boxes will not be moved whatsoever, the need for transparent ballot boxes is not there. If I may remind hon. Members, in South Africa's recent elections ballot boxes were not transparent. They were paper cartons. This was because counting was taking place at the polling station. In Lesotho and Mozambique, the ballot papers were pieces of metal, and the elections were judged to be free and fair by the international observers. So, because we have proposed that counting be done at the polling station, then the need for transparent ballot boxes is not there. In any case, their cost is prohibitive. We do not have the money to purchase 80,000 ballot boxes. We now have 60,000 ballot boxes and the Electoral Commission of Kenya (ECK) has asked for 20,000 more ballot boxes.

Mr. Temporary Deputy Speaker, Sir, on the issue of election observers, the amendment is there. We have proposed that the ECK should issue guidelines which are internationally accepted; on accreditation of observers. A number of issues were raised, for example, election petitions and election offences, but that comes under the rules on election petitions. They are good points, but they will be dealt with when we will be discussing the rules which relate to election petitions.

There were also some criticisms of the 1997 general election. The decision to extend voting was made and that extension only covered those polling stations where voting had not either taken place on the first day, or was unduly delayed on the first day. Therefore, the extension was to compensate for the period when voting had not taken place. Also, the decision was not taken by a single individual. It was taken by the ECK in a plenary session, where all the Commissioners were present. At least, there was a quorum for them to have conducted business and make a decision. So, the decision was not an arbitrary decision.

As you are aware, in a number of election petitions now, the High Court has ruled that the ECK has power to postpone or extend the voting period. In the regulations that we are now passing, it has been made clear under what circumstances extension of time can take place. So, this is really a normal issue, and on this occasion the decision was taken properly.

An issue was also raised about the last general election where ballot papers were taken to wrong polling stations. On behalf of the ECK, I want to assure you that, that will not happen again. We were dealing with a new printer, but it had not been fed with proper instructions by the ECK. The ECK does not check whether the ballot papers in any given box relate to a particular area. In the past, the ECK has not opened ballot boxes until they have reached the polling station. If they opened the ballot boxes, they would be subject to people alleging that rigging took place.

Now, the printer has been instructed that the ECK does not open ballot boxes before they reach the polling station. We have to be extra-cautious to ensure that correct ballot papers are put in the correct boxes for various

constituencies.

The issue of time was also mentioned. But now that we have proposed that counting should take place at the polling station, the closing time should not be 6.00 p.m., but 5.00 p.m. Opening and closing time is fixed by returning officers for various constituencies under the general guidelines of the ECK. I have been told to inform you that the ECK undertakes to issue directives that the closure for the voting exercise will be 5.00 p.m. to enable the voting to take place during broad daylight. A number of issues were raised, but I think we can consider them in the Committee Stage.

With those few remarks, I beg to move.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)
[The Temporary Deputy Speaker
(Mr. Musila) left the Chair]

IN THE COMMITTEE

[The Temporary Deputy Chairman

(Mr. Imanyara) took the Chair]

ADOPTION OF NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS REGULATIONS 2002

The Temporary Deputy Chairman (Mr. Imanyara): Order, hon. Members! Hon. Members will recall that the purpose of going into the Committee Stage is to scrutinise every single rule that is contained in these regulations. So, we are going to move through rule by rule and you vote on each rule as we go through them. Hon. Members, we have two sets of rules. We start with the Presidential and Parliamentary Elections (Amendment) Regulations, 2002.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Chairman, I was just going to request you to read out the regulations for us because we do not have copies of them.

The Temporary Deputy Chairman (Mr. Imanyara): The copies have been provided at the back and you can get your copy from there.

(Regulations 1, 2, 3 and 4 agreed to)

Mr. Kikuyu: On a point of order, Mr. Temporary Deputy Chairman, Sir. I am at a loss because I cannot get what we are passing here.

The Temporary Deputy Chairman (Mr. Imanyara): Order! Mr. Kikuyu, these rules were circulated yesterday and they have been read three times now and every Member was given a copy as late as yesterday.

(Regulations 5 and 6 agreed to)

Regulation 7

Ms. Karua: On a point of order, Mr Temporary Deputy Chairman, Sir. I have given notice of an amendment to Regulation 13 which is referred to as Regulation 7 and I was not given a chance to move my amendment.

The Temporary Deputy Chairman (Mr. Imanyara): You may do so now.

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

THAT, Regulation 13(A) which is referred to in the Regulations as No.7 have amended as follows:-
 "by adding the following word after the word "invalid..."

With your permission, I will first read the rule so that the addition may make sense.

"That the nomination paper if presented, a returning officer shall hold a nomination paper invalid on any of the following grounds:

(e) that the nomination paper is presented after another one has been presented by the same candidate by the same political party which nomination paper was not declared invalid by the returning officer;

Mr. Temporary Deputy Chairman, I propose to amend that regulation by adding the following words after the

word "invalid" "provided that where the political party in question has submitted a comprehensive list of parliamentary candidates duly signed by national officials of the party accredited for that purpose, the presiding officer shall confirm the validly nominated candidates by referring to such a list".

The purpose of this amendment is to enable decisions of a political nature to be made by politicians, and that is the political parties, and not by the presiding officer. So, where two candidates purporting to belong to the same political party present nomination papers to a presiding officer, if a political party has already given a composite list of its candidates to the Electoral Commission, then the presiding officer who is the agent of the Electoral Commission shall resolve that dispute by referring to the list of that political party. It would be totally undesirable to ask the presiding officers to make a decision of a political nature. On what grounds would the presiding officer fail to take the papers of one candidate and not another? It is in this spirit that I move this amendment and the Attorney-General did indicate that he had no problem with it.

(Question of the amendment proposed)

The Attorney-General (Mr. Wako): Mr Temporary Deputy Chairman, Sir, I did agree to this amendment and I would like to take this opportunity to inform political parties particularly that it is in their interest to send a composite list of all their candidates to various returning officers also and not just one. Obviously, they will be getting their nomination papers signed by the accredited officials, but if they could send a composite list of all that, signed by the national officials to all the returning officers so that when a dispute of this nature arises, the returning officers can easily cross-check on the composite list which has come from the headquarters.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I have noticed that in the typed amendment the word "comprehensive" instead of "composite" is used. This is a typographical error. In moving I referred to a composite list.

The Temporary Deputy Chairman (Mr. Imanyara): I will take the regulation as an amendment.

*(Question, that the words to be added
be added, put and agreed to)
(Regulation 7 as amended agreed to)*

Regulation 9

The Temporary Deputy Chairman (Mr Imanyara): I think we have received notice from the Attorney-General. The Attorney-General's proposed amendment is on the Order Paper; on page 487.

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

THAT, Regulation 9 be amended by renumbering paragraph (c) as paragraph (d) and adding the following new paragraph immediately after paragraph (b) -

(c) by adding the following new paragraph immediately after paragraph (2)

(2A) Notwithstanding paragraph (2) (e), if two nomination papers are presented in which the same political party appears to have nominated different candidates, the returning officer may investigate the matter and determine which nomination paper to hold invalid.

Mr. Temporary Deputy Chairman, we had agreed that a similar amendment which has just been accepted should also be brought here on the composite list and, maybe, you can read it out now so that the hon. Members may know about it.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I would like to support the amendment by the Attorney-General and to also move a further amendment by adding the following words after the word "invalid" that "provided that where the political party in question has submitted a composite list of parliamentary candidates duly signed by two national officials of the party accredited for that purpose, the presiding officer shall confirm the validly nominated candidate by referring to such a list".

Mr. Temporary Deputy Chairman, Sir, once again this is to ensure that decisions of a political nature are made by the political parties and not by the presiding officer so that where for any reason two candidates appear at a station with papers purporting to be signed by the same political party, that political party, if it has already given a composite list to the Electoral Commission then the presiding officer shall use that list in determining who is the validly nominated candidate.

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

(Question, that the words to be added)

be added, put and agreed to)
(Regulation 9 as amended agreed to)

*(Regulations 10, 11, 12, 13, 14, 15, 16
 and 17 agreed to)*

Regulation 18

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, the Attorney-General's proposed amendment is on page 488 of the Order Paper.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, regulation 18 of the amending regulations be amended by deleting regulation 31(4) of the principal regulations and substituting therefor the following new paragraph -

(4) The following shall apply with respect to a person who assists an elector under this regulation -

(a) the person shall, before assisting the elector, make an oath of secrecy before the presiding officer in the form specified by the Electoral Commission;

(b) the person is only required to make one oath of secrecy, even if he assists more than one elector; and,

(c) if the person breaches his oath, he shall be guilty of an offence and liable to the penalty specified in regulation 42.

(Question of the amendment proposed)

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

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

(Regulation 18 as amended agreed to)

(Regulations 19 and 20 agreed to)

Regulation 21

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Regulation 21 of the amending regulations be amended by adding the following new paragraph immediately after paragraph (d) -

(e) by adding the following new paragraph immediately after paragraph (5) -

(6) If a vehicle or vessel is appointed for a polling station and weather conditions exist, immediately after the presiding officer complies with the provisions of regulation 34, that may interfere with the counting of votes, the Electoral Commission may allow the vehicle or vessel to be moved to a place where the votes can be counted.

(Question of the amendment proposed)

Mr. Kihoro: Mr. Temporary Deputy Chairman, Sir, would the Attorney-General explain to this House why it is necessary to include a vessel as a polling station, and where that will be necessary?

The Temporary Deputy Chairman (Mr. Imanyara): He wants you to explain why a vessel should be registered.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, we are now talking about moving a polling station, particularly in the arid and semi-arid areas at times where the polling station has to be a dam or watering point, as I am told. As of now, those areas have been disadvantaged because you can have a polling station in a building somewhere and yet the people move from place to place. Consequently, the Electoral Commission is of the view that we should re-introduce this in those nomadic areas where people move from place to place, like they have done in other countries; like Zimbabwe and so on. That is why this House has already passed an Amendment to

Regulation 3 which defines a polling station not just as a building, but also as a vehicle or vessel(s). The idea is to have these vehicles for voting purposes particularly in those areas. If they discover that, that community has moved to another point; then that vehicle with that registration number will go to that point and the voting will take place there.

Mr. Kihoro: Mr. Temporary Deputy Chairman, Sir, the particular point is about use of a vessel as a polling station. I do understand what he has explained about a watering point; that is okay. But a vessel, I understand it to mean a ship, maybe, moored on a marine coast of Kenya, or maybe, on Lake Victoria. Why does he want that to be a polling station?

The Attorney-General (Mr. Wako): A vessel will only be used where a building is not available and where only a vessel can be used. It is possible to have such places. It could be a watering point or some island in Lake Victoria and so on, and a vessel has to be used. In any case, as far as law is concerned, we take care of any type of situation that may arise.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, since the facility is a mobile polling station, is the Attorney-General facilitating the agents to move with the polling stations, because one might move the polling station while leaving the agents behind? What facilities is he providing for the agents to move with this vessel?

The Attorney-General (Mr. Wako): I am informed by the Electoral Commission that, if vehicle registration number ZA 1000 is registered as a polling station and they go to a place and they discover that people have moved, that vehicle will move everybody to where the people are. It is reducing the voting to the areas where the people are and I am assured that arrangements will be in place to effect that.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, could we, therefore, have it officially covered in the rules because a returning officer might refuse to carry the agents? Could he add something that will cover them so that they can also be moved together with the vessel to where the people are?

The Attorney-General (Mr. Wako): There can be no valid polling stations without all these agents being present, and they will be present.

Mr. Sungu: I appreciate the Attorney-General's point with regard to these mobile polling stations, but I am worried about the possibility of giving a chance for rigging. What measures does the Attorney-General have in place, for example, for lighting and movement security?

The Attorney-General (Mr. Wako): Adequate security will be provided and we are very well aware that, in those situations where this is likely to take place, security is needed. So, the Electoral Commission is very conscious of those aspects of the matter.

Mr. Kibicho: Mr. Temporary Deputy Chairman, Sir, I thought we had amended the law so that the counting of votes would be done at the polling stations. If that is the case, then why is this regulation worded the way it is? Even if the vessel were to be used as a polling station, it must be permanent and gazetted.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, a polling station may be permanent in Kirinyaga but not in Turkana and, therefore, we must take care of the mobile polling stations in those areas.

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

(Regulation 21 as amended agreed to)

(Regulations 22, 23, 24, 25 and 26 agreed to)

Regulation 27

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

THAT, Regulation 27 be amended, by deleting the words "provisional and", in the second line and a fullstop at the end, and inserting the following words immediately after the word "Commission" at the end, "after a tally of all the votes cast in the elections".

Mr. Temporary Deputy Chairman, Sir, the new rule should now read:-

"That the result of the Presidential election in a constituency shown in forms 16(a) shall be subject to confirmation by the Electoral Commission after a tally of the all the votes cast in the election".

The purpose of this amendment is to remove the word "provisional", because the regulation as it currently stands makes the results of the Presidential elections at the constituency to be provisional until confirmed by the Electoral Commission. But we are saying that since the votes will be counted at the polling stations, and at the constituency level, those results should not be provisional, but subject to confirmation after a tally of all the votes by

the Electoral Commission. So, that is the purpose of this amendment. I have talked to my learned friend, the Attorney-General, and he seems to agree.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I agree to that. It is simply a slight improvement in the phraseology.

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

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

(Regulation 27 as amended agreed to)

Regulation 28

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, Regulation 28 of the amending regulations be amended by deleting paragraph (d) and substituting therefor the following new paragraph -

(d) by deleting paragraph (3) and substituting therefor the following new paragraph -

(3) where a parliamentary election results in a tie, the Electoral Commission shall notify the Speaker accordingly and the Speaker shall issue the appropriate notice or writ for a fresh election at which the only candidates shall be the candidates who tied.

This merely is to provide for what happens in a situation where two candidates get equal votes.

(Question of the amendment proposed)

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

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

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I would like to move a further amendment to Regulation 28 by adding a new Clause (f) to read as follows:-

"Where a dispute arises over the counting and or tally of the votes, a candidate may within 24 hours petition the Electoral Commission, which shall have the power to order and supervise a recount and or a tally as is appropriate provided that the decision of the Electoral Commission shall be made within 48 hours of such a petition".

Mr. Temporary Deputy Chairman, Sir, we have a situation where we are counting at polling stations and where the tally is being done at one central place by the returning officer. If a candidate is disputing that tally or the counting at one or two stations, the Electoral Commission should have the power to order a recount and to supervise that recount. It is not enough to ask the candidate to petition when the matter could have been settled by a simple recount by the Electoral Commission or a simple tally. I am thinking of situations where the difference between candidates is just a few votes which need meticulous going through.

I beg to move.

(Question of further amendment proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I must say we have had consultations on this, and I agree with the proposed amendments.

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

(Regulation 28 as amended agreed to)

(Regulations 29 and 30 agreed to)

Regulation 31

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Regulation 31 of the amending Regulations be amended by inserting after the words "guidelines for elections observers," in regulation 45(2) of the principle Regulations, the words "consistent with internationally accepted standards for fair elections."

This is merely to ensure that the guidelines that will be given by the Electoral Commission of Kenya on the issue of accrediting observers are consistent with internationally accepted standards for fair elections.

(Question of the amendment proposed)

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

(Regulation 31 as amended agreed to)

Regulation 32

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Regulation 32 of the amending regulations be amended by deleting Form 17A of the principal regulations and substituting therefor the following new Form.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Attorney-General, could you just confirm to hon. Members that this Regulation covers all the forms that are attached to all the copies of regulations provided to Members? Let us get the clarification from the Attorney-General.

The Attorney-General (Mr. Wako): Let me clarify the issue. Hon. Members, if I may jog your memories a bit, you may have noted, on Thursday, that the actual forms that were going to be substituted were attached to the Order Paper for Thursday last week and for yesterday. I believe it is just a forgotten thing but they should have been attached on today's Order Paper. That form is more comprehensive than the one which appears in the current regulations.

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, this is where the crux of the rigging matter is. In 1988, during the queuing system of voting, if somebody got, say 120 votes, he would add a zero and it became 1,200 votes. We require these forms here. The amounts in figures must also be with corresponding amounts in words. We want those forms before we pass this particular amendment. It is so important for this election. I believe---

The Temporary Deputy Chairman (Mr. Imanyara): Are you proposing a further amendment?

Mr. Obwocha: I am proposing that, in the event that the forms are not there --- We have not seen the forms.

The Temporary Deputy Chairman (Mr. Imanyara): I was going to propose that the Attorney-General takes us through the form, proposes amendments and then you can make a further amendment. The forms were indeed attached to the Order Paper that was circulated yesterday, but I will ask the Attorney-General to show them to the Members. The Attorney-General will explain what those forms are.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, we are trying to make a law here and I am really shocked that the Attorney-General is asking us to make a law on forms that we cannot see. We could be helping him make forms that could take us to jail for that matter. Therefore, it is necessary for us to at least have some time to go through those forms before we can even talk about them. We have to study them.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Sungu, you have the forms with you on the Order Paper.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, those forms have been deleted by that amendment. There is no other form which he is referring to. Form 17A has been deleted.

The Temporary Deputy Chairman (Mr. Imanyara): Just to clarify, they have deleted Form 17A and substituted it with the one that is attached to the rules.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I was a student of law. It is puzzling for the Attorney-General to come and tell us all this now. It is really terrible!

The Attorney-General (Mr. Wako): I think the hon. Member for Kisumu Town has been attending this

National Assembly very consistently. During the past few days, I have noticed him holding an Order Paper with Form 17A attached. Yesterday, when the Speaker was explaining a few problems about the quickness of the amendment, again I noticed that, that form was attached to the Order Paper. The form that we want to substitute is actually for the benefit of the Members. It is far much more comprehensive than the one that was there before.

If hon. Members do not want this amendment I can withdraw it so that the rules can go ahead. However, hon. Members will be the losers because the form that we are now substituting is more comprehensive than the previous one.

Mr. Kihoro: Mr. Temporary Deputy Chairman, Sir, I have been following this debate from the beginning up to today and I have not seen the substituted form. All along I have had the one that is being deleted. It is important that we do an improvement---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Kihoro, you will find that there are forms that have been crossed out on pages 24 and 25 of the old rules. They have been crossed out and fresh forms - the one Mr. Obwocha is referring to - have been attached to the regulations that have been circulated. Could everybody just look at the set of regulations that we have? There is Form 17A which is being deleted. There is a new form replacing what is in the old rules. Let us get this clear so that everybody understands where we are. Do hon. Members have these forms?

Hon. Members: No!

The Temporary Deputy Chairman (Mr. Imanyara): But they are attached to the regulations. You are holding them! Mr. Obwocha, you have seen them?

Mr. Obwocha: Yes, Mr. Temporary Deputy Chairman, Sir. I have moved an amendment there. I believe hon. Members who do not want to be rigged out should listen to me. I want to move a further amendment to those forms. I have looked at those forms. They are voluminous and they give the details only in figures. I want to move a further amendment that Form 17A---

Hon. Members: Which one?

The Temporary Deputy Chairman (Mr. Imanyara): What Mr. Obwocha is proposing is that instead of using words only, we use both words and figures as is the case with cheques, so that there is a column for figures followed by a column for words.

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, I would like to propose a further amendment to Form 17A. Form 17A provides for a signature only by the returning officer. I would propose that the form be further amended so that we also include the signatures of the candidates and/or their agent.

The Temporary Deputy Chairman (Mr. Imanyara): In other words, Mr. Murungi is proposing, on the third page of the figures, that we have another line for signature by the candidate and/or agent.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I would be so grateful ---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Sungu, please let me propose the further amendment then you can speak.

Mr. Sungu: But what are we amending? I am puzzled!

The Temporary Deputy Chairman (Mr. Imanyara): Order! On the regulations that you have, you will find that there is a set of documents that is separate from the rules that is stapled to these rules. It is numbered 17A.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, forgive me please if I am a bit slow, but this one which is being deleted is marked 17A while these others are not marked.

The Temporary Deputy Chairman (Mr. Imanyara): The ones which are being deleted are on page 24 of the regulations!

Mr. Sungu: The ones which we are talking about are not marked. So, they could be anything! It is only a piece of paper which is not marked.

The Temporary Deputy Chairman (Mr. Imanyara): I do not know! Mr. Attorney-General, could you explain? But before that, let me propose that Form 17A, in addition to Mr. Obwocha's amendment, be further amended as proposed by Mr. Murungi, requiring a further column to be for the signature of the candidate or agent.

(Question of the further amendments proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, on the issue of the two amendments, one by Mr. Obwocha and another one by Mr. Murungi, I have consulted the Vice-Chairman of the Electoral Commission of Kenya who is sitting here and listening to this very keenly and attentively, and he says that he has no objection. So, I will accept the two amendments.

The Temporary Deputy Chairman (Mr. Imanyara): So, could you put Mr. Sungu in the picture, so that he is not left behind? Let him know where we are. He does not know exactly where we are.

Mr. Sungu: I just want to know what I am dealing with here, because this is a matter of life and death for me! As you know, we are going for elections. Please, explain which form you are talking about.

The Attorney-General (Mr. Wako): I am talking about Form 17A. I know that those two people sitting there are very good neighbours. So, be a good neighbour to him and give him a copy!

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Sungu, do you have a copy of the rules? Mr. Murungi, please, share the rules with him. Let us get somewhere! Mr. Sungu, you are being offered the rules by Mr. Murungi!

Mr. Ngure: Mr. Temporary Deputy Chairman, Sir, do not talk about the first form marked 17A. The subsequent one is not marked at all! They might be tampered with. It means you might photocopy them and do anything!

The Attorney-General (Mr. Wako): I think the best way to go about it is to ignore those which are not numbered! Focus on those which are numbered 17A.

The Temporary Deputy Chairman (Mr. Imanyara): Order! That form has three pages! The last page is for signatures.

Mr. Ngure: But what would stop them from being four? They are not numbered! They can even be eight!

The Temporary Deputy Chairman (Mr. Imanyara): I think he is explaining that it will depend on the number of candidates. They could even be four, five or even 100, depending on the number of candidates.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, our colleagues are trying to tie down the ECK. Since we have insisted that the figures will also be written in words, they could even be 20! So, there is no point, provided they are written 17A throughout!

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

(Regulation 32 as amended agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, that completes the first set of regulations. We now move to the second set of regulations; that is the National Assembly and Presidential Elections, (Registration of Electors) Regulations, 2002. If you are looking at the Chair, this is how the front page looks like.

Let me point out that no amendments have been received with respect to these set of regulations. So, you can go through the regulations with me.

(Regulations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 agreed to)

We will now go to Part Five, which contains Regulations 15 to 23.

(Regulations 15, 16, 17, 18, 19, 20, 21, 22 and 23 agreed to)

We will now go to part (b) relating to objections, which contains regulations 24 to 28.

(Regulations 24, 25, 26, 27 and 28 agreed to)

We now move to part (vi) which is the revision of register, regulations 29 to 34.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I just want to ask the Attorney-General to clarify whether Regulation 32 has a provision to the effect that the documents that will be given to our agents will be copies of the original documents. Does he have that provision in place?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, has the hon. Member referred to Regulation 32 on the revision of register?

The Temporary Deputy Chairman (Mr. Imanyara): Yes.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, what is the hon. Member's question?

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I think hon. Obwocha is going back to the old regulations.

(Regulations 29, 30, 31, 32, 33 and 34 agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): I now go to preparation of new register.

(Regulations 35, 36, 37, 38 and 40 agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): I will now go to the Miscellaneous Regulations in Part VIII.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I have one comment which I would like to make to the Attorney-General. During the last revision of voters, most registration centres did not have complete registers for the constituencies. Therefore, those who had lost their cards could not replace them at the registration centres except at the main registration centre for the constituency. This is the case, and yet many people are very poor and cannot raise bus fare in order to travel to those places. I would like to appeal that these registers are made available where registration takes place. In fact, that is why the ECK had so many cases of double registration. Those voters who had lost their cards simply went and replaced them with new ones. They did this because they did not have bus fare to go to the right place so that they could prove that they were actually registered.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, his appeal has been heard by me and the Vice-Chairman of the ECK. I am quite sure that it has fallen on fertile soil.

*(Regulations 41, 42, 43, 44, 45,
46, 47, 48 and 49 agreed to)*

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, these are the forms of the Schedules and they are found on pages 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29. The signatures are on page 30.

(Schedule agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Presidential and Parliamentary Election (Amendment) Regulations, 2002, and its approval thereof with amendments.

I also beg to move that the Committee doth report to the House its consideration of the National Assembly and Presidential Elections (Registration of Electors) Regulations, 2002 and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS

ADOPTION OF THE PRESIDENTIAL AND PARLIAMENTARY ELECTIONS DRAFT REGULATIONS

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the National Assembly and Presidential Elections (Regulations of Electors) Regulations, 2002, and approved the same without amendments.

I beg also to report that a Committee of the whole House has considered the Presidential and Parliamentary Elections (Amendment) Regulations, 2002, and approved the same with amendments.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said two Reports covering the two regulations.

The Minister for Finance (Mr. Obure) seconded.

(Question proposed)

Mr. Sungu: Thank you, Mr. Temporary Deputy Speaker, Sir. Now that we have passed these rules and regulations, we would like to appeal to the ECK to ensure that they are strictly adhered to with a human touch. Quite

often, you will find that treatment of illiterate voters from one polling station to another differs. Even treatment of those who are standing, because sometimes you may be allowed access, as required by the rules, to the polling stations, should be humane.

In other cases, you find a very difficult presiding officer. We want free and fair elections in this country. Therefore, the interference of the electoral process by the Provincial Administration should be a thing of the past. We must put this behind us forever and ever Amen! Administrators are meant to maintain security and not to interfere in governing structures such as the electoral process.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, while thanking the ECK for the good job it has done, it should be noted that after the registration of voters, many people remain with the slips because they were not issued with voter registration cards as they got finished. It is my hope that the ECK will go back and distribute voters' cards so that those slips can be taken away from those voters, especially in my area in Kisauni. I noted that about 2,000 voters had been issued with slips because the voters' cards got finished. It is my sincere hope that before the elections are held, the ECK will send the voters' cards and withdraw the slips.

Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to support.

Dr. Kituyi: Ahsante sana, Bw. Naibu Spika wa Muda. Angalau tunafurahi kwamba tumekubaliana na Hoja iliyowasilishwa na Mkuu wa Sheria, ni lazima tujikumbushe kwamba, kawaida, nguzo za demokrasia hazihitaji kundi kubwa lenye sheria nyingi ili kusimamia uchaguzi bora. Shida yetu ni mila za kiimla. Kama viongozi vinara katika vyama vya kitaifa, haswa chama cha KANU, hawana nidhamu na hawaheshimu mila za kidemokrasia, hata mkiwa na sheria nzuri, watatafuta mbinu, ulaghai na unafiki wao kuleta shida.

Bw. Naibu Spika wa Muda, angalau, Tume ya Uchaguzi ingefaidika kuokoa wale ambao bado wana fursa ya kuokoka na kuwashinda wale ambao nia zao zimeharibu bongo zao kwamba, mila za kidemokrasia zinahitaji viongozi wanaostahili heshima; kwa matamshi ya heshima na vitendo vyao vya kistaarabu. Sasa, jukumu letu ndilo hilo, na tuendapo kuwaeleza Wakenya, tutawaeleza kwamba, watafute viongozi mashinani ambao wamezoea siasa za kidemokrasia ambazo hazihitaji kundi kubwa la kusimamia kura, lakini uongozi ambao hauna shida, na kuwapatia wananchi fursa ya kufanya vile wanavyopenda.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Dr. Kituyi! Order, hon. Members! This is not time for debate! You know very well that debate has been concluded. So, that matter is now over. Before I put the Question, I want to explain that we are now doing the two reports together.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

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

IN COMMITTEE

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

THE FINANCE BILL

Clause 2

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

THAT, Clause 2 be amended by deleting (b) and inserting the following:-

"(b) in Subsection(2) by deleting the proviso to the paragraph (1)(i) and substituting therefor the following new proviso:

Provided that where the vehicle (exclude a motor cycle)

(a) has been in use for a period not exceeding five years, the additional duty shall be five per centum.

(b) has been in use for a period exceeding five years, but not exceeding eight years, the additional duty shall be ten per centum.

(c) has been in use for a period exceeding eight years but not exceeding ten years, the additional duty shall be fifteen per centum.

(d) has been in use for a period exceeding ten years, the additional duty shall be thirty per centum.

The purpose of this amendment is to encourage people to import new second-hand vehicles, the anti-dumping duty of 20 per cent has been very high and the importers of second-hand vehicles tended, over the years, to import vehicles which are over eight and ten years. By reducing the dumping duty of new vehicles to 5 per cent, it will encourage importers to import new vehicles. In part (d) of the clause, the vehicles which are over ten years, I have proposed a bigger dumping duty of 30 per cent to discourage people from importing vehicles that are over ten years.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I have listened carefully to the argument proposed by Eng. Toro. I would like to say that the amendments proposed by Eng. Toro would have serious revenue implications. We will be losing substantial sums of money to the Exchequer if we agreed to that amendment. The intention of the amendment was to make imported vehicles, particularly used vehicles, more expensive. Firstly, the importation of used motor vehicles drains our own foreign exchange reserves.

Secondly, we use substantial amounts of money trying to service almost unserviceable vehicles. A large number of those vehicles contribute significantly to polluting our own environment. If you go along Mombasa Road, you will find that a large number of imported vehicles do not even get to Nairobi from the Mombasa Port. Therefore, we think that we are wasting a large sum of resources importing those vehicles at a time when we should be encouraging local assembling plants to use raw materials to encourage establishment of industries that fabricate spares and provide employment opportunities locally. Therefore, I want to oppose this particular amendment because we do not want to use our country as a dumping ground for vehicles which do not meet certain standards in other countries, so that they have avenues into Kenya as a dumping ground. Therefore, we want to oppose this amendment so that we can encourage the assembly of vehicles locally.

Mr. Temporary Deputy Chairman, you can see that some of the measures we took in the last Budget are already beginning to bear fruits, and already, in some cases, we have seen the prices of new vehicles coming down. I hope this will continue to be the case.

I, therefore, oppose the amendment as proposed by Eng. Toro.

Mr. Mwiraria: Mr. Temporary Deputy Chairman, Sir, the Minister for Finance has said that we have to bear in mind the fact that at the moment, the economy is in such a poor state that many Kenyans cannot afford a new car. It is for this reason that they want to encourage a gradual increase in the dumping duty. But I feel the proposed rates are too high and they will make cars out of reach to most wage earning Kenyans who can afford cars today. For that reason, I will support the proposed amendment.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think the proposal by the Minister for Finance should be read in conjunction with the state of the economy, the need to industrialise by the year 2020, the need to manufacture cars locally and the need to create job opportunities. There is also the need to ensure that whoever buys a car has spares as a matter of service. We should also take into account the fact that we have new vehicles on our roads every day.

(Mr. Musila crossed the Floor without bowing at the Bar)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Mr. Musila, you know much better than all of us, that no Member is allowed to cross the Floor without bowing at the Bar. Could you, please, bow at the Bar before you cross to that side?

(Mr. Musila went back and bowed at the Bar)

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, please, excuse him because he is not used to being on the Opposition side.

I was saying there are new cars in the market every day. This means that people are able to purchase vehicles. For the sake of building our own economy and creating job opportunities, which I believe the Opposition fully agrees with, then they cannot afford to undermine this proposal by the Minister.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I have two points to make. One of the serious problems is undervaluation of the cars. Even though we have quality control companies like SGS, Cotetna and the Kenya Bureau of Standards, it is very difficult to detect the undervaluation of these cars when they are brought in. Therefore, these figures should stay as they are. The Minister has talked about serious revenue implications. At this point in time, the Treasury has already calculated the revenue that will be generated by this tax rate and matched it against the expenditure. If we reduce the revenue, we have to

equally reduce the expenditure which we have already passed in the Vote of the Ministry. We will have a serious skew. On the one hand, we will be reducing the revenue, while on the other hand, we have not reduced the expenditure. Therefore, I beg to oppose the proposed amendment even though I sympathise with its spirit. But I sympathise more with the Minister, particularly in terms of the mismatch between the revenue and the total expenditure.

Mr. Oduyo: Mr. Temporary Deputy Chairman, Sir, I would like to oppose the proposal by the Minister because the cost of new vehicles by the local assemblers has never come down despite the incentives year in, year out. Why should we protect these people when they cannot bring down their prices? Therefore, I support the proposed amendment by Eng. Toro.

Secondly, on the employment factor, during the first eight years, there will be additional duty of 16 per cent. Currently, they are paying 20 per cent. So, the reduction of revenue is not substantial as the Minister wants us to believe.

Dr. Ochuodho: Mr. Temporary Deputy Chairman, Sir, I rise to support the proposed amendment by Eng. Toro. The Minister cannot deny that the age of the vehicle is important. If I have to go by his reasoning, the older the vehicle, the more destructive to the environment it will be. So, there should be an exponential variation in terms of taxing. The flat rate of 20 per cent proposed by the Minister does not reflect the desire to reduce the number of old vehicles on our roads. Therefore, there should be an exponential variation. I support the proposed amendment by Eng. Toro. I would even have put a ceiling of nothing beyond 20 per cent. But considering that this is a proposed amendment, I think the idea that the older the vehicle, the higher the tax is acceptable. There is also the aspect of assembling of vehicles by local manufacturing. I would support the Minister if we were actually manufacturing vehicles. But for a country which does not even manufacture bicycles, it does not make sense to talk of creating job opportunities in this sector.

So, I beg support.

Mr. Ngure: Mr. Temporary Deputy Chairman, Sir, I rise to support the proposed amendment by Eng. Toro. We must realise that the first year an old car is imported, it is as good as a six months old car in this country because of the conditions of our roads. We must realise that some of these cars, although they are five years old, are off the road after one year. So, they are only five years old because of the date of manufacturing. But in terms of usage, they have only been on the road for one year. That is why they come with the same tyres which they came out of the factory with. So, we cannot just raise this duty because of the age of imported cars. In fact, they can be considered to be as good as six months old cars in this country because of the poor conditions of our roads.

Mr. Omingo: Mr. Temporary Deputy Chairman, I stand to support the amendment proposed by Eng. Toro. The rejection of ten years old vehicles by the Minister is on the assumption that vehicles are luxuries. I think we are denying Kenyans of meagre resources the chance to own cars which, otherwise, are a necessity. I believe that there is a *pro rata* kind of increase in terms of age plus duty that these cars attract. Therefore, Kenyans should be availed this facility to own cars.

The Assistant Minister for Trade and Industry (Mr. Ekirapa): Mr. Temporary Deputy Chairman, Sir, I rise to support the Minister's position and to oppose the proposed amendment by Eng. Toro. The reason why I oppose this amendment is that we talk of our country being industrialised by the year 2020. For us to realise this dream, we must really begin now. We, in Government, are aware of the new project which will make us manufacture new cars. The brand new car will sell at Kshs750,000. I think it will be a tremendous value to this country because it will create employment and raise revenue for the Government. It will also discourage the importation of second-hand cars. I feel this is a project which all hon. Members must support because it is good for this country.

Mr. Temporary Deputy Chairman, Sir, I beg to oppose the proposed amendment.

Eng. Toro: Mr. Temporary Deputy Chairman, Sir, it appears that Kenyans should be told to wait and not to import second-hand vehicles until we start manufacturing new vehicles in Kenya. If you listened to the Assistant Minister, hon. Keah, you should have noticed that he did not talk about the age of the vehicle, or whether we manufacture new vehicles, but rather about the revenue implications. So, he opposed the amendment basically on the basis of revenue implications. My approach, however, is not based on the revenue implications. These days Kenyans are poor. So, until the economy recovers, the Minister should ensure that Kenyans access vehicles much cheaper than is the case currently.

(Question put and negated)

Hon. Members: Division! Division!

(Several hon. Members stood up in their places)

The Temporary Deputy Chairman (Mr. Imanyara): I can see that the hon. Members who are calling for a

Division have raised a sufficient number to warrant a it. So, let the Division Bell be rung for five minutes.

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! Five minutes are now over. So, let the Bar be drawn and all the doors leading to this Chamber closed.

(The Bar was drawn and all doors closed)

Hon. Members, the Tellers for the Eyes will be Ms. Karua and Mr. Shambaro, while those for the Noes will be Messrs. M.A. Galgalo and P.G. Gitonga. You know the rules. If you do not wish to vote, you should register with the Clerk-at-the-Table. Those who wish to vote for the Ayes should proceed to my right, and those who wish to vote for the Noes should go to my left.

For the benefit of those hon. Members who were not here when the Question was put, we are now debating Clause 2, which is on page 796 of the Finance Bill. The amendments that have been proposed by Eng. Toro, relating to Clause 2, are on page 520 of today's Order Paper. You may now proceed to the voting lobbies after I put the question.

Order! Order! Hon. Tellers, you must bow at the Bar first!

(The Tellers bowed at the Bar)

DIVISION

(Question put and the House divided)

(Question negated by 75 votes to 62)

(Applause)

AYES: Messrs. Achola, Angwenyi, Dr. Awiti, Messrs. Ayoki, Gatabaki, Gitonga, Kaindi, Kamanda, Ms. Karua, Messrs. Kathangu, Katuku, Khamasi, Khaniri, Kibicho, Kihoro, Kikuyu, Dr. Kituyi, Messrs. Kombo, Maitha, Mboko, Michuki, Muchiri, Munyasia, Muihia, Munyao, Dr. Murungaru, Messrs. Murungi, Musila, Mutiso, Mwakiringo, P.K. Mwangi, Mwenje, Mwirarria, Nderitu, Mrs. Ngilu, Messrs. Ngure, Ntimama, N. Nyagah, Nyanja, Obwocha, Ochilo-Ayacko, Dr. Ochuodho, Messrs. Odoyo, Ojode, Oloo-Aringo, Omamba, Omingo, Onyango, Opore, Osundwa, Otita, Dr. Otula, Messrs. Parpai, Sankori, Shitanda, Sungu, Thirikwa, Eng. Toro, Messrs. Waithaka, Wambua, Wamunyinyi and Dr. Wekesa.

Tellers of the Ayes: Messrs. Karua and Shambaro.

NOES: Messrs. Affey, Dr. Anangwe, Messrs. Arap-Kirui, Badawy, Biwott, Chanzu, Ekirapa, Ethuro, Dr. G. Galgalo, Messrs. M.A. Galgalo, Githiomi, Dr. Godana, Messrs. Haji, Kalulu, Kalweo, Kamolleh, Kariuki, Keah, Kenyatta, Kiangoi, Col. Kiluta, Mr. Kimkung, Eng. Kiptoon, Mrs. Kittony, Messrs. Kitur, Kochalle, Kombe, Kosgey, Koske, Lomada, J.D. Lotodo, Maj. Madoka, Mr. Maizs, Eng. Manga, Messrs. Manyara, Marrirmoi, Maundu, Mbitiru, Mkalla, Mohamed, Mohamud, E.T. Morogo, Muchilwa, Mudavadi, Mugalla, Mukangu, Muiruri, Murathe, Muturi, Mwenda, Mrs. Mwewa, Messrs. Nassir, Ngala, Nooru, Capt. Ntwiga, Messrs. J. Nyagah, Nyenze, Obure, Okemo, Dr. Omamo, Prof. Ongeru, Messrs. Poghishio, Ruto, Samoei, Sang, Sasura, Shaaban, Shambaro, Sudi, Sumbeiywo, Sunkuli, Tarar, Dr. Wako and Dr. Wamukoya.

Tellers of the Noes: Messrs. M.A. Galgalo and Gitonga.

ABSTENTIONS: Nil.

(Clause 2 agreed to)

Clause 11

Mr. Sungu: Thank you, Mr. Temporary Deputy Chairman, Sir. Whereas I do not oppose---

An hon. Member: We do not want!

Mr. Sungu: Could you protect me, Mr. Temporary Deputy Chairman, Sir?

(Loud consultations)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order!

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, whereas I do not oppose in any way the tax measures proposed by the Minister in this section, I would like to request him to reconsider the question of taxation on mobile phones. The duty imposed on the users of mobile phones is having a devastating effect on the economy, because the

landlines are no longer in use and the mobile usage has become too expensive for the ordinary *mwananchi*. I would, therefore, suggest that the Minister does consider to reduce this tax to an affordable level next time he comes to Parliament.

(Clauses 3, 4, 5, 6, 7, 8, 9, 10 and 11 agreed to)

Clause 12

The Temporary Deputy Chairman (Mr. Imanyara): We have received notice of an amendment to Clause 12. You will find it on page 491 of the Order Paper and page 798 of the Bill.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 12 be amended by deleting the expression "1st January, 2003" and substituting therefor the expression "1st July, 2003."

Mr. Temporary Deputy Chairman, Sir, when we introduced this year's Budget, the intention was to remove duty remissions on spare parts, equipment, machinery materials and raw materials in respect of all official aid-funded projects. This amendment was not to affect contracts entered before 1st January, 2003. We are now proposing to amend this because we find that some of the beneficiaries of those projects have not made provisions to pay taxes directly. So, we are proposing that this becomes effective on 1st July, 2003, instead of 1st January, 2003, to enable the various beneficiaries and Ministries to make provisions on time.

(Question of the amendment proposed)

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

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

(Clause 12 as amended agreed to)

Clause 13

The Temporary Deputy Chairman (Mr. Imanyara): There is a proposed amendment to Clause 13 and you will find it on page 491 on the Order Paper.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 13 be amended by deleting and replacing it with the following new clause -
13. Section 141 of the Customs and Excise Act is amended by deleting subsection (2) and substituting therefor the following new subsection -
(2) Subject to this Act and any regulations made thereunder, raw materials imported for the manufacture of -
(a) goods for export; or
(b) goods for home use as may be approved by the Commissioner,
shall be exempt from duty where the users and the approved quantity of such raw materials have been gazetted:

Provided that in the case of refined sugar for industrial use, used in the manufacture of goods for home use, twenty-five per centum of the duty shall be payable.

(Question of the amendment proposed)

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir. I am particularly worried about the last provision which states: "Provided that in the case of refined sugar for industrial use, used in the manufacture of goods for home use, twenty-five per centum of duty shall be payable."

Whereas I agree with the Minister entirely, sugar companies in Kenya, particularly those in western Kenya, have a big problem with imported sugar. The Government has totally failed to prevent the usage of refined sugar imported for industrial use from being converted to domestic use. This has affected our factories like Mumias, Chemelil, Sony and others. All their stores are packed to capacity and they have been forced to hire extra stores to store the extra sugar, which they are not able to sell. I would like to ask the Minister to ensure that refined sugar imported for industrial use is not converted for domestic use.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I want to agree with the

suggestion made by Mr. Sungu. I fully appreciate his concerns. That is the reason why we are providing a duty at the rate of 25 per cent in respect of refined sugar, which is used for the manufacture of other products locally. Otherwise, we share his concerns and every step is being taken to safeguard the interest of sugar-cane growers, particularly in western Kenya.

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

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

(Clause 13 as amended agreed to)

(Clauses 14, 15, 16 and 17 agreed to)

Clause 18

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, Clause 18 be amended -

- (a) by deleting sub-clause (a) and inserting the following new sub-clause -
 - (a) in part A by deleting the proviso to item 26 and inserting the following new proviso -
Provided that the exemption under this item shall -

- (i) apply only once in every Parliamentary term; and,
- (ii) expire on the 30th January, 2003, or upon the dissolution of the current Parliament, whichever is the earlier".

(b) by deleting sub-clause (b), and;

(c) in sub-clause (d), (relating to part B) by

(i) inserting the following new paragraph after paragraph (ii) -

(ii) by deleting the expression "2002" appearing in item 36 and substituting therefor the expression "2003".

(ii) by deleting items 4,9,27 and 34.

Mr. Temporary Deputy Chairman, Sir, the reason for this, is that we had intended to provide adequate funds to the National Assembly through the Parliamentary Service Commission to enable it pay duties and other taxes directly in respect of motor vehicles imported for hon. Members of Parliament. We are now proposing that this does not become effective now. It should become effective with the next term of Parliament.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, whereas I agree with the Minister in what he has said, I am very keen to understand, what he means under Item 29 with regard to the National Security Intelligence Service. Could the Minister explain that clause further because I do not fully understand why we need to give them those rebates. It is on page 799 of the main Act.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we are not even there yet, but the effect of that Clause is basically to allow the National Security Intelligence Service, together with other departments as amended now, to import their equipment duty-free because we cannot raise sufficient budget for them at the moment.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, my point of concern is with regard to the amendment and the deferring of the implementation to 2003. Whereas I have no quarrel in principle, I can foresee a liquidity or cashflow problem in making the provision of the funds available to the National Assembly. Could the Minister re-assure this House that there will be no liquidity or cash flow problem in making the funds available to the National Assembly, for purposes of hon. Members acquiring those vehicles and for purposes of passing on the funds concerned to hon. Members who will require cars?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we are in constant consultation with all those concerned. As a result of those liquidity problems, that is why we are changing the effective date to 1st July, 2003.

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

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

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Mr. Imanyara): We have the requisite number; please, ring the Division Bell.

(The Division Bell was rung)

Order! Order, hon. Members! Those intending to vote, we are bound to close the doors to the lobbies. Please, proceed to the lobbies if you want to vote.

DIVISION

(Question put and the House divided)

The Temporary Deputy Chairman (Mr. Muturi): It appears that the results of the Division are ready. Order! Order! Hon. Members, let us receive the results of the Division.

(Question carried by 73 votes to 54)

AYES: Messrs. Affey; Dr. Anangwe, Messrs. Biwott, Chanzu, Ekirapa, Ethuro, Ewaton, Haji, Dr. Galgallo G.B, Mr. M.A. Galgallo; Dr. Godana, Messrs. Kalulu, Kalweo, Kariuki, Keah, Kenyatta; Col. Kiluta; Messrs. Kimkung, Kiptoon, Kirui; Mrs. Kittony, Messrs. Kitur, Kosgey, Lagat, Lengees, Lomada, J.D. Lotodo; Maj. Madoka, Messrs. Maizs; Eng. Manga, Messrs. Manyara, Marrirmoi, Maundu, Mbitiru, Mkalla, Mohammed, Mohamud, E.T. Morogo, Muchilwa, Mudavadi, Mugalla, Mukangu, Muiruri, Murathe, Muturi, P.G. Mwangi, Mwenda, Mrs. Mwewa, Messrs. Nassir, Ndambuki, Ngala, Ng'eny, Njakwe, Noor, Capt. Ntwiga; Messrs. Nyagah, Nyenze, Obure, Okemo; Dr. Omamo, Mr. Ombasa; Prof. Ongeru, Messrs. Poghio, Ruto, Sambu, Sang, Sasura, Shambaro, Sirma, Sudi; Tarar, Dr. Wako, Dr. Wamukoya, and Mr. Wehliye.

Tellers of the Ayes: Messrs. Kibicho and M.A. Galgallo

NOES: Messrs. Achola, Awiti, Gatabaki, Gitonga, Kaindi, Kamau; Ms. Karua, Messrs. Kathangu, Katuku, Khamasi, Khaniri, Kibicho, Kihoro, Kikuyu, Kombo; Dr. Kulundu, Messrs. Maitha, Mboko, Michuki, Muchiri, Munyasia, Munyao, Muihia, Dr. Murungaru, Messrs. Mutiso, Mwakiringo, P.K. Mwangi, Mwenje, Mwiraria, Nderitu; Mrs. Ngilu, Messrs. Ngure, N. Nyagah, Nyanja, Obwocha, Ochilo-Ayacko; Dr. Ochuodho, Messrs. Odoyo, Ojode, Oloo-Aringo, Omamba, Omingo, Onyango, Opore, Osundwa, Otita, Otula, Sankori, Sungu; Eng. Toro, Messrs. Waithaka, Wambua, Wanjala, and Dr. Wekesa.

Tellers of the Noes: Messrs. Wambua and Shambaro

Abstentions: Nil

The Temporary Deputy Chairman (Mr. Muturi): The Question has been carried.

(Applause)

(Clause 18 as amended agreed to)

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Chairman, I stand under the provisions of Standing Order No.106. I beg to move:-

THAT, the Committee of the Whole House doth report progress of the consideration of the Finance Bill to the House and seek leave to sit again today, until we complete the remaining clauses.

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

The Temporary Deputy Chairman (Mr. Muturi): Order! Mr. Munyao, the rule is that in this particular procedure, I put the Question straight without it being proposed.

Mr. Munyao: Mr. Temporary Deputy Chairman, Sir, what I wanted to say will be overtaken.

(Question put and agreed to)

Hon. Members: Division! Division!

(Several hon. Members stood up in their places)

The Temporary Deputy Chairman (Mr. Muturi): You have the requisite number. Ring the Division Bell.

(The Division Bell was rung)

DIVISION*(Question put and House divided)*

The Temporary Deputy Chairman (Mr. Muturi): Order, hon. Members! We must finish with the division. Draw the Bar!

The Tellers for the Ayes are Mr. Mwenje and Capt. Ntwiga, and the Tellers for the Noes are Mr. Shambaro and Mr. Omingo.

(The Bar was drawn)

Hon. Members: Time up!

The Temporary Deputy Chairman (Mr. Muturi): Hon. Members, you cannot interrupt a Division. The Tellers for the AYes will proceed to my right and the Tellers for the Noes will proceed to my left. Could you proceed to vote accordingly?

(Mr. Mwenje and Mr. Nyanja attempted to grab the Mace)

The division must go on uninterrupted!

*[The Temporary Deputy Chairman (Mr. Muturi) left the Chair]**[Mr. Deputy Chairman took the Chair]**(Several hon. Members started singing)*

Mr. Deputy Chairman: Order! Order! Mr. Kiunjuri, you will be thrown out! Any hon. Member singing any more in this House will be forcefully evicted from it.

Hon. Members: Time is up!

Mr. Deputy Chairman: Order, hon. Members! Any hon. Member singing in this Chamber is doing what is tantamount to contempt of the House. You must respect this House. Whatever the circumstances, you must respect this House. It is not a disco hall!

All hon. Members should take their seats. It is my business to restore order in this House. The Standing Orders state that whenever there is disorder in a Committee, Mr. Speaker shall resume the Chair and restore order. This is exactly what I have done. The rules are as follows, and those in doubt may have their Standing Orders in their hands and refer to them.

Mr. Deputy Chairman: Order, hon, hon. Members! The Clerk is just getting me the correct Standing Order. I believe it is Standing Order No.17. May I tell you the following: I am just looking for the correct Standing Order but the law is as follows:

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

Mr. Deputy Chairman: Order, Mr. Odoyo! Will you sit down since I am in the Chair so that I can see any Member who is disorderly--- The essence of Standing Order No.17(3) is as follows, and I will read out the Standing Order to you. It states:-

(3) "If at the time appointed for the interruption of business, any division is in progress, or a question is being put from the Chair and a division results immediately thereon, such interruption shall be deferred until after the declaration of numbers."

That is the law. Now, the division will proceed. Close the door!

Hon. Members: On a point of order, Mr. Deputy Chairman, Sir!

Mr. Deputy Chairman: There is no point of order! Continue!

*(Mr. Wamunyinyi attempted to grab the Mace but was prevented by the Serjeant-at-Arms)**[Mr. Deputy Chairman took the Chair]**[The Temporary Deputy Chairman*

(Mr. Muturi) resumed the Chair]

The Temporary Deputy Chairman (Mr. Muturi): Order, hon. Members! You may resume your seats.

DIVISION

(Question put and the House divided)

(Question carried by 70 votes to Nil)

AYES: Messrs. Achuka, Affey, Dr. Anangwe, Messrs. Arap-Kirui, Biwott, Chanzu, Ekirapa, Dr. G.B. Galgalo, Messrs. M.A. Galgalo, Githiomi, Dr. Godana, Messrs. Haji, Kalweo, Kariuki, Keah, Kenyatta, Keynan, Kiangoi, Col. Kiluta, Messrs. Kiminza, Kimkung, Kiptoon, Mrs. Kittony, Messrs. Kitur, Kosgey, Lengees, Lomada, Maj. Madoka, Mr. Maizs, Eng. Manga, Messrs. Manyara, Marrirmoi, Maundu, Mbitiru, Mkalla, Mohamed, Mohamud, E.T. Morogo, Muchilwa, Mudavadi, Mugalla, Mukangu, Muiruri, Murathe, Mrs. Mwewa, Messrs. Nassir, Ndambuki, Ngala, Ng'eny, Njakwe, Nooru, Capt. Ntwiga, Messrs. J. Nyagah, Nyenze, Obure, Okemo, Dr. Omamo, Prof. Onger, Messrs. Poghishio, I.K. Ruto, Sambu, Sang, Sasura, Shaaban, Shambaro, Sirma, Sunkuli, Tarar, Dr. Wako and Dr. Wamukoya.

Teller of the Ayes: Capt. Ntwiga

NOES: Nil.

Teller of the Noes: Mr. Shambaro

ABSTENTIONS: Nil.

(The House resumed)

[Mr. Speaker in the Chair]

PROGRESS REPORTED

THE FINANCE BILL

Mr. Muturi: Mr. Speaker, Sir, the Committee of the Whole House is considering the Finance Bill and has instructed me to report progress and beg leave to sit again today.

(Loud consultations)

Mr. Speaker: Order! I will have to dispose of the Question.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report and beg that the House doth sit again today.

The Minister for Agriculture (Dr. Godana) seconded.

(Question proposed)

Mr. Mwenje: Mr. Speaker, Sir, you do realise that there were no Tellers and the counting was done by one-sided Tellers. The Tellers from this side did not take part and they were not involved. The Members from this side of the House were not involved.

That was not a division by any standards. So, whatever happened is completely out of order and it has never happened. We appeal to you to rule that there was no division at all!

Mr. Speaker: Order! Shall I say the following? The rules of division are contained in Standing Orders, from No.53. Those Standing Orders set out all the rules of the division. Hon. Members will recall that when you were sitting in the Committee, a Question was proposed and put by the Chair.

An hon. Member: When?

Mr. Speaker: When the House was in the Committee of the Whole House. That Question was carried and hon. Members, as they are entitled to do, stood in their places calling for a division, and they attained the requisite number. That was all in the period that the House was sitting. The division Bell was then rung.

(Mr. Wamunyinyi interjected)

Order, Mr. Wamunyinyi! You will go out now!

(Mr. Wamunyinyi withdrew from the Chamber)

Order, hon. Members! That was the sequence of events. You will recall further--- I appeal to hon. Members to cool down, and remember one thing all of you! The institution of Parliament is much bigger than the totality of the current membership! The institution of Parliament must be protected against all comers, and at all costs! I am prepared to do that because that is the only reason why this House made me the Speaker, and why the Kenyan people pay me! So, hon. Members, please, do not, at the very tail-end of your tenure in this House, create a precedent that destroys Parliament forever!

Mr. Speaker, Sir, the Kenyan people and history will judge the Eighth Parliament very harshly, if we do reduce this House into a disco hall by singing all the time, disgracing the Mace all the time, as if that is not a sacred instrument of State! So, hon. Members, you sought a division and it was granted to you.

Mr. Speaker, Sir, may I say the following after that: Under the Standing Orders - and we always remind you - no Member is obligated to vote in a division. The Standing Orders are absolutely clear; that, there is no Member who is obligated to vote. You can choose not to vote at all. You can choose to vote yes or no, or you can just sit in your place. If that is what the hon. Members chose to do, who would force you?

Hon. Members: Nobody!

Mr. Speaker: So, the short and long of it is that there was a proper division---

Hon. Members: No!

(Mr. Odoyo interjected)

Mr. Speaker: Order, Mr. Odoyo! Mr. Odoyo, you better keep quiet now! If Tellers duly selected by their group refused to go and do the duty which they were asked to do, the Chair will not force them! So, the result was that those who wanted to vote voted, and those who did not want to vote did not vote.

My last observation this evening is that Parliament will never be held at ransom or blackmail! Never! Parliament should never be held at ransom or blackmail. It must discharge its duties freely. So, the division was properly called.

(Question put and agreed to)

Hon. Members: division! division!

Mr. Speaker: Order! Very good! In accordance with Standing Order No.53, a division has been called for and the Members standing for the division have attained the requisite number. I will, therefore, order for a division. If you do not want to go and vote, sit down! Get the names of the Tellers!

(The Division Bell was rung)

DIVISION

(Question put and the House divided)

(Question carried by 72 votes to Nil)

AYES: Messrs. Achuka, Affey, Dr. Anangwe, Messrs. Angwenyi, Biwott, Chanzu, Ekirapa, Dr. G.B. Galgalo, Messrs. M.A. Galgalo, Githiomi, Dr. Godana, Messrs. Haji, Kalweo, Kariuki, Keah, Kenyatta, Kiangoi, Col. Kiluta, Messrs. Kimkung, Kirui, Mrs. Kittony, Messrs. Kitur, Kosgey, Lengees, Lomada, J.D. Lotodo, Maj. Madoka, Messrs. Njakwe, Maizs, Eng. Manga, Messrs. Manyara, Maore, Marrirmoi, Maundu, Mbitiru, Mkalla, Mohamed, Mohamud, E.T. Morogo, W.C. Morogo, Muchilwa, Mudavadi, Mugalla, Mukangu, Muiruri, Murathe, Muturi, Nassir, Ndambuki, Ngala, Ng'eny, Nooru, Capt. Ntwiga, Messrs. J. Nyagah, Nyenze, Obure, Okemo, Dr. Omamo, Prof. Onger, Messrs. Opore, Poghishio, Ruto, Sambu, Samoei, Sang, Sasura, Shambaro, Sirma, Sunkuli, Dr. Tarar, Dr. Wako and Dr. Wamukoya.

Tellers of the Ayes: Messrs. E.T. Morogo and Mugeke

NOES: Nil

Tellers of the Noes: Messrs. Shambaro and Katuku

ABSTENTIONS: Nil

Mr. Speaker: Order, hon. Members! The democratic process is slow, but it must take its course. The upshot of the result of the division is that the House has allowed the Committee to sit again.

I will direct that the Committee will not sit for ever. We will not give it limitless time. I will give the Committee reasonable time to go through the Bill, which, in my view, is one hour.

Hon. Members, proceed now!

[Mr. Speaker left the Chair]

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

IN THE COMMITTEE

THE FINANCE BILL

Clause 19

The Temporary Deputy Chairman (Mr. Imanyara): Order, hon. Members! We have one hour and we are on Clause 19.

(Clauses 19, 20 and 21 agreed to)

Clause 22

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT Clause 22 be amended in subclause (a) by inserting the following new proviso at the end of Item 14 -

"Provided that sweepings, waste, bilge and sludge generated by aircraft or ships during a voyage to Kenya shall not be prohibited".

Mr. Temporary Deputy Chairman. Sir, we found out since that the proviso contained in the Finance Bill will stop aircraft and ships in voyages to Kenya from discharging sludge and waste. We think that is undesirable and, therefore, the intention here is to remove that.

(Question of the amendment proposed)

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I quite agree with the Minister and I must say that I am very grateful that you are back on the Chair because this House is a House of justice. The waste disposal that the Minister has talked about excludes a very important part. The Minister has forgotten that, in fact, there are warships and other vessels that use nuclear fuel, for example, aircraft carrier and so on. That is devastating if you were to exclude all the others and leave that. I think that is something that the Minister should have considered and made sure that it is taken care of because as far as I know, Kenya is not equipped to deal with waste such as nuclear waste.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I confirm that nuclear waste and other toxic wastes are, indeed, prohibited under the international conventions we have signed.

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

(Clause 22 as amended agreed to)

Hon. Members: Division! Division!

(Several hon. Members stood up in their places)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Just keep standing so that the Clerk can take a count to ensure that we have the requisite number. Yes, we have the requisite number. **The Assistant Minister**

for Trade and Industry (Mr. Ekirapa): On a point of order, Mr. Temporary Deputy Chairman, Sir. Are you satisfied

that the gentlemen on the opposite side can be allowed every time to call for a division in which they do not participate?

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Ekirapa!

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! Hon. Members, I have received the names of the Tellers. For Ayes, they are Mr. Shambaro and Eng. Toro, and for the Noes, Capt. Ntwiga and Mr. Mwenje.

Mr. Maitha: On a point of order, Mr. Temporary Deputy Chairman, Sir. It has now become clear that there is a truce. Could we now call off the vote because the Minister has come to explain to us the circumstances and it is now understood? Could you call off the vote?

The Temporary Deputy Chairman (Mr. Imanyara): Order! You know very well that more than 20 hon. Members stood up to ask for the division. We will proceed to the division, and I do not have to explain further.

Mr. Wambua: On a point of order, Mr. Temporary Deputy Chairman, Sir. Since the names of the Tellers from the Opposition side that you have mentioned did not give out their names willingly, could you kindly ask the Opposition side to give you their names? Those who have been chosen from this side have not agreed to be Tellers.

The Temporary Deputy Chairman (Mr. Imanyara): The names I have were submitted by your own Whips. So, may we now proceed to vote? If the 20 hon. Members who stood up to seek division now want to rescind, they could stand up in their places and the Chair may consider that.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Chairman, Sir. We know we are about to go to the division, but as Mr. Maitha has said -in fact, I am a Teller - since we have all agreed that we shall all vote for the Ayes, could you put the Question again so that we can proceed?

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, I will put the Question again---

Mr. Muihia: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for one hon. Member of Parliament to talk on behalf of over 20 hon. Members? We should proceed to the division.

DIVISION

(Question put and the House divided)

(Question carried by 66 votes to nil)

AYES: Mr. Affey, Dr. Anangwe, Messrs. Angwenyi, Arap-Kirui, Biwott, Chanzu, Ekirapa, Dr. Galgalo, Messrs. M.A. Galgalo, Githiomi, Dr. Godana, Messrs. Haji, Hashim, Kalulu, Kalweo, Kariuki, Keah, Kenyatta, Keynan, Kiangoi, Col. Kiluta, Mr. Kimkung, Mrs. Kittony Messrs. Kitur, Kosgey, Lomada, J.D. Lotodo, Maj. Madoka, Messrs. Maizs, Manga, Maore, Marrirmoi, Maundu, Mbitiru, Mkalla, E.T. Morogo, W.C. Morogo, Mudavadi, Mugalla, Mukangu, Murathe, Muturi, Mrs. Mwewa, Messrs. Nassir, Ndambuki, Ngala, Ng'eny, Njakwe, Nooru, Capt. Ntwiga, Messrs. J. Nyagah, Nyenze, Obure, Okemo, Dr. Omamo, Prof. Onger, Messrs. Sambu, Samoei, Sang, Sasura, Shambaro, Sirma, Sunkuli, Tarar, Dr. Wako and Dr. Wamukoya.

Tellers of the Ayes: Mr. Shambaro and Eng. Toro.

NOES: Nil.

Tellers of the Noes: Cpt. Ntwiga and Mr. Mwenje.

ABSTENTIONS: Nil.

(Clause 22 as amended agreed to)

(Clauses 23 and 24 agreed to)

Clause 25

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25 be amended-

(a) by deleting subclause (b); and

- (b) by renumbering subclauses
- (c) and (d) as (b) and (c) respectively.

(Question of the amendment proposed)

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

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 27 be amended in subclause (b) by deleting the expression "1st January, 2003", and substituting therefor the expression "1st July, 2003".

(Question of the amendment proposed)

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I would like to draw the Minister's attention to the fact that he might have interfered with that date structure under Item No.18. He should confirm that because we could have conflicting items. This is because this is the VAT and the other one was Income Tax. Could he confirm that?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, it is the same provision. What applies to Excise Duty and duty generally also applies to the VAT. So, this is the same provision which we are extending to apply in the case of the VAT and allow it to become effective on the same date.

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

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

(Clause 27 as amended agreed to)

*(Clauses 28, 29, 30, 31,
32 and 33 agreed to)*

Clause 34

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move: THAT, Clause 34 be amended in subclause (a)-
by deleting paragraph (i);
(b) by deleting the

[The Minister for Finance]

expression "1st January, 2003" appearing in paragraph (ii) and substituting therefor the expression 1st July, 2003;
(c) by renumbering paragraphs (ii) and (iii) as (i) and (ii) respectively.

(Question of the amendment proposed)

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I would like to ask the Minister to confirm and verify because there were some amendments that he had made under the Excise Tax, and the dates have been changed. So, if he is satisfied that, that takes a lot of taxes because some had been rejected by his amendments, then we can proceed.

The Minister for Finance (Mr. Obure): Yes, Mr. Temporary Deputy Chairman, Sir, I am aware of what the hon. Member is saying and we are quite satisfied that is perfectly in order.

Mr. Odoyo: Mr. Temporary Deputy Chairman, Sir, the Finance Bill is supposed to automatically become an Act on 1st January, 2003. This change over to 1st July, 2003, is substantial. Could the Minister assure us that, according to the Act, he does not require further authority from the House before he brings it forth through this Bill; I believe, maybe, through a substantive Motion?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we have consulted on this clause; there is no need at the moment to seek any further authority. I expect the same proposals to be contained in the 2003/2004 Budget proposals.

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

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

(Clause 34 as amended agreed to)

(Clause 35 agreed to)

Clause 36

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move: THAT, Clause 36 be amended -

(a) by deleting subclause (a) and inserting the following new subclause -

(a) in part A, by deleting the proviso to item 20 and inserting the following new proviso -
"Provided that the zero rating under this item shall -

(i) apply only once in every parliamentary term; and

(ii) expire on the 30th January, 2003, or upon the dissolution of the current Parliament, whichever is the earlier."

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

(b) in part B -

(i) by deleting items 5, 8, 12, 16, 24 and 25;

(vi) by deleting the expression "2002" appearing in item 17 and substituting therefor the expression "2003".

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I notice that part of the amendment states that the zero-rating will expire on 30th January, 2003, or upon the dissolution of the current Parliament, whichever is earlier. There is a possibility that this Parliament may go on up to January, 2003, which, in any case, would be illegal. Why would the Minister not want this zero-rating to expire on the dissolution of the current Parliament, which should be within this calendar year? Why are we taking it to the 30th January, 2003 and not 3rd January, 2003, when the Presidential term expires? What does the Minister have in mind when giving the date of 30th January, 2003, and what does it signify?

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I would like to confirm that, in fact, this clause actually relates to Clause 18 that the Committee did reject. Therefore, if we pass it, then it will conflict with Clause 18 which applies to Excise Duties, and this section applies to Clause 18. Mr. Temporary Deputy Chairman, Sir, I would like to urge the Minister to be sure of what it will lead to, so that we do not pass laws here that will be in conflict with each other.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Sungu, I wish to just point out that, in fact, Clause 18 was passed after the Division.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, this specific date has been

given because an hon. Member could have imported a vehicle now, and if Parliament is dissolved, he may not be able to get that vehicle. This is why we are saying that you should be able to get that vehicle up to and until 30th January, 2003.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, could the Minister assure this House that he is not fixing this date because there are some vehicles in the high seas which he expects to arrive here by that time, and that the date is genuinely fixed, not just to cover the vehicles expected which are in the high seas at the moment?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am not aware of any vehicles in the high seas, but if there are any and they belong to hon. Members, they will be entitled to clear those vehicles until that date.

Mr. Kihara: Mr. Temporary Deputy Chairman, Sir, I appreciate what the Minister is saying, but that clause is subject to abuse. Somebody is saying "suppose the House was dissolved tomorrow", and somebody decides to go ordering motor vehicles; that will give credibility---

The Temporary Deputy Chairman (Mr. Imanyara): As a matter of clarity, the proposed amendment states "whichever is earlier".

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

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

The Minister For Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 38 be amended by deleting subclause (b) and inserting the following new subclause -
"(b) in subsection (3), by deleting paragraph (d) and substituting therefor the following new paragraph -

"(d) in the case of any other employee, an amount equal to fifteen per centum of the gains or profits from his employment, excluding the value of those premises or the rent paid by the employer if paid under an agreement made at arm's length with a third party, whichever is the higher:

Provided that -

- (i) where the premises are provided under an agreement with a third party which is not at arm's length, the value of the premises determined under this subsection shall be the fair market rental value of the premises in that year, or the rent paid by the employer, whichever is the higher; or
- (ii) where the premises are owned by the employer, the fair market rental value of the premises in that year"

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 40 be amended in subclause (b) by adding the following words at the end of the

proposed subsection (3) -
 "for which the company is paying a financial charge, interest, discount or premium."

(Question of the amendment proposed)

*(Question, that the words to be added
 be added, put and agreed)
 (Clause 40 as amended agreed to)*

(Clause 41 agreed to)

Clause 42

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, Clause 42 be amended by inserting the following new paragraph in the proviso to the
 proposed section 31(1) -
 "(iv) the provisions of this section shall apply only to life or education policies whose term
 commences on or after the 1st January, 2003."

(Question of the amendment proposed)

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

(Clause 42 as amended agreed to)

*(Clauses 43, 44, 45, 46, 47, 48, 49,
 50, 51 and 52 agreed to)*

Clause 53

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, Clause 53 be deleted.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, in the interest of generating
 good rapport and progress, I concede that Clause 53 be deleted.

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

(Clause 53 deleted)

(Clauses 54, 55 and 56 agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, we have a proposal from the Minister
 to amend Clause 57.

Clause 57

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, Clause 57 be amended by deleting paragraphs (a) and (b) and inserting the following new
 paragraphs-

- (a) in subsection (1), by deleting the word "Registrar" and substituting therefor the words
 "Minister responsible for finance through the Central Bank";
- (b) by inserting the following new subsection immediately after subsection (2)-
- (2A) The Central Bank shall examine every application made under subsection (1) and
 shall forward the application, together with its recommendations thereon, to the

Minister responsible for finance.

(c) in subsection (3)-

(i) by deleting the word "Registrar" and substituting therefor the words "the Minister responsible for finance and the Central Bank";

(ii) by deleting the words a mortgage finance company and substituting therefor the words "an institution";

(d) in subsection (4), by deleting the word "Registrar" wherever it occurs and substituting therefor the words "Minister responsible for finance";

(e) by deleting subsection (5) and substituting therefor the following new subsection-

(5) The Minister responsible for finance may, after hearing all representations under subsection (4), approve or reject the application.

(f) by deleting subsection (6).

(Question of the amendment proposed)

Mr. Odoyo: Mr. Temporary Deputy Chairman, Sir, could the Minister assure us that the time limit within which the Central Bank should forward the recommendation to him is covered in other sections of the Act? For how long should the Central Bank keep the application form before it is forwarded to the Minister? I hope that this aspect is covered in another section of the Act.

The Minister for Finance (Mr. Obure): Mr. temporary Deputy Chairman, Sir, I do not expect the Central Bank to keep applications for longer than is necessary. I believe that this aspect is covered under the Banking Act. However, I will ensure that this period will be the minimum possible.

Mr. Kihoro: Mr. Temporary Deputy Chairman, the proposed amendment under paragraph (c)(ii), indicates that the Minister wants the words "a mortgage finance company" to be deleted, and the matter to be handled by an institution. Could he tell us the institution he has in mind?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, in this respect, I am thinking in terms of building societies, which may be interested in merging with banks. They could be non-banking financial institutions or non-mortgage finance companies which may wish to merge. So far, the responsibility for giving such approval is vested in the Registrar of Building Societies. We now think that this is a function which can better be handled by the Central Bank.

Mr. Odoyo: Mr. Temporary Deputy Chairman, Sir, regarding the proposed new subsection (5) under paragraph (e), I wonder whether there will be a time limit within which the Minister will approve or reject an application. Without a time limit, the Minister may decide to take two years before replying to an application. So, could he assure this House that he will act within a reasonable time.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we understand those sentiments. We will act accordingly and ensure that the hon. Member's concerns are taken care of.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, with respect to the issue raised by Mr. Odoyo, I do not understand why the Minister has avoided to indicate the actual time within which he should reply to such applications. We know that people who have applied for such licences had to wait for a long time before their applications were replied to. So, the actual time within which one should receive a reply should be included in the law.

Also, in this amendment, could we indicate that reasons must be given for the rejection of any application by the Minister? If we leave this amendment the way it is, the Minister can decide to reject an application for his own personal reasons. So, he should be bound by law to explain his rejection of any application.

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

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

(Clause 57 as amended agreed to)

Clause 58

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, Clause 58 be deleted.

(Question proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, after due consultations with hon. Members, including Mr. Angwenyi, we are in full agreement that Clause 58 be deleted.

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

(Clause 58 deleted)

*(Clauses 59, 60, 61, 62, 63
and 64 agreed to)
New Clause*

The Minister for Finance (Mr. Obure: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, a new clause be
inserted immediately after Clause 48 as follows:

THAT, a new Clause be inserted immediately after Clause 48 as follows:

Amendment of the Eleventh Schedule to Cap. 470.

48A. The Eleventh Schedule to the Income Tax Act is amended –

(a) in item 3, by deleting the expression “paragraph 2(c)” and substituting therefor the expression “paragraph 2(e)

(b) in item 4, by deleting the expression “subparagraph 2(c)” and substituting therefor the expression “paragraph 2(e)”.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read
a Second Time, proposed)*

Mr. Sungu: Mr. Temporary Deputy Chairman, I would be grateful if the Minister would kindly explain the implications of this new Clause. As indicated here, and without the benefit of the original provision, the new Clause is not very clear.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, the hon. Member wants to withdraw his request.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, may I withdraw my request?

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, this is really nothing new. We are just simply renumbering the items as a result of the various changes we have made.

*(Question, that the new Clause be read
a Second Time, put and agreed to)*

(The new Clause was read a Second Time)

*(Question, that the new Clause be added to the Bill,
put and agreed to)*

First Schedule

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT the First Schedule be amended in the manner specified hereunder –

1. Amendments, other than rates of duty only, to the first schedule to the Finance Bill

Heading		HS			Import	S.I.T.C
Unit of						
No.	CODE	Tariff No.	Amendment to Text	duty	No.	Quantity

CHAPTER 2

- (a) Delete all references to Heading No.02.09 and insert the following new tariff number with the corresponding description, import duty, S.I.T.C and unit of quantity

02.09	0209.00	0209.00.00	-Pig fat, free of lean meat and poultry fat, not rendered or otherwise extracted, fresh, chilled frozen, salted in brine, dried or smoked.	35%	41131000Kg
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- (b) Insert the expression “- Other, including edible flours and meals of meat and meat offals” immediately below the tariff description to Tariff number 0210.20.00

CHAPTER 3

- (a) Insert the expression “-other fish excluding livers and roes” immediately below the tariff description to Tariff number 0302.50.00
- (b) Delete Heading No.3.03 and insert Heading No.03.03 therefor
- (c) Delete Heading No.3.04 and insert therefor Heading No.03.04.
- (d) Insert the expression “-Dried fish whether or not salted but not smoked immediately below the Tariff description to Tariff number.0305.49.00

CHAPTER 4

- (a) Insert the expression “--Other”

immediately below the Tariff
description to Tariff
No.0402.91.00

- (b) Delete all references to Heading 04.07
and insert the following Heading
together with its corresponding
HS Code, tariff number, description,
import duty, S.I.T.C. and Unit of
quantity.

04.07	0407.00	0407.00.00	Birds eggs, in shell, fresh, preserved or cooked	35% or	02510000Kg shs.36.00 per Kg
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CHAPTER 5

- (a) Delete Heading Number 5.02 and insert
heading number 05.02 therefor
- (b) Delete Heading Number 5.04 and
insert the Heading No. 05.04 therefor
- (c) Delete Heading Number .5.05 and insert
Heading No. 05.05 therefor
- (d)Delete Heading Number 5.10 and insert
Heading No.05.10 therefor
- (e) Insert the following tariff number
together with its corresponding
description, import duties,
SITC and unit of quantity.

0507.90.00	--other	25%	29116191 Kg
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CHAPTER 6

- (a) Delete Heading No .06.02 and insert
Heading No. 06.20 therefor

CHAPTER 9

- (a) Delete all references to tariff No.9.02
and insert Heading 09.02 therefor.

CHAPTER 14

Delete all references to tariff No.1404.90.00

CHAPTER 15

- (a) Delete the tariff description in respect
of tariff number 1512.19.20 and insert
therefor the expression “---other”

CHAPTER 16

- (a) Insert the expression “- of bovine animals” immediately below tariff description in respect of tariff number 1602.49.00

CHAPTER 17

- (a) Insert expression “syrup not containing fructose or containing in the dry state less than 20% by weight of fructose” immediately after the word “including” appearing in the Tariff description to Tariff Number 1702.30.00
- (b) Insert the expression “containing in the dry state at least 20% by weight but less than 50% by weight of fructose excluding invert sugar” immediately after the word “syrup” appearing in respect of tariff number.1702.40.10
- (c) Insert the following tariff number and the corresponding tariff description, rate of duty, S.I.T.C and Units of quantity.

1702.40.90	“--- other”	15%	06194200 Kg
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CHAPTER 18

Insert the expression “preparations in blocks or slabs or bars weighing more than 2 Kg or in liquid or paste, powder granular or other bulk form in containers or immediate packing of a content exceeding 2 kg” immediately after the word “other” appearing in the Tariff Description to Tariff number 1806.20.00

CHAPTER 20

- (a) Insert the expression “-Orange Juice” immediately below the tariff description, in respect of Heading 20.09
- (b) Insert the following new Tariff Nos and their corresponding, Tariff Descriptions import duty, SITC and Unit of quantity.

2002.90.70	---Tomato paste concentrate	35%	0567370 Kg
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CHAPTER 21

Insert the following new Tariff Number together with its corresponding tariff descriptions, import duty, S.I.T.C and Units of quantity

2106.90.60	---concentrates of fruit juices not elsewhere specified	35%	05995800	Kg
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CHAPTER 22

- (a) Delete all references to tariff number 2204.29.00 and insert therefor the following tariff number and corresponding tariff description, rate of duty, S.I.T.C and Unit of quantity.

2204.29.10	---in containers of more than 5 litres	5%	11217010	Litres
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2204.29.90	--- Other	30%		
11217090	Litres			

- (b) Delete the tariff description in respect of tariff number 2205.90.10 and insert therefor the following tariff description “---in containers holding more than 2 litres but less than 5 litres”

- (c) Delete all references to HS Code 2208.20 and insert therefor the following HS code together with its corresponding tariff numbers, tariff descriptions, rate of duty, S.I.T.C. and Unit of quantity.

2208.20 Spirits obtained by distilling grape wine or grape marc.

--- Brandy

2208.20.11	---- in containers holding 2 litres or less	Per proof	11242100	
Proof				litre shs.
	Litres			250.00
				or 30%

2208.20.19	---- Other	Per proof	11242200	
Proof				litre shs.
Litres				150.00
				or 25%

--- Other

2208.20.91	---- in containers holding 2 litres or less	Per proof	1124300	
Proof				

				litre shs.
	Litres			250.00 or 30%
Proof	2208.20.99	---- Other	Per proof	1124200
	Litres			litre Shs. 250.00 or 30%

CHAPTER 23

Delete all references to HS code number 2306.40

CHAPTER 24

Delete the expression "Kg" Under Unit of Quantity column and substitute therefor the expression "Number" in the following tariff numbers; -
2402.10.00; 2402.20.10;
2402.20.90; 2402.90.10;
2402..90.20 and 2402.90.90.

CHAPTER 29

Delete all references to Heading No.29.35 and insert the following.

29.35	2935.00	2935.00.00	Sulphonamides	15%	51580000
			Kg		

CHAPTER 30

Insert the expression "--other" immediately below the tariff description to Tariff No. 3004.50.00

CHAPTER 34

Delete all references to HS Code 3402.19 and insert the following
3402.19 --Other

	3402.19.10	---Bolt and release preparations		35%	59772910
			Kg		
	3402.19.90	---Other		35%	59772990
			Kg		

CHAPTER 38

Insert the expression "- other wastes from chemical or allied industries" immediately below the Tariff description to Tariff Number 3824.10.00

CHAPTER 39

(a) Insert the expression "--Other polyesters"
immediately below the tariff description to
Tariff No. 3907.60.00

(b) Insert HS Code 3921.12 with its corresponding Tariff No. Tariff description,
Import Duty, HS Code and Unit of quantity

3921.12	--of polymers of vinyl chloride			
3921.12.10	---unprinted	25%	58291210	
Kg				
3921.12.90	---other	25%	58291219	
Kg				

(c) Insert the following new tariff
number and the corresponding
description import duty, S.I.T.C
and Unit of Quantity.

3923.90.50	---Inserts	25%	89319950	Kg
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CHAPTER 40

(a) Insert the following National Chapter
Note immediately after the Chapter
Notes

ADDITIONAL NATIONAL NOTE

For the purposes of this chapter, tyres
shall be deemed suitable for use on
lorries and buses if they can fit a
rim size exceeding 61cm.

(b) Insert the expression "Natural rubber in
other forms" immediately below the
Tariff description to Tariff Number
4001.10.00

(c) Delete HS Code No. 4001.3 and insert
therefor Heading No. 4001.30.

(d) Delete all references to 4012.90.00 and
insert the following new tariff numbers
together with their corresponding
descriptions, tariff numbers, units of
quantity and SITC.

4012.90	-Other			
Number				
4012.90.10	--Treads for cold retreading.	25%	625 940 10	
4012.90.90	--Other	25%	625 940 90	

Number

CHAPTER 44

- (a) Insert the expression

“-Fibre board of a density exceeding
0.35g/cm³ but not exceeding 0.59g/cm³”
appearing immediately below the tariff
description to Tariff No.4411.29.00

- (b) Delete the expression “Tableware and
kitchenware, of wood” appearing
immediately below the Tariff
Description to Tariff No.4418.90.00

CHAPTER 48

Delete the expression “Composite paper and
paperboard (made by sticking flat layers of
paper or paperboard together with adhesive)
not surface-coated or impregnated, whether
or not internally reinforced in rolls or
sheets appearing immediately below the tariff
description to Tariff No.4806.40.00

CHAPTER 50

Delete existing units of quantity in respect
of heading No.50.07, and insert therefor
the expression “Sqm”.

CHAPTER 51

Delete the existing units of quantity in respect
of heading 51.11, 51.12, 51.13. and insert the
expression “Sqm” therefor.

CHAPTER 52

- (a) Delete the existing units of quantity in
respect of Heading Nos. 52.08, 52.09,
52.10, 52.11 and 52.23 and insert therefor
the expression “Sqm”.
- (b) Delete the expression “Cotton, carded or
combed” immediately below the tariff
description to tariff No.5202.99.00.

CHAPTERS 53

Delete the existing units of quantity in respect
of Heading 53.09, 53.10 and 53.11 and insert
therefor the expression “Sqm.”

CHAPTERS 54

Delete the existing units of quantity in respect of heading Nos.54.07 and 5408 and insert the expression "Sqm" therefor.

CHAPTERS 55

Delete all existing units of quantity in respect of Heading No. 55.12, 55.13, 55.14 55.15 and 55.16 and insert the expression "Sqm" therefor.

CHAPTERS 58

Delete all existing units of quantity in respect of Heading No.58.01, 58.02, 58.03, 58.04, 58.05, 58.06 58.07, 58.08, 58.09, 58.10 and 58.11 and insert the expression "Sqm" therefor.

CHAPTERS 59

Delete all existing units of quantity in respect of Heading No. 59.01, 59.02, 59.03, 59.04, 59.05, 59.06, 59.07, 59.08, 59.09, 59.10 and 59.11 and insert the expression "Sqm" therefor.

CHAPTERS 60

Delete all existing units of quantity in respect of Heading No.60.01, 60.02, 60.03, 60.04, 60.05 and 60.06 and insert the expression "Sqm" therefor.

CHAPTER 62

(a) Insert the expression "- night shirts and pajamas" appearing below the tariff description to tariff No.6207.19.00.

(b)Insert the expression "--Other" appearing immediately below tariff description to tariff No.6207.29.00.

CHAPTER 64

Insert the expression "--- Other" immediately below the tariff description to tariff No.6402.12.00.

CHAPTER 67

Delete the expression "Human hair, dressed, thinned, bleached or otherwise worked; wool or other animal hair, or other textile materials, prepared for use in making wigs and the like" appearing immediately below the tariff description to tariff No.6702.90.00.

CHAPTER 68

- (a) Delete the expression "worked slate and articles of slate or agglomerated slate" appearing immediately below the tariff description to tariff No.6802.99.00.
- (b) Delete all references to tariff nos. 6812.20.00 and 6812.30.00.

CHAPTER 69

Delete all references to Heading No.69.06 and insert the following

69.06	6906.00	6906.00.00	Ceramic pipes, conduits, guttering and pipe fittings.	25%	662.436.00	Kg
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CHAPTER 70

Delete Tariff number 7017.90.10 and insert therefore Tariff number 7017.90.00.

CHAPTER 71

Delete the expression "Base metals clad with silver, not further worked than semi

manufactured" appearing immediately below the tariff description to Tariff number 7106.92.00.

CHAPTER 72

Delete the expression "Bars and rods, hot rolled, in irregularly wound coils, of stainless steel" appearing immediately below the tariff description to Tariff No.7220.90.00.

CHAPTER 73

Delete all the tariff numbers in respect of HS Code 7321.12 and insert the following tariff numbers together with their corresponding descriptions, import duty, S.I.T.C and units of quantity.

7321.12.10	---	Unassembled.	15%	697 312.10
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Number					
7321.12.90	--- Other.	30%	697 312.90		Number

CHAPTER 76

(a) Delete Tariff No.7612.90.30 and insert therefor Tariff No.7612.90.90.

(b) Insert the following tariff number with its corresponding tariff description, import duty, S.I.T.C. and unit of quantity.

7612.90.30	--- Milk containers of a capacity exceeding 10 litres.	25%	692.429.30		Kg
------------	--	-----	------------	--	----

CHAPTER 83

Delete all references to HS Code 8301.40 and insert the following

8301.40	- Other locks				
8301.40.10	--- Unassembled	25%	699 144 10		Kg
8301.40.90	--- Other.	25%	699 144 90		Kg

CHAPTER 84

(a) Delete all references to HS Code 8418.69 and insert the following -

8418.69	--Other				
8418.69.10	--- unassembled	25%	741 459 10		Number
8418.69.90	--- Other.	25%	741	459.20	

Number

(b)Delete all references to Tariff Nos.8442.10.00, 8442.20.00 and 8443.40.00 and insert therefor the following new tariff numbers together with their corresponding Headings, HS Code, Import Duty, SITC number and units of quantity.

8442.10	-Photo type-setting and composing machines.				
8442.10.10	--- of a kind used in offices	15%	726 311 10		Number
8442.10.90	---Other	15%	726	311	90

Number

8442.20	- Machinery or apparatus and equipment for typesetting or composing by other processes with or without fording device –				
8442.20.10	---Of a kind used in offices.	15%	726 312 10		Number

8442.20.90	--- Other.	15%	726	312	90
Number					
8443.40	-Gravure printing machinery				
8443.40.10	---of a kind used in offices (and incapable of handling paper of a size exceeding 297mm x 210mm)	15%	72665010	Number	
8443.40.90	---Other	15%	72665090	Number	

CHAPTER 94

Delete Tariff No.9402.10.00 and insert
therefor tariff No.9402.10.10

2.Delete the existing rates of duty in respect of the tariff numbers and descriptions in the first and second columns and substitute therefor the rates of duty respectively set out in the third column.

<i>Tariff Numbers</i>	<i>Tariff Description</i>	<i>New Rate of Duty</i>
0502.10.00	-Pigs' hog' or boars' bristles and hair and waste thereof.	25%
0710.80.00	-Other vegetables.	35%
0802.11.00	--In shell .	Free
0802.21.00	-- In shell.	Free
0802.22.00	--Shelled.	5%
0904.20.00	-Fruits of the genus capsicum or of the genus pimenta, dried or crushed or ground.	15%
0908.20.20	---Crushed or ground.	3%
1005.90.00	-Other.	Per Kg Kshs.2.50 or 25%.
1001.10.00	Durum wheat.	Shs 3.70 per Kg or 35%
1001.90.00	Other.	Shs 3.70 per Kg or 35%
520.00.00	-Glycerol, crude, glycerol water and glycerol lyes.	15%
1704.10.00	- Chewing Gum, whether or not sugar-coated.	Per Kg Kshs.70.00 or 35%
1704.90.00	- Other.	Per Kg Kshs.70.00 or 35%
1806.20.00	- Other.	Per Kg Kshs.70.00 or 35%
1901.90.10	---Malt Extracts.	15%
1905.32.00	---Waffles and wafers.	30%
2002.90.70	--- Tomato paste concentrate	15%
2009.80.20	- Black currant juice.	15%
2102.30.00	-Prepared baking powders.	20%
2106.90.60	--- Concentrates of fruit juices not elsewhere specified.	15%
2204.29.10	---in containers of more than 5 litres	5%
2204.29.90	---Other.	30%
2402.20.10	---Other.	Per 1000 Shs.500.00 or 30%.
2402.90.90	---Other.	Per 1000 Shs.

			500.00 or 30%.
2403.99.90	---Other.		Per Kg Kshs. 300.00 or 30%.
2523.10.00	-- Cement clinkers	15%	
2530.90.90	---Other.		5%
2704.00.00	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon.	Free	
2706.00.00	Tar distilled from coal, from lignite or from lignite of from peat, and other mineral tars, whether or not dehydrated or partly distilled, including reconstituted tars.	Free	
2805.12.00	-- Calcium.		Free
2807.00.00	Sulphuric acid; oleum.		3%
2811.29.90	---Other		Free
2829.11.00	--- Chlorates of sodium.		15%
2829.90.00	-Other.		15%
2904.90.00	-Other.		15%
2905.45.00	--Glycerol.		Free
2908.10.00	-Derivatives containing only halogen substituents and their salts.		15%
2915.23.00	--- Cobalt acetate		30%
2915.33.00	--n-Butyl acetate.		15%
2915.70.00	-Palmitic acid stearic acid, their salts and esters.	15%	
2917.19.00	--Other.		Free
2917.34.00	--Other esters orthophthalic acid.		Free
2918.90.00	-Other.		Free
2924.11.00	-(INN) meprobamate.		Free
2924.19.00	-Other.		Free
2934.91.00	--Aminorex (INN), brotizolam (INN), clotiazepam (INN), cloxazolam (INN), dextromaramide (INN) haloxazolam (INN), ketazolam (INN), mesocarb (INN), oxazolam (INN), pemoline (INN), phendimetrazine (INN), Phenmetrazine (INN) and sufentanil (INN): salt thereof.	Free	
2934.99.00	--Other.		Free
3102.90.000	ther including mixtures not specified in the foregoing subheadings.		Free
3402.11.00	--Anionic.		Free
3504.00.00	Peptones and their derivatives, other protein substances and their derivatives not elsewhere specified or included, hide powder whether or not chromed.		15%
3604.90.10	---Very (light)flares and railway signals.	5%	
3604.90.20	---Rain rockets, anti-hail rockets and cartridges, distress and lite-saving rockets.	5%	
3806.20.00	-Salts of rosin, of resin acids or of derivatives of rosin or resin acids, other than salts of rosin adducts.		20%
3808.10.30	--- Aerosol Insecticides.		25%
3809.93.00	--Of a kind used in the leather or like industries.	Free.	
3817.00.00	Mixed alkylbenzene and mixed alkylnaphthalenes, other than those of heading 27.07 or 29.02.		Free
3903.90.00	-Other.		20%

3905.12.00	--in aqueous dispersion	20%
3905.19.00	--Other.	20%
3905.21.00	--In aqueous dispersion.	20%
3905.29.00	--Other.	20%
3905.91.00	--Copolymers	20%
3905.99.00	--Other.	20%
3906.10.00	-Poly (methmethacorylete).	20%
3906.90.00	-Other	20%
3907.50.00	-- Alkyd resins	25%
3907.91.00	--Unsaturated.	20%
3907.99.00	--Other.	20%
3909.20.00	- Melamine resins	25%
3909.50.00	-Polyurethanes.	20%
3920.10.10	--- Unprinted.	15%
3920.10.90	--- Other.	35%
3920.20.10	--- Unprinted.	15%
3921.12.10	---Unprinted of polymers of vinyl chloride.	3%
3921.12.90	---Other.	25%
3923.90.50	--- Inserts.	3%
3926.90.90	--- Other	15%
4008.11.00	-- Plates, sheets and strips.	15%
4010.19.00	-- Other.	25%
4011.10.00	- Of a kind used on motor cars (including station wagons and racing cars).	35% or Kshs.800 per piece
4011.20.00	-- Of a kind used in buses or lorries.	35% or Kshs.3,000 per piece
4011.61.00	- Of a kind used on agricultural or forestry vehicles and machines.	25% or Kshs1,000 per piece
4011.62.00	- Of a kind used on construction or industrial or industrial handling vehicles and machines and having a rim size not exceeding 61 cm.	25% or Kshs.1,000 per piece
4011.63.00	- Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm.	25% or Kshs.1,000 per piece
4011.69.00	-- Other.	25% or Kshs.1,000
4011.92.00	- Of a kind used on agricultural or forestry Vehicles and machines.	25% or Kshs.1,000 per piece
4011.93.00	- Of a kind used on agricultural or forestry Vehicles and machines and having rim size not exceeding 61 cm.	25% or Kshs.3,000 per piece
4011.94.00	- Of a kind used on construction or Industrial handling vehicles having a rim size exceeding 61 cm.	25% or Kshs.1,000 per piece
4011.99.00	-- Other.	25% or Kshs.1,000 per piece
4012.11.00	- Of a kind used on motor cars (including station wagon and racing cars).	35% or Kshs.800 per piece
4012.12.00	-- Of a kind used on buses or lorries.	35% or Kshs.3,000 per piece
4012.13.00	-- Of a kind used on aircraft.	25% or Kshs.1,000 per piece
4012.19.00	-- Other.	35% or Kshs.3,000 per piece
4012.90.10	---Treads for cold retreading.	5%
4012.90.90	---Other.	25%

4016.99.90	--Other	Free
4104.41.00	--Full grains, unsplit; grain splits, in the wet state.	15%
4407.10.00	- Coniferous.	5%
4407.24.00	--Virola, Mahogany (<i>Swietenia ssp</i>) Imbuia and Balsa.	5%
4407.25.00	-- Dar Red Meranti, light Red Meranti and Meranti Bakau.	5%
4407.26.00	-- White lauan, White Meranti, white Seraya, Yellow Meranti and Alan.	5%
4407.29.00	-- Other.	5%
4407.91.00	-- Of oak (<i>Quercus ssp</i>).	5%
4407.92.00	-- Of beech (<i>Fagus ssp</i>).	5%
4407.99.00	-- Other.	5%
4408.10.00	- Coniferous.	25%
4408.31.00	-- Dark Red Meranti, light Red Meranti and Meranti Bakau.	25%
4408.39.00	-- Other.	25%
4408.90.00	- Other.	25%
4409.10.00	-Coniferous	25%
4409.20.00	- Non-Coniferous.	25%
4410.21.00	--Unworked or not further worked than sanded.	25%
4410.29.00	-- Other.	25%
4410.31.00	-- Unworked or not further worked than sanded.	25%
4410.32.00	-- Surface covered with melamine impregnated Paper.	25%
4410.33.00	-- Surface covered with decorative laminate of plastics.	25%
4410.39.00	-- Other.	25%
4410.90.00	- Other.	25%
4411.11.00	-- Not mechanically worked or surface covered.	25%
4411.19.00	-- Other.	25%
4411.21.00	-- Not mechanically worked or surface covered.	25%
4411.29.00	-- Other.	25%
4411.31.00	-- Not mechanically worked or surface covered.	25%
4411.39.00	-- Other.	25%
4411.91.00	-- Not mechanically worked or surface covered.	25%
4411.99.00	-- Other.	25%
4412.13.00	-- With at least one outer ply of tropical wood specified in sub-heading Note 1 in this Chapter.	25%
4412.14.00	-- Other, with at least one outer ply of non-coniferous wood.	25%
4412.19.00	-Other	25%
4412.22.00	-- With at least one outer ply of tropical wood specified in sub-heading Note 1 in this Chapter.	25%
4412.23.00	-- Other containing at least one layer of particle board.	25%
4412.29.00	-- Other.	25%

4412.92.00	-- With at least one ply of topical wood specified in sub heading Note 1 to this Chapter.	25%
4412.93.00	-- Other containing at least one layer of particle board.	25%
4412.99.00	--Other.	25%
4413.00.00	- Densified wood, in blocks plates, strips or profile shapes.	25%
4811.60.10	--- Unprinted.	3%
4907.00.20	--- Unused postage, revenue or similar stamps.	Free
4910.00.00	- Calenders of any kind, printed including calender blocks.	35%
4911.10.00	- Trade advertising material, commercial. Catalogues and the like.	35%
4911.91.00	-- Pictures, designs and photographs.	35%
4911.99.10	--- Instructional charts and diagrams.	35%
5402.32.00	-- Textured yarn of nylon or other lyamides, measuring per single yarn more than 50 tex.	20%
5513.41.90	---Other.	Kshs.20.00 per Sqm or 25%
5902.10.00	-Tyre code fabric of high tenacity yarn of nylon or other polyamides.	Free
5911.40.00	-Straining cloth of a kind used in oil presses or the like, including that of human hair.	Free
6804.22.00	Of other agglomerated abrasives or of ceramics.	35%
6804.30.00	- Hand sharpening or polishing stones.	35%
6805.30.00	- On a base of other materials.	35%
6815.10.00	Non-electrical articles of graphite or other carbon.	Free
6902.10.00	- Containing by weight singly or together more than 50% of the elements of Mg, Ca or Cr expressed as MgO, CaO or Cr ₂ O ₃ Free	Free
7208.40.00	- Not in coils, not further worked than hot rolled, with pattern in relief.	15%
7208.52.00	-- Of a thickness of 4.75 or more but not exceeding 10mm.	15%
7211.29.00	-- Other.	35%
7212.30.00	- Otherwise plated or coated with zinc.	35%
7212.40.00	- Printed, varnished or coated with plastics.	35%
7214.20.00	- Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling.	15%
7216.91.00	--Cold formed or cold finished from flat-rolled products.	35%
7216.99.00	-- Other.	35%
7217.20.00	- Plated or coated with zinc.	20%
7304.41.00	--Cold-rolled (cold reduced).	5%
7304.49.00	--Other	5%
7305.11.00	-- Longitudinally submerged arc welded.	35%
7305.20.00	- Casing of a kind used in drilling for oil or gas.	35%
7305.31.00	-- Longitudinally welded.	35%
7309.00.90	--- Other.	35%
7607.20.90	--- Other.	25%

8301.40.10	--- Unassembled.	15%
8301.40.90	--- Other.	25%
8302.41.00	-- Suitable for buildings.	25%
8416.90.00	- Parts	5%
8418.69.10	---Unassembled.	3%
8418.69.90	---Other	25%
8436.80.10	--- Grinding and milling machinery	25%
8442.10.10	--- Of a kind used in offices	15%
8442.10.90	--- Other	15%
8442.20.10	--- Of a kind used in offices	15%
8442.20.90	--- Other	15%
8443.40.10	---Of a kind used in offices	15%
8443.40.90	---Other.	15%
8528.12.90	--- Other.	Each Shs.1200 or 30%
8528.13.90	--- Other.	Each Shs.600 or 30%
8528.21.90	--- Other.	Each Shs.1200 or 30%
8528.22.90	--- Other.	Each Shs.700 or 25%
9017.80.90	---Other.	35%
9021.31.00	---Artificial joints.	Free
9021.39.00	---Other	Free
9606.21.00	- Of plastic, not covered with textile material.	25%
9606.22.00	- Of base metal, not covered with textile material.	25%
9606.29.00	-- Other.	25%
9606.30.10	--- Button blanks.	25%
9701.10.00	Paintings, drawings and pastels.	15%

(Question of the amendment proposed)

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

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

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, the First Schedule be amended as follows:-

Heading No.63.09, Import Duty

to delete "per kg. Kshs25 or 35 per cent and replace with "per Kg.Kshs15".

The gist of my amendment is that most Kenyans wear *mitumba*. The Industry employs in excess of three million Kenyans. At the previous rate of Kshs15 per kilogramme, the Government collected a net of Kshs1.5 billion per year. We are trying to avoid a situation where we will encourage *magendo* in the country.

I wish to propose this to be changed to Kshs15. I hope the Minister will leave it at that.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, we have consulted extensively on this issue. We know that this will cause a substantial revenue loss, but we also understand the concerns expressed by hon. N. Nyagah. I know this affects many Kenyans. I would like to make a counter-proposal.

Last year, the rate was Kshs100 for every kilogramme of *mitumba*. After consultations with Mr. N.

Nyagah and others, we reduced the rate from Kshs100 to Kshs15 per kilogramme. We then agreed that we will gradually increase it so that we can encourage the growth of the local industry, including the textile industry. We increased the rate to Kshs25 per kilogramme.

I would like to make a counter proposal in line with what I agreed with Mr. N. Nyagah, that we reduce the rate to Kshs20 per kilogramme from Kshs25.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. N. Nyagah, in that case, could you then amend your proposal?

(Question of the further amendment proposed)

Mr. Ngure: Mr. Temporary Deputy Chairman, Sir, it thrills me to realise that we have to make money out of *mitumbas*. *Mitumbas*, basically, are rejects from other countries and I do not think they are impediments to the growth of our textile industry. The impediment to the growth of our textile industry is the collapse of the agricultural industry and particularly cotton growing, and I do not think *mitumbas* should be a material where the Government can raise revenue from.

Mr. Temporary Deputy Chairman, Sir, I propose that, that item should be amended since the Minister agrees. Can he endeavour to keep on doing that, to ensure that the growth of the industry takes place rather than making money out of rejects?

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

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

The Temporary Deputy Chairman (Mr. Imanyara): Sorry, I almost left out Mr Angwenyi's proposed amendment. It is not on the Order Paper, but it has been presented to the Speaker.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I have consulted with the Minister and I wish to withdraw my amendment.

(The proposed amendment withdrawn)

(First Schedule as further amended agreed to)

Second Schedule

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

THAT, the Second Schedule to the Bill be amended

(1). By inserting the following new Tariff numbers together with their corresponding descriptions and duty rates.

Tariff Numbers	Tariff Description	New Rate of Duty
0801.31.00	-- Cashew nuts, in shell	Per Kg Shs.12.50 or 50%
0801.32.00	-- Cashew nuts, shelled	Per Kg Shs.12.50 or 50%
0802.90.10	--- Macadamia nuts	Per Kg Shs.12.50 or 50%
7204.10.00	-- Waste and scrap of cast iron	20%

(2). By deleting the following new Tariff numbers together with their corresponding descriptions and duty rates

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>New Duty Rate</i>
4104.11.00	Full grains, unsplit; grain splits, in the wet state (including wet-blue)	20%
4104.19.00	Other tanned or crust hides and skins of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not further prepared, in the wet state (including wet-blue).	20%
4104.41.00	Full grains, unsplit; grain splits, in the dry state (crust)	20%
4104.49.00	Other tanned or crust hides and skins of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not further prepared, in the dry state (crust).	20%
4105.10.00	Tanned or crust skins of sheep or lambs, without wool on, whether or not split, but not further prepared, In the wet state (including wet-blue)	20%
4105.30.00	Tanned or crust skins of sheep or lambs, without wool on, whether or not split, but not further prepared, in the dry state (crust)	20%
4106.21.00	Tanned or crust hides and skins of goats or kids, without wool on or hair on, whether or not split, but not further prepared, in the wet state (including wet-blue)	20%
4106.22.00	Tanned or crust hides and skins of goats or kids, without wool on or hair on, whether or not split, but not further prepared, in the dry state (crust)	20%
4106.31.00	Tanned or crust hides and skins of swine, without wool on or hair on, whether or not split, but not further prepared, in the wet state (including wet-blue)	20%
4106.32.00	Tanned or crust hides and skins of swine, without wool on or hair on, whether or not split, but not further prepared, in the dry state (crust)	20%
4106.40.00	Tanned or crust hides and skins of reptiles, without wool on or hair on, whether or not split, but not further prepared.	20%
4106.91.00	Tanned or crust hides and skins of other animals, without wool on or hair on, whether or not split, but not further prepared, in the wet state (including wet-blue)	20%
4106.92.00	Tanned or crust hides and skins of other animals, without wool on or hair on, whether or not split, but not further prepared, in the dry state (crust)	20%
4301.10.00	Raw furskins of mink, whole, with or without head, tail or paws.	20%
4301.30.00	Raw furskins of lamb, the following: Astrakhan, Broadtail, Caracul, Persian and similar lamb, Indian, Chinese, Mongolian or Tibetan lamb, whole, with or without head, tail or paws	20%
4301.60.00	Raw furskins of fox, whole, with or without head, tail or paws	20%
4301.70.00	Raw furskins of seal, whole, with or without head, tail or paws	20%
4301.80.00	Other raw furskins, whole, with or without head, tail or paws	20%
4301.90.00	Heads, tails, paws and other pieces or cuttings, suitable for furriers' use	20%
4302.11.00	Whole skins, with or without head, tail or paws, not assembled, of mink.	20%

4302.13.00	Whole skins of lamb, with or without head, tail or paws, not assembled, the following: Astrakhan, Broadtail, Caracul, Persian and similar lamb, Indian, Chinese, Mongolian or Tibetan lamb.	20%	
4302.19.00	Other whole skins, with or without head, tail or paws, not assembled.	20%	
4302.20.00	Heads, tails, paws and other pieces or cuttings, not assembled.	20%	
4302.30.00	Whole skins and pieces or cuttings thereof, assembled.	20%	
7503.00.00	Nickel waste and scrap.	20%	
7902.00.00	Zinc waste and scrap.	20%	
8002.00.10	Tin waste and scrap.	20%	
8102.94.00	Unwrought molybdenum including bars and rods obtained simply by sintering; waste and scrap.	20%	
8102.97.00	Waste and scrap of molybdenum.	20%	8103.30.00
	Waste and scrap of tantalum.		20%
8104.20.00	Waste of scrap of magnesium.	20%	
8105.00.00	Bismuth and articles thereof including waste and scrap.	20%	
8105.30.00	Waste and scrap of cobalt matters.	20%	
8108.30.00	Waste and scrap of titanium.	20%	
8109.30.00	Waste and scrap of zirconium.	20%	
8110.20.20	Waste and scrap of antimony.	20%	
8112.13.00	Waste and scrap of beryllium.	20%	
8112.22.00	Waste and scrap of chromium.	20%	
8112.52.00	Waste and scrap of thallium.	20%	
8112.92.00	Unwrought waste and scrap; powders.	20%	
8207.30.00	Waste and scrap of cadmium.		

(Question of the amendment proposed)

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

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

(Second Schedule as amended agreed to)

Third Schedule

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, I beg to move:-
THAT, the Third Schedule of the Bill be amended -

(1) by inserting the tariff numbers specified in the first column and the rates of duty specified in the third column.

Tariff No. Tariff Description New Rate of Excise Duty

2009.11.00	Frozen orange juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter.	15%
2009.12.00	Orange juice Not frozen, unfermented and not added spirit whether or not containing added other sweetening matter, of a brix value not exceeding 20.	15%
2009.19.00	Other orange juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter.	15%
2009.21.00	Grapefruit juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	15%
2009.29.00	Other Grapefruit juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter.	15%
2009.31.00	Juice of any other single citrus fruit, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	15%
2009.39.00	Other juice of any other single citrus fruit, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter.	15%
2009.41.00	Pineapple juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	15%
2009.49.00	Other pineapple juice, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter.	15%
2009.50.00	Tomato juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%
2009.61.00	Grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	15%
2009.69.00	Other grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%
2009.71.00	Apple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	15%
2009.79.00	Other apple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%
2009.80.10	Passion fruit juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%
2009.80.90	Juice of any other single fruit or vegetable, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%
2009.90.00	Mixtures of juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	15%

2. By deleting the existing rates of duty in respect of the Tariff number specified in the first column and inserting therefor the rates of duty specified in the third column.

*Tariff Numbers**Tariff Description**New Rate of Excise Duty*

2201.90.00	Ice and snow, other natural and artificial waters no containing added sugar or other sweetening , matter not flavoured .	10%
2202.10.00	Waters, including mineral waters and aerated waters containing added sugar or other sweetening matter or flavoured.	15%
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% or higher.	Per proof litre Shs.90.00 or 35%
2207.20.00	Ethyl alcohol and other spirits, denatured of any strength.	Per proof litre Shs.90.00 or 35%
2709.00.10	Gas condensates	Per 1000L @ 20 deg C Shs.3,112.50
2710.19.22	Other kerosene	Per 1000L @ 20 deg C Shs.6,755.00
8703.24.20	Passenger motor cars with spark-ignition internal combustion reciprocating piston engine, assembled, of a cylinder capacity exceeding 3000 cc.	50%

(Question of the amendment proposed)

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

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

(Third Schedule as amended agreed to)

Fifth Schedule

The Temporary Deputy Chairman (Mr. Imanyara): We have received a proposed amendment on the Fifth Schedule from the Minister. You will find this on page 518 of the Order Paper and page 1545 of the Bill.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, the Fifth Schedule to the Bill be amended -

(a) in Part 1

(i) by deleting the following tariff numbers and descriptions –

<u>Tariff No.</u>	<u>Tariff Description</u>
0701.10.00	Potato seed, fresh or chilled.
1005.10.00	Maize (Corn) seed.
2710.19.21	Kerosene type jet fuel
8502.39.10	Unassembled solar DC generating sets.
8502.39.30	Assembled or partly assembled solar DC generating sets.
8502.39.90	Other assembled or partly assembled DC generating sets.

(ii) by inserting the following tariff number and descriptions in proper sequence -

<u>Tariff No.</u>	<u>Tariff Description</u>
1905.90.30	Ordinary bread, gluten bread and unleavened bread.

(b) by inserting the following new PART II immediately after PART I;

PART II

- (a) Motor vehicles sold by registered persons where input tax included in the prices of such vehicles was not allowed.
- (b) Motor vehicles sold by unregistered persons where no input tax was deducted by a previous owner of such vehicles.

(Question of the amendment proposed)

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

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

(Fifth Schedule as amended agreed to)

Sixth Schedule

The Temporary Deputy Chairman (Mr. Imanyara): There is a proposed amendment on the Sixth Schedule.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Sixth Schedule to the Bill be amended by inserting the following new paragraph 16 immediately after paragraph 15 –

16. Secretarial Services supplied by Certified Public Secretaries.

(Question of the amendment proposed)

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

(Sixth Schedule as amended agreed to)

Seventh Schedule

The Temporary Deputy Chairman (Mr. Imanyara): There is a proposed amendment on the Seventh Schedule and you will find it on page 1559 of the Bill and page 519 of the Order Paper.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Seventh Schedule to the Bill be amended in Part B -

- (i) by deleting the following tariff numbers and the descriptions thereof -

<u>Tariff No.</u>	<u>Tariff Description</u>
7612.90.20	Aluminium milk containers of more than 10 litres
8703.33.23	Assembled king cab and double cabin pick-ups, with compression ignition internal combustion piston engine (diesel or semi-diesel) of a cylinder capacity exceeding 3000 c.c.

- (ii) by inserting the following tariff number and the description thereof in its proper numerical sequence -

<u>Tariff No.</u>	<u>Tariff Description</u>
7612.90.30	Aluminium milk containers of a capacity exceeding 10 litres.

(Question of the amendment proposed)

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

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

(Seventh Schedule as amended agreed to)

(Title agreed to)

Clause 1

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, you have some amendments on Clause 1, and you will find them on page 795 of the Bill and page 490 of the Order Paper.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 be amended -

- (i) by inserting a new subclause immediately after subclause (a) as follows –
- (aa) sections 17(b) and
20(b), on the 20th June 2002;
- (ii) in subclause (b), by deleting the expression “25 (a)”;
- (iii) by inserting the following subclause immediately after subclause (c)-
- (cc) sections 17(c), 19(b), 31(b) and 34(c), on the 5th of July, 2002;
- (iv) in subclause (d), by deleting the expression “33” and substituting therefor the expression “33(a)”;
- (v) by inserting the following new subclause immediately after subclause (d) -
- (dd) sections 17(d), 18(b)(iii), 19(c), 20(c), 31(c), 33(b), 34(d) and 36(b)(ii), on the 22th October, 2002;
- (vi) in subclause (e), by deleting the expression “34 (a) (ii)”;
- (vii) by renumbering subclause (f) as (g) and inserting the following new subclauses -
- (f) sections 12, 25 (a), 27 (b) (i) and 34 (a) (ii), on the 1st July, 2003.

(Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Finance Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE FINANCE BILL

Mr. Imanyara: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered the Finance Bill and approved the same with amendments.

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

The Minister for Roads and Public Works (Mr. W.C. Morogo): seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Obure): Mr. Speaker, Sir, I beg to move that the Finance Bill be now read a Third Time.

The Assistant Minister for Transport and Communications (Mr. Keah): seconded.

(Question proposed)

Mr. Mwenje: Mr. Speaker, Sir, all is well that ends well! If only the Minister had started by co-operating and understanding what this side of the House wanted, we would not have had that problem that we earlier had. Since, finally the Minister understood what we wanted, that was why we decided to co-operate with the Government side. I hope in the future, he will also co-operate with us so that we can move together, particularly when the Opposition forms the next Government.

Mr. N. Nyagah: Mr. Speaker, Sir, I would like to thank the Minister for Finance, for what he has done. I would also like to thank the

KANU side for the support that they have given the Minister.

I would also like to thank hon. Members in the Opposition for being here.
Thank you.

(Question put and agreed to)

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

ADJOURNMENT

Mr. Speaker: Hon. Members, I think after a very fruitful afternoon session, it is now time for us to end our business. The House is, therefore, adjourned until tomorrow, Thursday, 24th October, at 2.30 p.m.

The House rose at 10.00 p.m.