

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd November, 2005

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Report by the Central Bureau of Statistics on Geographical Dimensions of Wellbeing in Kenya, Who and Where are the Poor, a Constituency Level Profile Volume II.

*(By the Assistant Minister for Planning
and National Development (Mr. Lesrima)
on behalf of the Minister for Planning
and National Development)*

The Report of the Constituencies Development Fund Committee and the Recommendations thereon on the Constituencies Development Fund Act, 2003.

(By the Chairman (Eng. Muriuki)

Attendance to the 93rd Session of the International Conference on Coffee in London, United Kingdom in May, 2005.

Tour of the Lake Basin Development Authority projects in Kisumu and Teso districts in August, 2005.

Tour of dykes on River Nzoia in Budalangi, Busia in August, 2005.

Tour of Bunyala Irrigation Scheme in Budalangi, Busia in August, 2005.

Tour of the site of the proposed Tana River Delta Sugar Project in Garsen in August, 2005.

Tour of the Kenya Bixa Ltd. in Kwale in August, 2005.

Tour of Garissa Livestock Market in Garissa in September, 2005.

*(By the Chairman of the Departmental
Committee on Agriculture, Lands and
Natural Resources (Mr. Bett)*

NOTICE OF MOTION

ADOPTION OF CDF
COMMITTEE REPORT

Eng. Muriuki: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House adopts the Report of the Constituencies Development Fund Committee, pursuant to Section 27(4)(d) of the Constituencies Development Fund Act, 2003, laid on the Table of the House on Thursday 3rd November, 2005.

QUESTION BY PRIVATE NOTICE

RECALLING OF UNCOLLECTED ID
CARDS FROM DISTRICT CENTRES

Mr. Marende: Mr. Speaker, Sir, I beg to ask the Minister for Immigration and Registration of Persons the following Question by Private Notice.

(a) Is the Minister aware that the Government recently recalled over one million uncollected national identity cards from district centres?

(b) Could the Minister assure the House that the aforesaid identity cards are not going to be put to illegal use in the light of the impending referendum?

(c) What immediate action is she taking to ensure that the rightfully registered persons receive their identity cards that have been recalled?

The Minister for Immigration and Registration of Persons (Mrs. Kilimo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Department has recalled identity cards that were delivered to the stations but have remained uncollected to date. The Department has only recalled about 100,000 cards that were delivered to the registration centres between 1995 and 2000. Those delivered between 2000 to date are still in the centres.

(b) The uncollected identity cards were recalled for safe custody at the Department's Headquarters and also to decongest the registration centres. This is a routine exercise which the Department does on regular basis.

(c) All the recalled identity cards are safely kept at the Department's Headquarters at the National Social Security Fund (NSSF) Building and shall be availed to the rightful owners on request. The cards will, therefore, not be put to any illegal use.

Mr. Marende: Mr. Speaker, Sir, I thank the Minister for that answer, although it is least satisfactory. Could she, first of all, confirm that she ordered the national identity cards to be recalled on 3rd August, 2005 and that she has control over them? Could she deny or confirm that the national identity cards are being stored in the offices which were formerly occupied by the Minister for Justice and Constitutional Affairs and that they are likely to be used to rig the outcome of the impending national referendum?

Mrs. Kilimo: Mr. Speaker, Sir, I deny that I directed that those cards be recalled. The officer in charge of Immigration Department told me that it was an administrative work that they do from time to time. However, I would like to confirm that the cards are in safe custody in our offices at the NSSF Building. However, if the hon. Member is aware that the cards are being kept by the Minister for Justice and Constitutional Affairs, that is a different story. I am not aware that the officers from the Ministry of Justice and Constitutional Affairs collected those cards from our offices at the NSSF Building.

Mr. Abdirahman: Thank you, Mr. Speaker, Sir. I am not concerned about the 1 million

national identity cards being used to rig the outcome of the referendum. However, I am concerned with the fact that ordinary Kenyans do not receive their identity cards. I attribute this to lack of follow-up from the local chiefs and district registrars of persons for delivery to the centres. Sufficient information is not given to the owners of those cards. What will the Minister do to ensure that those individuals, whether they are nomads or farmers, get their identity cards?

Mrs. Kilimo: Mr. Speaker, Sir, we have registration centres at every district. The only problem we have is that the people who apply for the national identity cards forget to pick them. In the process of decongesting those centres, those cards are recalled. However, to answer the hon. Member's question about how people who are pastoralists and move from one place to another get the information, I urge him to notify his constituents to pick their identity cards when he speaks to them. The national identity cards are processed after a maximum period of three months. However, the cards can be ready before that time. After three months, whoever applied for an identity card should go to the district registrar to find out whether his or her card is ready.

Prof. Olweny: Thank you, Mr. Speaker, Sir. I like the answer the Minister has given. She has proposed that we should be involved in this matter. Could she lay on the Table the list of the people whose identity cards were recalled so that we can use it to inform our constituents? Let her lay the list which is broken down into constituencies on the Table so that we can use it to inform our constituents that their identity cards are lying somewhere awaiting collection.

Mrs. Kilimo: Mr. Speaker, Sir, I seek more time so that I can get the names of those people. However, I will lay on the table the number of identity cards which were returned from every district. I have the list here. For the people whose identity cards were returned, I have to go back and get their names. Otherwise, the number of identity cards which were recalled from every district are on this list.

(Mrs. Kilimo laid the list on the Table)

Mr. Marende: Thank you, Mr. Speaker, Sir. From the information the Minister has given this House, it is apparent that there are close to 400,000 uncollected identity cards. Could the Minister reassure this House that the directive that has been issued will, in fact, apply to all the 400,000 cards that are uncollected? This is because there is uncertainty in her answer. She has said that it is expected that 100,000 identity cards will be returned when the total number of uncollected cards is 400,000. That is a substantial figure. It is worrying to what use those cards will be put to.

Mrs. Kilimo: Mr. Speaker, Sir, to be precise, we have 392,000 uncollected identity cards. The list that I have laid on the Table indicates that the Department received 74,894 cards from the various districts up to 28th October, 2005.

ORAL ANSWERS TO QUESTIONS

Question No.633

PAYMENT OF DUES TO
MR. MOSES ONYANGO

Mr. Owino: Mr. Speaker, Sir, I have agreed with the Minister that this Question be deferred because he does not have a satisfactory answer.

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

(Question deferred)

*Question No.571*COMPLETION OF MAUNA
DAM WATER PROJECT

Archbishop Ondiek asked the Minister for Water and Irrigation:-

- (a) whether she is aware that work on Mauna Dam Water Project stalled after piping had already been completed;
- (b) why the project has stalled; and,
- (c) when the works will commence and when the project will be completed.

The Assistant Minister for Water and Irrigation (Mr. Munyes): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that construction of Mauna Dam Water Supply was completed in 1972 and the project was operational for a period of 18 years. However, the project operations stalled in 1990 due to high operation and maintenance cost of the diesel-driven pumping system.

(b) My Ministry revived the project in 2003 by replacing the old dilapidated pumping units and renovation of physical facilities, repair of distribution systems, water kiosks and reconstruction of the breached dam wall among other works. A new 10-kilometre pipeline was constructed from the dam to Got Rembo but water could not reach the supply area due to low output of the diesel driven engines. The diesel pumps have been replaced with electrical pumps and the whole project is now operational.

(c) My Ministry has continued to undertake rehabilitation and augmentation measures which have improved both the operations and water coverage areas of the scheme. In the current Financial Year, 2005/2006, the Ministry has allocated Kshs3 million to be used for further rehabilitation and augmentation, including repair of the existing storage tank at Got Rembo and extension of distribution networks.

Archbishop Ondiek: Mr. Speaker, Sir---

(A mobile phone rang)

Mr. Speaker: Order! Where is that thing? Who has that thing? Turn it off, please! Proceed!

Archbishop Ondiek: Mr. Speaker, Sir, while I thank the Assistant Minister for his answer, I would like to ask him when he will finish the piping that he started a year ago. They dug the trenches and up to now, they have not filled them. There is no water in that place. They removed the old pipes. They were supposed to replace them with new ones.

Mr. Munyes: Mr. Speaker, Sir, we completed the 10-kilometre long pipeline and the problem is not the completion. It is because of the low output of diesel-driven engines.

Mr. Ojaamong: Mr. Speaker, Sir, it is true that the Ministry of Water and Irrigation has been allocating Kshs3 million for the rehabilitation of dams throughout the country. But the officers on the ground are not aware of when work will start. Not even the contractors who have been contracted by the National Water Conservation. When will they alert us on when those projects will start, so that we can budget the money properly.

Mr. Munyes: Mr. Speaker, Sir, we have already alerted our officers on when to start operations in all conservation structures. So, it is just for the hon. Member to discuss with the District Water Officer in his district.

Mr. Speaker: Last question by Archbishop Ondiek!

Archbishop Ondiek: Mr. Speaker, sir, the Assistant Minister seems confused by his answer.

Earlier on, he had said that they are using electrical machines now. But now, he is saying that they are using diesel-driven engines and, therefore, the water cannot reach the main tank to supply all the people around there. Could he be specific? Which machines are they using? Are they electric or diesel-driven engines?

Mr. Munyes: Mr. Speaker, Sir, we are using both. But, currently, we have replaced them with electric pumps.

Mr. Speaker: Next Question by Mr. Bett!

Question No.572

PINEAPPLE PROCESSING PLANTS FOR
KERICHO/KILIFI/BURETI DISTRICTS

Mr. Bett asked the Minister for Agriculture:-

(a) whether he is aware that pineapple farmers in Kericho, Kilifi, and Bureti Districts are frustrated and demoralized for lack of access to reliable markets for their produce; and,

(b) when the Ministry will set up processing plants in those areas.

Mr. Speaker: Is the Minister for Agriculture here? Mr. Bett, I am afraid he is not here! I will defer the Question.

(Question deferred)

Next Question by Mr. Abdirahman!

Question No.645

ALLOCATION OF VEHICLE TO WAJIR DSDO

Mr. Abdirahman asked the Minister for Gender, Sports, Culture and Social Services:-

(a) how vehicles are allocated to District Social Development Officers (DSDO) in the country; and,

(b) when the Government will allocate a vehicle to the DSDO in Wajir.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite):
Mr. Speaker, Sir, I beg to reply.

(a) The Ministry allocates vehicles to various District Social Development Officers in the country on an equitable basis, depending on the availability of vehicles which are procured through the normal Government procedures.

(b) The Ministry has plans to purchase more vehicles to be allocated to several identified needy offices, including the DSDO in Wajir in the 2006/2007 Financial Year.

Mr. Abdirahman: Mr. Speaker, Sir, I wonder whether the Minister and his assistant are aware of each other's activities. That is because the answer I have with me is different from the one the Minister shared with me yesterday. But, all the same, DSDOs perform a very important function for communities in this country. Empowering communities would really help them to do things on their own. I want an assurance from the Minister that, in the 2005/2006 Financial Year, the DSDO in Wajir will get a new vehicle.

Mrs. Chelaite: Mr. Speaker, Sir, we will not be able to supply the vehicle to Wajir during the 2005/2006 Financial Year because the Ministry was allocated Kshs13.9 million to purchase vehicles

We were only able to purchase two vehicles for the Headquarters, one vehicle for the Sports Department and another one for the Department of Culture. So, we look forward to being given more funds in the next financial year, so that we can consider Wajir District.

Mr. Sasura: Mr. Speaker, Sir, the DSDOs are normally used to organise communities at the grassroots level to participate in public and national functions. I think they are misused by this Ministry. If the Ministry was allocated only Kshs13.4 million to purchase two vehicles, and the Assistant Minister has said that they are distributed equally across the country, could it not have been easier for the Minister to purchase motorbikes or bicycles, so that those people can operate? You cannot distribute two vehicles in 70 districts.

Mrs. Chelaite: Mr. Speaker, Sir, that is a very good suggestion if the officers could accept to use motorbikes. But I want to inform the hon. Member that we have put some plans in place. The Ministry has recently appointed a Board of Survey to identify unserviceable vehicles throughout the country, with a view to disposing of them through bonded sale. If we realise funds from that, together with what we will be allocated in the Budget, we shall buy vehicles for several districts. It may not be done at once. But our aim is to give every district a vehicle. As you know, we are a new Ministry. When we came in, we started by introducing some reforms. Soon or later, we are going to satisfy everybody. We know the important work that is done by our DSDOs all over the country.

Dr. Ali: Mr. Speaker, Sir, I do not think the Assistant Minister is serious. She said that DSDOs will not accept motorbikes. If you provide some somebody who is walking on foot right now with a motorbike, he will not refuse it! You purchased four vehicles worth Kshs13.5 million. It means that one of them is for the Minister and the other one for the Assistant Minister. Why can you not just tell Wajir residents that they will never get a vehicle! When will you reach Wajir? In the 2006/2007 Financial Year? I am 100 per cent sure that you will not purchase a vehicle. What guarantee do we have that, that vehicle will be given to us in two year's time?

Mrs. Chelaite: Mr. Speaker, Sir, I did not say that the officers will use motorbikes. However, I said that it will be good if they accept to use bikes because if we are given some little money, we will be able to buy and distribute them everywhere. It is our collective responsibility to convince the officers to use motor bikes. I guarantee that, as soon as we sell the vehicles we have bonded, and be given more money, we will buy either vehicles or motor bikes for our officers.

Mr. Abdraham: Thank you, Mr. Speaker, Sir. Having resources is one thing and planning efficiently is another. It is not that this Ministry lacks vehicles. However, the vehicles are not appropriately distributed to districts. Could the Assistant Minister reconsider redistribution of the vehicles from areas where there are many, to areas which do not have vehicles at all, like Wajir?

Mrs. Chelaite: Mr. Speaker, Sir, that point is noted. But I want to inform the hon. Member that, in fact, there is no vehicle which is serviceable in all our districts, in the whole country. For instance, at our headquarters, we have 18 unserviceable vehicles. In Nairobi, we have two and in Nyanza Province, we have 13. In Eastern Province, we have 15 and in North Eastern Province, where the hon. Member comes from, we have five. In Central Province, we have 13 and in Western Province 15. All those vehicles are unserviceable and that is why I said in the beginning that we will sell the vehicles through the normal Government procedures and also try to get more funds from our allocation in the Printed Estimates. Once we get the money, we will buy vehicles. As we distribute them, we will give priority to hardship areas.

Speaker: That is the end of Question Time! Next Order!

Mr. Ndambuki: On a point of order, Mr. Speaker, Sir. I am still waiting for a the Ministerial Statement I requested from the Minister for Information and Communications.

Mr. Speaker: I saw him here. So, he is keeping the House in abeyance! What is going on? Does Mr. Ndambuki have to continue waiting?

MINISTERIAL STATEMENT**UNETHICAL INDUSTRY PRACTICES
BY SOME MEDIA HOUSES**

The Minister for Information and Communications (Mr. Tuju): Mr. Speaker, Sir, I beg to give this Ministerial Statement, which was requested by hon. Ndambuki. I would like to apologise for not being here yesterday. There was a bit of confusion in my office. The Statement was ready yesterday morning, but unfortunately, I had a function which was not factored.

Over the last ten years, my Ministry has issued several broadcasting permits to private broadcasting stations, to complement the Government's efforts in informing, entertaining and educating the people of Kenya. As a result, we now have a flourishing broadcasting sector with 31 private free-to-air FM radio stations and nine television networks operating in the country.

Regarding the unethical industry practices by some of the broadcasters, the Kenya Communications Act, 1998, empowers the Communications Commission of Kenya (CCK) to revoke radio communication licences. As a Government, we have exercised great restraint, by not closing media houses in the interest of freedom of speech and expanding democratic space. Currently, the broadcasting permits are issued administratively, and therefore, can be withdrawn through the same way. A more comprehensive method of issuing broadcasting permits with a better anchor in law, is covered under a proposed communications Bill scheduled to be Debated in this House.

The current procedures of licensing broadcasting stations require that prospective broadcasters apply for permits from my Ministry. As a condition for being granted a permit to broadcast, all broadcasting stations are required to provide responsible and responsive programming that caters for the varied needs and susceptibilities of different sections of the Kenya community; observe standards of good taste and decency; gather and present news and information accurately and impartially; respect the rights to privacy of individuals; respect the copyrights and neighbouring rights; in respect of any work or material; keep a programme log or a machine readable record of its programming; ensure that advertisements, either in terms of content, tone or treatment, do not mislead and are not repugnant to good taste, and; when controversial or contentious issues of public interest are discussed, make reasonable effort to present alternative points of view, either in the same programme or in another programme, within the period of current interest.

Upon obtaining the permit, the prospective broadcasters apply to CCK for the broadcasting frequencies, which are issued subject to availability. The Ministry, has in the recent past received many complaints from members of the public, regarding broadcasters who have flouted the above conditions.

The current lack of proper regulatory mechanisms has resulted in some broadcasters airing unacceptable material. This problem is serious and if unchecked could result in a situation that could endanger our self reservation as a nation. We, therefore, need to find an interim solution. As a result, I have with immediate effect sent out a Ministerial communication to all media houses, drawing their attention to the relevant provisions in their permits and frequency licences.

I have requested the CCK to monitor all broadcasting stations, issued guidelines to broadcasters pending the enactment of the proposed Communication Bill. The said guidelines require broadcasters not to broadcast messages that will result in the contravention of, either, the penal code or any other socially acceptable code. This could include *inter alia* broadcasting messages that may promote offenses against public order, that preach hatred among various sections of the population in terms of ethnic communities, religious groups and various classes of people or body of persons that causes incitement to damage or destruction of any property or disobedience to lawful authority and civil strife or messages that incite a section of the community against any lawful authority to which

they are subject; that is defamatory and may cause public alarm, that preaches animosity towards the nation that is friendly to Kenya.

(A mobile phone rang)

Mr. Speaker: Order, hon. Members! Where is that thing? Where is it? Who has it? How come he cannot put it off?

The Minister for Water and Irrigation (Ms. Karua): It is in a man's pocket.

(Laughter)

Mr. Speaker: Order, hon. Members! Could you put off all those gadgets?

Proceed!

The Minister for Information and Communications (Mr. Tuju): I will proceed.

That is a message which is defamatory and may cause public alarm, that preaches animosity towards the nation that is friendly to Kenya, that is obscene or pornographic or any other material that corrupts public morality, for instance, promoting drug use; drug abuse and prostitution; that promotes unlawful activities that is false or misleading.

Any broadcasting station found to be flouting the above conditions will have its permit cancelled and consequently, CCK shall withdraw its frequencies.

Mr. Speaker: Seek clarification. It is not debate time.

Mr. Ndambuki: Mr. Speaker, Sir, I want to thank the Minister for the Ministerial Statement. I would like the Minister to tell the House whether he has listened to some of these FM stations? If so, why has it taken so long for action to be taken. We are not saying that he should shut down these FM stations, but that he should take action to show them that they are not following the guidelines he is talking about. I am sure the Minister has heard the kind of talk which is going on, on these FM stations. There is defamation. They are giving descriptions and analysis of people. People are being called names. I would like the Minister to tell us the consequences of these actions by the FM stations because they are inciting communities. When I was in Meru I heard one FM station saying that a group was beaten. I was there and we were not beaten. These are some of the things which the Ministry needs to look into. Yesterday there was an incident in my constituency where a presenter from one of those FM stations gave false information and he was harassed by *wananchi*. Could the Minister take action and stop these things from going on.

Mr. Midiwo: Mr. Speaker, Sir, I need to draw the Minister's attention to the tribal epithets being spilled out to the citizens by some of these radio stations, particularly Radio Citizen by a gentleman called Waweru Mburu. We have made so much noise there that I think it is high time that the Minister took action. There is no time you can listen to this person without him trying to lead this country into tribal warfare. Could the Minister take action? This morning Kameme FM said some serious things which cannot even be repeated because they are inciting some tribes against other tribes.

Mr. Muiruri: Mr. Speaker, Sir, it is on record here that the Minister promised to bring a Bill in this House to regulate the gutter Press which has been terribly notorious in scandalising and maligning people and he has not done it so far. The gutter Press is even worse because you will never locate them. At least we know where Radio Citizen is. You cannot locate these gutter Press because they have no known addresses. They have even failed to pay the required deposit to be registered as newspapers. It is so annoying when somebody reads in the Gutter Press in the streets that a certain Minister has done unprintable things. That is an area the Minister needs to look at because we cannot have a nation which allows notorious newspapers to write falsehoods.

Mr. Bett: Mr. Speaker, Sir, I wonder whether the Minister had seen the danger of licensing an

individual to broadcast in various languages. At the moment one person is broadcasting in Kalenjin, Luo, Kiluhya, Kikamba and Kikuyu. That is extremely dangerous.

The Minister for Information and Communications (Mr. Tuju): Mr. Speaker, Sir, I have received several reports of complaint about most of the stations. It is not fair for me as the Minister in charge of that docket to start naming them. I have received complaints against Kiss FM, Citizen, Sayari which is broadcasting from Eldoret, Victoria, Ramogi and several other radio stations. If somebody has a specific complaints that they can pin down and say that on such a day and such a time, this was broadcast, please send this to my office and I will take it up appropriately. I do not think that this is the right forum for me to start singling out stations on the basis of which tribe is seen to be in charge of that station.

With due respect to licensing, I am aware that there have been complaints about Radio Citizen having more frequencies than others. I found that Radio Citizen had already been licensed by the former regime. I do not have the grounds to withdraw their licences unless there are very specific complaints that I can be able to defend legally.

With respect to inflammatory language that tries to polarise this country on tribal lines, I would like to say that what we are hearing on these radio stations are simply a reflection of what we as leaders are guilty of. It is a reflection of what is happening elsewhere in our country, whether it is in our churches, Parliament or politics; tribalism is there.

Mr. Speaker: Mr. Minister, in the name of the nation called Kenya are you saying that since people are irresponsible, you are encouraging them to continue like that?

The Minister for Information and Communications (Mr. Tuju): If I may just clarify what I am saying, the media is only a reflection of the society. If I get complaints on specific instances then I will take action because the stations are supposed to keep a record of what is broadcasted up to 90 days. If you have specific dates that you can pin them down on, that is fine. I think it is unfair to vilify the media when sometimes we politicians go to those media houses to talk things which are very much polarising.

Mr. Speaker: I am personally persuaded that we will not get anything out of this and it will be putting the time of the House to waste. It is up to the Minister to have his conscience pricked whether he really thinks it is in the interest of this nation to have inciting talk during those shows that might one day bring war into Kenya.

Mr. Ndambuki: Mr. Speaker, Sir, I am not requesting the Minister to shut down any of these FM stations. I am requesting him to ensure that they follow the guidelines which they were given when they were getting the licences. I do not care what leaders are saying outside there. I want the Minister to tell the FM owners to operate within the rules which have been laid down. This is very dangerous. If we go this way, it will be very bad. Mr. Minister, can you say something?

Mr. Speaker: I do not have to come back to this. It is up to the Minister to decide whether he will take action or not, and history and Kenyans will judge him.

The Minister for Information and Communications (Mr. Tuju): Mr. Speaker, Sir, I mentioned here that I have taken action. I have sent a Ministerial letter to all the broadcasting houses reminding them of the provisions in their licences and telling them that they have to adhere to them. If they do not adhere to those requirements then we will take action. I have stated that.

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

Mr. Speaker: Order, Mr. Muiruri! We cannot dwell on this matter any more! What is it?

Mr. Muiruri: Mr. Speaker, Sir, I raised the issue of the Gutter Press with the Minister for Information and Communications because he promised that he would bring a Bill to regulate the Gutter Press which, as you know, has also scandalised you!

Mr. Speaker: Well, it has not scandalised me! It purported to scandalise me!

(Laughter)

The Minister for Information and Communications (Mr. Tuju): Mr. Speaker, Sir, it is not the province of my Ministry to regulate the Gutter Press. Any Gutter Press is on the streets illegally. The law enforcement agencies of the country should take appropriate action because the Gutter Press is illegal. It has got nothing to do with a regulatory framework from the Ministry. If Mr. Muiruri is referring to the Media Bill, that will be coming from the Office of the Attorney-General.

Mr. Muiruri: On a point of order, Mr. Speaker, Sir. It is on record that I asked a Question in this House with regard to this matter. The Minister for Information and Communications is also on record as having said that he would bring a Bill for debate in this House to regulate the Gutter Press. Is it in order for the same Minister to retract what he promised? This is a matter of the Ministry of Information and Communications!

Mr. Speaker: Well, I do not think we are going very far with this issue. The Chair does not act in vain.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE FINANCE BILL

The Temporary Deputy Chairman (Mr. Khamasi): Order, hon. Members! We are now in the Committee of the Whole House. I would advise you to look at the Finance Bill.

(Clause 2 agreed to)

Clause 3

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

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause-

Amendment of
the Fifth Schedule
to Cap.472

3. The Fifth Schedule
to Customs and Excise Act is
amended in the manner
specified in--

- (a) item 1 of the First Schedule;
- (b) item 1A of the First Schedule; and

(d) item 3 of the First Schedule.

(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 3 as amended agreed to)

*(Clauses 4, 5, 6, 7, 8, 9, 10, 11, 12,
13, 14, 15, 16, 17, 18, 19, 20, 21,
22, 23, 24, 25, 26, 27, 28, 29,
30, 31, 32, 33, 34, 35, 36, 37,
38, 39 and 40 agreed to)*

Clause 41

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 41 of the Bill be amended in the proposed new Section 179 by deleting the expression "may, if he deems it necessary" appearing in subsection (1) and substituting therefor the word "shall"

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

(Clauses 42, 43 and 44 agreed to)

Clause 45

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 45 be deleted.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Clause 45 deleted)

(Clauses 46, 47 and 48 agreed to)

Clause 49

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

THAT, Clause 49 of the Bill be amended:-

(a) by inserting the following new definition immediately after the definition of "Fund" "registration" means the entries maintained by the Board for record purposes in accordance with the manner determined by the Board

(b) by inserting a new paragraph (b) as follows:-

"auction" means any system of exchange approved by the Board and established for the purpose of the sale of clean coffee;

(c) by deleting the definition of "grower" in paragraph (d) and substituting therefor the following definition:-

"grower" means any person who cultivates coffee in any area in Kenya and includes a co-operative society, a co-operative union or any other body registered under any other law;

(d) by deleting the word "licensed" appearing in the first line in the definition of "marketing agent" in paragraph (e) and substituting therefor the word "registered"

(e) by deleting the definition of "private miller" appearing in paragraph (g) and substituting therefor the following new definition:-

"Private miller" means a grower who owns a mill.

(f) by deleting paragraph (h).

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, the amendments to Clause 49, as appearing on the Order Paper, are my amendments, not the Minister's. But I have a further amendment to Clause 49(2) which is basically definition of "clean coffee". So, I move further amendment to the Minister's amendment, that Clause 49(2) be amended further as per the Order Paper.

Clause 49 - Section 2 of the Coffee Act

By adding a new definition after the definition of marketing coffee and naming f(1)

"Clean coffee" means coffee already milled.

The Temporary Deputy Chairman (Mr. Khamasi): Well, I will put the Question and the Clerk's Chambers will clean up this matter. There is an amendment by the Minister to Clause 49 and also a further amendment to Clause 49(2) of the Coffee Act by hon. Mutahi Kagwe.

(Question of the amendment proposed)

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

(Clause 49 agreed to)

Clause 50

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, could I just seek clarification? We have just gone through Clause 49. Does that include the proposals on the New Clauses of 49A, 49B and 49C? We are talking about Section 2. There are new clauses that are addressing Section 4. Does that include those clauses? I am a bit confused.

The Temporary Deputy Chairman (Mr. Khamasi): These are new clauses and we will deal with them at a later stage.

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

THAT, Clause 50 of the Bill be amended:-

(a) by deleting paragraph (a) and substituting therefor the following new paragraph:-

(a) in subsection (1)

(i) by inserting the words "other than a grower" after the word "person",

(ii) by inserting the words, "less the cost of the transaction" immediately after the expression "f.o.b" in paragraph (a);

(b) in paragraph (c) by deleting the proposed new subsection (2A) and substituting therefor the following new subsection:-

(2A) The Board shall register a grower as a marketing agent.

(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 50 as amended agreed to)

(Clause 51 negatived)

Mr. Omingo: On a point of order, Mr. Temporary Deputy Chairman, Sir. When I came in, the House was discussing Clause 50. I had amendments to this clause which are on the Order Paper. I cannot understand why this House ignored them.

An hon. Member: That is a gone case! Where were you?

The Temporary Deputy Chairman (Mr. Khamasi): Order, hon. Members! I cannot make you stand from where you are and move your amendments. You know the rule! The Chair has no control over you.

(Clause 52 negatived)

Clause 53

The Temporary Deputy Chairman (Mr. Khamasi): There is notice of an amendment from Mr. Kagwe.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I would like to withdraw the proposed amendments to Clause 53.

(Proposed amendments withdrawn)

The Temporary Deputy Chairman (Mr. Khamasi): Very well! Then I will put the question to Clause 53 as contained in the Bill.

Hon. Members: No!

The Temporary Deputy Chairman (Mr. Khamasi): Order! I think we are not [The Temporary Deputy Chairman] certain, particularly the Front Bench. What do you want?

The Minister for Water and Irrigation (Ms. Karua): We are waiting for you! We do not want the whole thing!

The Temporary Deputy Chairman (Mr. Khamasi): The amendment has been withdrawn!

The Assistant Minister for Foreign Affairs (Mr. Ojode): We want to defeat it!

(Clause 53 negatived)

Clause 54

The Temporary Deputy Chairman (Mr. Khamasi): There is notice of an amendment to Clause 54 by Mr. Kagwe.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, if Clause 53 has been withdrawn, Clause 54 does not arise.

(Proposed amendments withdrawn)

Hon. Members: Fine! That is the way it is!

The Temporary Deputy Chairman (Mr. Khamasi): Then we are going to consider Clause 54 as contained in the Bill.

(Clause 54 negatived)

Clause 55

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

THAT, Clause 55 be amended by withdrawing my proposed ammendment and replacing it with the following new sub-section;

(a) (d) - six members appointed by the Minister on the basis of their interest and expertise in the coffee industry and in financil management

- from coffee co-operative societies
- plantation coffee growers
- other coffee experts

and approved by the relevant parliamentary committee.

Mr. Temporary Deputy Chairman, Sir, in the attached Order Paper, I have withdrawn the section I had proposed to amend and instead replaced it with further clarification.

(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 55 as amended agreed to)

New Clauses 56, 57 and 58

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

THAT, the Bill be amended by inserting the following new clauses immediately after clause 55-

Amendment of section 3 of No. 6 of 2004 is amended in 2004 and substituting

56. Section 3 of the Investment Promotion Act, 2004 is amended in 2004 subsection (2) by deleting the word "shall" therefor the word "may"

Amendment of section 4 of 2004

57. Section 4 of the Investment Promotion Act is of No. 6 of 2004 amended in subsection (1)-

(c) by deleting the word "five" appearing in

[The Minister for Finance]

paragraph (b) and substituting therefor the word "one";

(d) by deleting the word "five" appearing in paragraph (c) and substituting therefor the word "one".

Amendment of Section 6 of 2004

58. Section 6 of the Investment Promotion Act, 2004 is amended No.6 of 2004. by deleting subsection (3).

(Question of the new clauses proposed)

(New Clauses read the First Time)

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

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

(The new clauses were read a Second time)

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

New Clause 52A

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 52-

52A. The Coffee Act is amended by inserting the following new section immediately after section 32-

32A. The Minister shall make rules on the conduct of direct sales of coffee in order to promote competition and to ensure security of the growers' sales proceeds prior to export or transfer to the buyer.

(Question of the new clause proposed)

(New clause read the First Time)

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

(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)

New Clauses 49A, 49B and 49C

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

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 49-

49A. Section 4 of the Coffee Act is amended-

(a) by deleting paragraphs (a), (b), (c) and (d) and substituting therefor the following new paragraph-

(a) such number of members as may be appointed by the Minister on the basis of their interest and expertise in the coffee industry and approved by the relevant Parliamentary Committee.

(b) by deleting paragraphs (f) and (g) and substituting therefor with the following new paragraphs-

(f) the Permanent Secretary in the Ministry responsible for trade;

(g) the Permanent Secretary in the Ministry responsible for co-operative development.

49B. Section 7 of the Coffee Act is amended by deleting subsection (1) and substituting therefor the following new subsection-

(1) The object and purpose for which the Board is established is to promote competition in the coffee industry, production, processing and branding of Kenya Coffee locally and internationally, and generally to regulate the coffee industry in the public interest.

49C. Section 23 of the Coffee Act is amended-

(a) by inserting the word "commercial" before the words "coffee miller" wherever they appear;

(b) by deleting the proviso to subsection (1) and substituting therefor with the following new proviso-

Provided that commercial milling shall, in accordance with the regulations made under this Act, provide for security of parchment and clean coffee in the custody of the miller.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

First Schedule

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

THAT, the First Schedule of the Bill be amended-

(g) by inserting the following new item immediately after item 1 -

1A. (i) delete tariff number 2206.00.90 and its corresponding description and rate of excise duty;

(ii) insert the following new tariff number, description and rate of excise duty in proper numerical sequence-

Tariff No.	Description	Rate of Excise Duty
2206.00.90	Cider	Kshs54 per litre

(h) by adding the following new item at the end of the First Schedule-

3. Insert a new Part immediately after Part II as follows-

PART III

1. Excise duty on beer shall be charged as follows-

(a) Beer not made from malt - Kshs27 per litre.

(b) Other fermented beverages, mixture of fermented beverages and non-alcoholic beverages not elsewhere specified or included - Kshs54 per litre.

2. Mobile cellular phone services shall be charged excise duty at the rate of 10 per cent of their excisable value.

(Question of the amendment proposed)

(Question, that the words to be left out be

left out, and agreed to)

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

(First Schedule as amended agreed to)

*(Second, Third, Fourth and Fifth
Schedules agreed to)*

(Title agreed to)

Clause 1

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

THAT, Clause 1 be amended-

(b) in paragraph (b), by inserting the expression "3(b), 3(c)" immediately after the word "Sections";

(b) in paragraph (d), by deleting the expression "and 55" and substituting therefor the expression "55, 56, 57 and 58".

(Question of the amended 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. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of the Finance Bill and its approval thereof with amendments.

(Question proposed)

(Question and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

**REPORT, CONSIDERATION OF
REPORT AND THIRD READING**

THE FINANCE BILL

Mr. Khamasi: 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. Mwiraria): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Water and Irrigation (Ms. Karua) seconded.

(Question proposed)

(Question and agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I beg to move that the Finance Bill be now read a Third Time.

The Minister for Water and Irrigation (Ms. Karua) seconded.

(Question proposed)

(Question and agreed to)

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

BILL*Second Reading*THE KENYA RAILWAYS
CORPORATION (AMENDMENT) BILL

*(The Assistant Minister for
Transport on 2.11.2005)*

*(Resumption of Debate interrupted
on 2.11.2005)*

Mr. Speaker: Was there anybody on the Floor? Is there anybody who is interested?

Mr. Arungah: Thank you, Mr. Speaker, Sir, for giving me a chance to contribute to this Bill.

When we adjourned debate on this Bill, hon. Members were anxious to pass it, only that they required to be given certain information before they could pass it. Since yesterday, the Departmental Committee on Energy, Communications and Public Works has had an opportunity to meet with officials from the Ministry to seek the information that hon. Members sought. In particular, hon. Members needed information on the value of the assets that were being concessioned. They needed to have some information on the concession agreement. They needed to know the shareholding structure but, more importantly, they needed to know the retrenchment package that the employees who may be retrenched will be entitled to.

We have looked at those areas and we are satisfied that the Ministry has gone into this with the necessary details. For the benefit of the hon. Members, the value of the assets that are being concessioned is about Kshs23 billion. However, there are other assets which shall remain under the

control of the KRC. These are all the private lines including the Konza/Magadi Line, the Numerical Machining

Complex, the Hitech Foundry and Laboratory within the Nairobi Central Workshop and all the spare parts relating to equipment, plant and infrastructure. All the marine passenger vessels and real estates, *et cetera*, shall be retained by the Kenya Railways Corporation. They are not going to be given to the concessionaire.

Of particular importance, the valuation was done by a reputable company in consultation with RVC. Therefore, we are satisfied that the company that carried out the valuation has the necessary credentials and we have no reason to doubt the valuation that was carried out.

On the issue of the actual concession agreement, we are satisfied that the Attorney-General was part of it, and since we believe he will look after the national interests and he is satisfied with the agreement, the Committee did decide that it would go along. As long as the Attorney-General is satisfied, we should go ahead and give the seal of approval.

We are satisfied, for example, on the structure of shareholding. Briefly, the main concessionaire will have up to 60 per cent of the shareholding, but he will take a minimum of 35 per cent initially and the other 40 per cent shall be held by the nationals of this country.

But of particular importance is the package of the retrenched. It is very painful to have to ask somebody to go home. But we do agree with the sentiments of the Ministry in that, whereas, they have a total of 9,200 employees, if we insist on retaining them, there is a danger that the Kenya Railways is going to collapse altogether and all the employees will lose their jobs. So, an attempt is being made to save up to 3,000 jobs so that the Corporation can be rendered operational. As its business increases, there is an option that at the end of the day, those that will have been retrenched can be absorbed back. As it is, if the trend continues, we are going to have a situation where all of them will have to go home. So, as it is, we are better of saving, at least, 3,000 jobs with a possibility that at a later date, more will be brought on board.

Mr. Speaker, Sir, so, we looked at the package that is being offered by the concessionaire to those that are being sent home. We are satisfied that it is more than what is normally given to Government employees that are retrenched.

If I may just mention briefly, the pensionable staff will get one-month severance pay for each year worked. In addition, they will be given a golden handshake of Kshs120,000. As we all know, Government employees are normally given Kshs40,000. So, it is three times what the Government employees are normally given. They will also get transport allowance and other benefits. We are satisfied that they have complied with the requirements of the State.

So, in view of this information and on behalf of the relevant Committee, I am recommending to the House that it does agree and support this Bill, so that we can stem the drain, because as it is, we are spending Kshs340 million every month that is given to the Corporation. By carrying out the concessioning, we will save this country that money.

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

Mr. Ojaamong: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Bill on the privatisation of the Kenya Railways Corporation.

Mr. Speaker, Sir, when the passenger train used to go up to Malaba which is in Amagoro Constituency, the economy of Teso District used to boom. However, since the passenger train stopped going there, poverty levels have increased.

So, I wish to thank the Minister for having moved very fast to negotiate with this Rift Valley Consortium, so that it can revitalise the Corporation. I believe that the people in my constituency will, indeed, benefit.

However, as indicated yesterday by hon. Members, this is a very large Corporation involving very many assets. I am somehow satisfied with what Mr. Arungah said, that they are going to spare numerical machines and the workshops. But what about the Corporation's assets in a place like Malaba? The people of Amagoro donated their land free of charge to the Kenya-Uganda Railways

when it was being constructed. But it is very unfortunate that, as I speak, the Kenya Railways Corporation harasses the residents of this area to date.

I have a school on one side of the railway station, but the Corporation cannot allow this school to transport even sand. If you dare to do that, you get arrested, and yet, it is the people's land which they donated free to the Corporation. Those are some of the very contentious issues the Ministry has to address.

Mr. Speaker, Sir, what will happen to assets in places such as Malaba? Are my people also not going to be compensated? The Minister yesterday said that they are going to expand the railway line by around 10 meters. Currently, there is a small section we had given the Kenya Railways Corporation. This is going to affect many of my people right from Myanga to Malaba. They are going to be displaced. How much will be given to them as compensation to expand this railway line? These are also issues to be addressed.

Mr. Speaker, Sir, if, indeed, the Rift Valley Consortium is going to engage in meaningful business, it should also engage the people of Teso District very constructively, so that they are compensated, if the railway line has to be expanded. We are currently suffering as a result of the Ministry of Roads and Public Works' decision to expand the Great North Road which was initially measured during the colonial times in feet. But they have deliberately converted the measurements into metres. As a result, my people are going to lose their shops which are along the road. Let me hope that the Ministry of Transport will not do the same to our people, because it will be disastrous. We shall hit back if our land will be taken without good compensation.

Mr. Speaker, Sir, hon. Arungah - a Member of the Departmental Committee - said that retrenchees will be given Kshs120,000 as golden handshake and one month severance allowance. That is a bit fair compared to what Government civil servants get. But I would plead that the Ministry gives these people their money in full. They should not be given the money in phases to the extent that they will be frustrated. Previous employees who have been retrenched from the Corporation have suffered a lot. Some have been made to stay for a very long time without being paid their money. Let me hope that the Ministry this time will be very serious and compensate these employees in good time, so that they can invest wisely.

Mr. Speaker, Sir, I plead with the Ministry to absorb those employees who have a lot of skills, instead of employing new ones. That should be done on humanitarian grounds because they will be willing to get out for the sake of our country. But they should also be re-absorbed incase the corporation picks up.

Mr. Speaker, Sir, I know that travelling from Nairobi to Western Kenya by road is very hectic. We have problems driving behind trailers, which move very slowly. I am very happy that most goods will be transported by rail. Our roads will not be congested. Driving to Western Province will be smooth. Even the passenger train will be reinstated. Some of us will sleep while travelling to Malaba in the First or Second Class Compartments, instead of sitting the whole way. Therefore, I pray so hard that the Rift Valley Consortium starts effecting that programme as soon as possible.

With those few remarks, I beg to support.

Mr. Kimathi: On a point of order, Mr. Speaker, Sir. Could the Mover be now called upon to reply?

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

Mr. Speaker: Actually, I had no choice because there was nobody showing interest!

Mr. Minister, please, proceed!

The Minister for Transport (Dr. Murungaru): Thank you, Mr. Speaker, Sir. I wish to start by thanking hon. Members for raising very pertinent issues yesterday. Indeed, as a result of the issues that were raised yesterday, very important information was aired. It is now public.

Mr. Speaker, Sir, I would like to take this opportunity to assure Kenyans, through this House, that the concessioning process, which this draft Bill seeks to facilitate, will mean the survival of Kenya Railways Corporation. It has got many attendant benefits to this country.

Mr. Speaker, Sir, a number of specific issues have also been raised by hon. Members during their contributions. One is about the workers' retirement benefits. I would like to assure hon. Members that, as we are talking now, a team of officers from my Ministry and the Ministry of Finance are in Washington DC. I have just been informed that they have agreed with the World Bank on financing to settle the retirement benefits of workers who, unfortunately, the concessionaire will not be able to absorb. Those severance benefits will be paid in lump-sum and not in phases.

Secondly, the Government is going to relocate those who have encroached on land belonging to Kenya Railways very humanely. People in places like Kibera will be relocated to a decanting site where the Government is developing a slum up-grading project. On the Kenya Railways assets, I would like to reassure the country that they will be jealously guarded. They have been properly valued. The concessionaire will only lease the assets that are core to the business of transporting goods and passengers by rail. Those which will remain will be in the possession of Kenya Railways Corporation. They will be kept in trust either for the Kenya Government or for the retirement scheme of Kenya Railways workers.

Mr. Speaker, Sir, this is a very short Bill. Its passage by this House will facilitate the concessioning process. I wish to thank hon. Members who have contributed.

With those few remarks, I beg to move.

(Question put and agreed to)

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

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE KENYA RAILWAYS CORPORATION
(AMENDMENT) BILL

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, we are now in the Committee of the Whole House to consider the Kenya Railways Corporation (Amendment) Bill.

(Clauses 2, 3, 4, 5, 6 and 7 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Transport (Mr. Murungaru): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Kenya Railways Corporation (Amendment) Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT AND THIRD READING

THE KENYA RAILWAYS CORPORATION (AMENDMENT) BILL

Mr. Khamasi: Mr. Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Kenya Railways Corporation (Amendment) Bill and approved the same without amendment.

The Minister for Transport (Dr. Murungaru): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Mwiraria) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Dr. Murungaru): Mr. Speaker, Sir, I beg to move that The Kenya Railways Corporation (Amendment) Bill be now read the Third Time.

(Question proposed)

Mr. Angwenyi: Thank you, Mr. Speaker, Sir. Now that we have passed this Bill, we hope and believe that the Ministry will demonstrate proper management of the Corporation. We also hope that the welfare of employees of this Corporation will be taken care of very well so that we do not have people running around looking for their pensions and terminal benefits as they are doing this time.
Thank you.

Mr. Poghiso: Thank you very much, Mr. Speaker, Sir. I want to add my voice to those of my colleagues by congratulating the Minister, the Ministry and all those who are charged with the responsibility of concessioning. Many things fall through the cracks when concessioning and I hope that they will prepare adequately to handle whatever goes through because ultimately it is the Kenyan taxpayers and the workers who need to be protected and not those who are taking over. We need to protect our own and make sure the deal is good for us and not for anybody else.

Thank you and I beg to support.

Mr. Khamasi: Thank you, Mr. Speaker, Sir. I want to congratulate the Minister for successively steering this Bill through the House. This is one of the major parastatals in this country

which we are concessioning and I believe that we shall borrow a leaf from it and concession more parastatals particularly those ones which had become "cash cows" so that at least we should be able to get on the right footing particularly with regard to parastatals. It is necessary that the fate of employees whose pensions have been misappropriated is looked into to make sure that they go home and lead normal lives. We should not have destitutes out of these employees.

Thank you.

Mr. Nderitu: Thank you very much, Mr. Speaker, Sir. I rise to thank the Minister and all hon. Members of Parliament who contributed to this Bill which was long awaited. I tend to think that we have taken the right step to try and rejuvenate and rekindle the Kenya Railways Corporation. I hope Kenyans and myself are looking forward to enjoy the services of Kenya Railways Corporation which was already going to the dogs. I wish them luck.

Thank you very much.

The Assistant Minister for Transport (Mr. Ligale): Mr. Speaker, Sir, on behalf of the Minister, I really want to thank the House for the co-operation that they have shown and in particular the Departmental Committee on Energy, Communications and Public Works for taking their time out of their busy schedule to sit with us during the lunch break to go through the various papers to ensure that we embark on this concessioning exercise together as a team. We, in the Ministry of Transport, will ensure that we take the wishes of Kenyans on board especially those of the employees and the public at large in this concessioning exercise. Since we are doing it jointly with our friends from Uganda, we shall ensure that the interests of this country are uppermost in our minds. We look forward to signing this agreement on the 15th of this month and we want to thank you for enabling this to take place.

(Question put and agreed to)

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

Mr. Speaker: Let us proceed with the next Order for the next ten minutes.

BILL

Second Reading

THE RETIREMENT BENEFITS (AMENDMENT) BILL

*(The Assistant Minister for Finance
(Mr. Obwocha) on 29.9.2005)*

*(Resumption of Debate interrupted
on 29.9.2005)*

Mr. Speaker: Anybody interested in debating this Bill?

Hon. Members: Nobody is interested, Mr. Speaker, Sir.

Mr. Speaker: So, if there is no interest, I call upon the Minister for Finance to reply.

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, this Bill was debated at length and most of the speakers supported what it contained.

I, therefore, beg to move.

(Question put and agreed to)

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

Mr. Speaker: Very well, hon. Members. That concludes all the business on the Order Paper. I will, therefore, call upon the Leader of Government Business, His Excellency the Vice-President and Minister for Home Affairs, to move the Motion of Adjournment. Time will be taken into account in concluding.

However, I must also tell the House that although we are supposed to have only three hours to exhaust the debate, I will put the Question any time that we have no speakers.

MOTION FOR THE ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN
THE NEXT NORMAL SITTING DAY

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I beg to move that this House do now adjourn until Tuesday, 29th November, 2005.

Mr. Speaker, Sir, the campaign on the Referendum has had a really devastating effect on this House. The quality of our performance here has left a lot to be desired. It is barely five weeks since we came out of a long recess and it has been very difficult to get quorum almost every time. In fact, we have also injected the campaigns from outside there into this House. As it is barely 18 days to the Referendum, I want to take this opportunity to appeal to my colleagues and to all other leaders in the country that after the 21st of November, Kenya will still be there and that we will still be Kenyans. Let us not utilise this opportunity to antagonise each other. Let us respect the democratic space that this Government has given us.

Mr. Speaker, Sir, let us look at each other as contestants or opponents but let us not look at each other as enemies because this country is not at war. Let us go out there and explain to the people what they require. Let us tolerate each other. If you do not like the face of the speaker, do not go where he or she is. If you do not like the line someone has taken, relax by going to the swimming pool or the beach, but do not stop anybody from talking to people.

Mr. Speaker, Sir, when we come back after the Referendum, I would like us to be extremely serious with the business of this House. There are many Bills that are still pending; for example, the Banking Bill, the HIV/AIDS Prevention and Management Bill, the National Social Hospital Insurance Fund Bill and so many others. I would like to see these Bills enacted before we go to the next recess. I want to ask my colleagues to be prepared so that when we return on 29th November, 2005, we carry on with work until a few days before Christmas Day. We need not go on recess again on 11th December, 2005, a day before Jamhuri Day as we normally do.

Mr. Speaker, Sir, with those few remarks, I beg to move and ask hon. Mwiraria to second.

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, in seconding this Motion, let me underscore a point already made by His Excellency the Vice-President and Minister for Home Affairs. I appeal to hon. Members from both sides of the House to remember that, first and foremost, we are Kenyans. Some of us have no other homes anywhere else in the world. So, we should take pride in this nation to which we belong. We should always think of what we can do to make Kenya a better place for all of us to live in.

I agree that we are adjourning at a very crucial time in our history. It is a time when we are

headed for a Referendum to choose a Constitution for this nation. The campaigns on the Referendum are taking place at a time when there is peace in this country. Let me appeal to everyone to show tolerance because, after all, after the 21st November, 2005, we will come back to this House as brothers and sisters the way we have been. Let us avoid situations whereby we attempt to stop one camp from having meetings in other areas. If I have a very strong view, I should be allowed to express it. In the same vein, those who hold an opposite view should also be allowed to express it. Let Kenyans themselves choose what they want.

Mr. Speaker, Sir, let me also appeal to the hon. Members that as they go out for this very short recess, they should remember that this country is really going through a developmental phase which is progressing positively. I hope that we will talk about whatever the Draft Constitution is intended to achieve for this nation; there are many Sections in it that are positive. We also need to talk about the great things that this House has done, for example, passing the Constituency Development Fund (CDF) Bill, increasing the bursary fund, providing for free primary education, increasing finances appropriated to medical services and so on.

In conclusion, each one of us has a duty to himself or herself and to this country. We all have to ensure that we vote in a good Constitution. We need to make a decision that will make this place a better place to live in. During the last two weeks we have seen campaigns which at times have degenerated into violence. Other than the violence which has emanated from the campaigns, hon. Members have attempted to fight each other. In the event of violence, it is this country which suffers. The country is suffering from haemorrhage because of what I may call self-inflicted wounds. Let us avoid inflicting any more wounds to this nation. Let us nurse our beautiful country. I am sure I am preaching to the converted when I say that all of us are very fortunate to be Kenyans and to be in a country which has enjoyed peace and stability over the years. Our country is not only beautiful, but also being developed for the welfare of all. It is all in the hope of reducing poverty to the levels required by the Millennium Development Goals (MDGs).

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

(Question proposed)

Mr. Speaker: Who is going to be the official responder of the Opposition side? Proceed, Mr. Okemo!

Mr. Okemo: Thank you, Mr. Speaker, Sir. In responding to this Motion, I would like to take cue from the two speakers who have just spoken before me. Indeed, Kenya is more important than any of us. I wish that we leaders would act as we say. Unfortunately, we say very many good things, but when we act, we do exactly the opposite. If this spirit that I get from the Government side were to prevail in the many public rallies that are going on around the country, I think Kenya would be a better place. It is unbelievable, sometimes, to hear some of the things that come out of our mouths when we are addressing public rallies. I think there is so much emotion that goes with it that we forget that what we say is taken so seriously by members of the public. I believe that if there was goodwill right from the beginning, we would not be where we are today as far as the debate on the Referendum is concerned.

Mr. Speaker, Sir, A lot of opportunities were wasted right from the time when we were trying to put together the Parliamentary Select Committee, choosing the Chairman of that same Committee, the lots of acrimonious debates that went on in this House even up to a record midnight debate and the very bitter exchanges that went on in this House. I could actually not believe that all of us live in this country because the divide was so obvious. That has continued up to today. I believe history will judge us very harshly as leaders of this country. We must separate personal ambition from national interest. Today, if the proposed Draft Constitution is passed and we end up with the Wako Draft as the new

Constitution, will Kenya be a better place? If the Wako Draft is rejected at the Referendum and we end up with a "NO" vote, will Kenya be better off? Those are the fundamental questions that we must ask ourselves, rather than trying to make sure that each one of us scores against the other. Why should we fight? Why should the Orange and the Banana groups fight? Why not speak and let the voters make their choice. If I have a point to make, let me make it! Let it be up to the voters to make that decision. Why must I come and make what I am saying forced down the people's throats? Many of us seem to be carried away by mass hysteria. When you see a big applauding crowd, you forget that the fundamental issue is the Constitution for Kenyans. It is for the poor, the rich, the powerful and the less powerful. That is what we must keep in mind when we go out there campaigning. If I want to go to Dr. Murungaru's Constituency to sell oranges, let me do so in peace. Do not station youths to frog-march me out of there. Equally so, if you feel you want to sell oranges in Busia, please come and sell them!

An hon. Member: Bananas!

Mr. Okemo: Bananas will be rather difficult to sell but, if you feel like you want to sell them, please, come! Talk to the *wananchi* and let them decide.

(Laughter)

But more fundamentally, let us ask ourselves: "After the Referendum, then what?" That is the most important thing! We have seen that the economy has begun to pick up---

Mr. Speaker: Your time is up! Proceed, Mr. Maore!

Mr. Maore: Mr. Speaker, Sir, thank you for giving me the opportunity to say a few words. Picking a leaf from the President's statement yesterday, that not every generation is bequeathed with the opportunity of writing or debating a Constitution, the people of my generation have that privilege. But just like the one we are campaigning against, the 1963 Lancaster Constitution was hijacked by a clique of people around President Kenyatta - who was 75 years old - and mutilated beyond recognition. They thought that Kenyatta will be an everlasting phenomenon. As fate would have it, for 24 years, the next President used that Constitution to run this country.

Mr. Speaker, Sir, in 2005, our generation may be faced with similar circumstances, where a similar clique of people around President Kibaki - who is 74 years old - believe that they need to craft a Constitution to help the President win the next election and run this country without making reference to whatever lies ahead in this nation. That is a myopic gang and it is bound not to get anywhere. As we have said before in different fora, making a Constitution for a country during peace time is not an easy task, just like the situation we have today. We are opening very many wounds and the best question to ask is: "What will those entrusted with handling the affairs of the State do? What will those who are capable of holding the nation together after all the wounds have been opened on 21st November, 2005 do?" Without giving an answer to that question, I want to support this adjournment, so that we can go and tell Kenyans what is good or bad in this Draft.

Thank you.

The Minister of State, Office of the President (Mr. ole Ntimama): Mr. Speaker, Sir, I also want to support the Motion for the Adjournment. I want to say that we have seen a lot of things going on in the last few weeks, which are not compatible with the rule of law. It is so important that nations abide by the rule of law and not the rule of men. The Chair is a prominent lawyer and he knows that. We should not be guided by the whims, dislikes and discriminatory attitudes of individuals, but the law.

Mr. Speaker, Sir, we have seen many instances where the law has been flouted with impunity and openly. They say: "We are definitely breaking the law." What do we become if, right now, Members on this side of the House - including me - could wake up and say: "I am going to do this! I

know it is against the law! I am the law unto myself and it must be obeyed!" Those are the things we have seen. They are very dangerous. If we cannot follow the law, we cannot make a democratic and united nation. We have even said some things here and yet, we know the statute books. I have even seen those who are barking at the rallies! But when you are an irresponsible person - and, maybe, I am one of those - you cannot come and say: "I am not going to follow the law." We have seen those dangerous scenarios.

Mr. Speaker, Sir, I want to say that we could be like Malaysia, Mauritius, India or China! But we cannot because of the corruption that is embedded and entrenched in this country. It is official corruption. It has now moved to the local authorities. Even officials in the local authorities are abetting and aiding corruption. If the local authorities collapse economically, they will impact negatively on the nation. That is what is going on. If, for example, officers who have been carrying out reforms are actually removed from their places of work, so that corrupt officers are put there to give access to some people to engage in corruption, that is a pity.

Mr. Speaker, Sir, I would like to say that an alligator is like a crocodile. They have been let loose in some of the areas in this country to eat, grab and loot everything. Some of the areas to be looted are Narok County Council, parks and forests. All the alligators are on the loose!

(Laughter)

We have to be very careful about them. They say we should use poisoned arrows! But I would like to say that we have a good country. The Referendum will be a good test for this country. But we must be democratic and avoid all those bad things.

Mr. Speaker: Since there is no other interest, I will put the Question.

(Question put and agreed to)

Hon. Members, from the Chair, I wish you a very good recess. As your Speaker, I plead with you to do everything within your power and avoid anything that will put this country into trouble. Please, pray for that and listen to me. I wish you a very happy recess.

ADJOURNMENT

Hon. Members, that concludes the business on the Order Paper. The House is, therefore, adjourned until Tuesday, 29th November, 2005, at 2.30 p.m.

The House rose at 4.45 p.m.