

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 7th May, 1997

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

## PRAYERS

## NOTICES OF MOTIONS

**Mr. Kiliku:** Mr. Speaker, Sir, I beg to give notices of the following Motions:-

### TARMACKING OF KIBWEZI-KITUI ROAD

KWAMBA, kwa kuwa kupanuka kwa biashara baina ya Mkoa wa Pwani na Mkoa wa Mashariki kumetatizika kwa sababu ya ukosefu wa barabara madhubuti, Bunge hili linauliza Serikali iweke lami barabara ya Kibwezi-Kitui haraka iwezekanavyo.

### ESTABLISHMENT OF WORKERS' BANK

THAT, in view of the fact that the National Social Security Fund does not benefit the workers until they attain their retirement age, this House calls upon the Government to establish a workers' bank where the workers can get soft loans for investment purposes or for other personal use.

## ORAL ANSWERS TO QUESTIONS

### *Question No. 128*

### PAYMENT OF ALLOWANCES TO POLICE OFFICERS

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

(a) whether he is aware that both the Kenya Police and Administration Policemen in Tana River District are not paid any allowance when they go out on operations outside their duty stations; and,

(b) what arrangements he is making to pay the above officers their night allowances, as provided for in the regulations.

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

(a) The security personnel in Tana River are paid their allowances every time they go out on operations outside their duty stations.

(b) Arising from my reply to part "a" of the Question, part "b" does not arise.

**Mr. Kofa:** Mr. Speaker, Sir, about Kshs1,000,000 was disbursed to these people to meet operational expenses. The neighbouring districts like Lamu, Isiolo and Garissa got this money except Tana River and whenever these police officers ask about this money they are threatened with transfers, interdictions or dismissal. Although the Assistant Minister says that these officers have been paid their night out allowances, most of them have not been paid. In view of that, what is the Assistant Minister going to do to ensure that these policemen are actually paid their allowances?

**Mr. Sunkuli:** Mr. Speaker, Sir, I do not know whether there is a particular problem. Maybe the hon. Member may wish to draw that to my attention, but what I know is that every time officers go outside their stations, they are supposed to be paid their allowances. I do also know that some expenses incurred by officers, because they are not budgeted for, are far in excess of the money that is supplied by the Exchequer. But in such a

situation, that money accrues and is paid when money becomes available. We ensure all the time that we try to satisfy the claims of the officers who go on duty. If there is a special problem of officers not being paid for any reason then the hon. Member may wish to see me and we can sort it out.

**Mr. Obure:** Mr. Speaker, Sir, the Assistant Minister says that the officers are paid their night out allowances. Is he aware that whenever police officers ask for their allowances they are told to go on duty and then come to complain later? Working without money makes them corrupt.

**Mr. Sunkuli:** Mr. Speaker, Sir, I do not know where the question relates to. I am wondering whether the hon. Member has run away from Tana River to Bomachoge. I was answering a particular question about hon. Kofa's constituency.

*Question No. 049*

KENYA POLICE RESERVE RECRUITMENT

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

- (a) how a Kenyan citizen qualifies to join the Kenya Police Reserve; and,
- (b) when and where the next Kenya Police Reserve Recruitment is going to take place in Nairobi.

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

(a) A Kenyan citizen qualifies to join the Kenya Police Reserve if he or she is 18 years of age and above, has no criminal record and is willing to give voluntary service.

(b) Recruitment into the Kenya Police Reserve is done by the Provincial Police Officers countrywide who consider each application by every interested person on its own merit. This is a continuous exercise throughout the year.

**Mr. Kamuyu:** Mr. Speaker, Sir, you will notice that the Minister has refused to answer part "b" of my Question. I specifically asked when the next recruitment is going to take place. I hope he will comment on that. I wish to ask the Assistant Minister to tell this House how many Kenyan citizens are at the moment serving as police reservists. Out of these, how many are of Asian origin?

**Mr. Sunkuli:** Mr. Speaker, Sir, I will not disclose that because of security reasons. The people working as Kenya Police Reservists are all Kenyans.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. The answer to part "a" of this Question, states very clearly that a Kenyan citizen qualifies to join the Kenya Police Reserve at the age of 18. There is absolutely no indication about training or anything of the sort. So there---

**Mr. Speaker:** Now, Mr. Kamuyu, you are totally out of order. If you wanted to ask him that question, ask a supplementary question and not a point of order. So you can now sit down.

**Mr. Kamuyu:** Can you allow me to complete my point of order?

**Mr. Speaker:** I am sorry, no.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is totally out of order to mislead this House that he cannot disclose how many Kenyans are serving as Kenya Police Reservists when he has already attempted to answer the Question. If doing that was a security risk, you would agree with me that this Question should not have been answered in the first place. Can he now proceed and tell me when the next recruitment is going to take place in Nairobi and where specifically so that I can tell my people from Dagorreti to apply?

**Mr. Sunkuli:** Mr. Speaker, Sir, those who wish to be recruited to be Kenya Police Reservists approach their Provincial Police Officers and the exercise is continuous.

**Mr. Karan:** Mr. Speaker, Sir, the Assistant Minister has said that one of the conditions for one to be recruited as a Police Reservist is that, he has to have no criminal record. Can he tell this House how Ketan Somaia managed to be a police reserve during the time he was here and he is known to have a criminal record?

**Mr. Sunkuli:** Mr. Speaker, Sir, the only way you can know whether a person is devoid of a criminal record is, if he has been convicted or not.

**Mr. Ruhii:** Mr. Speaker, Sir, I wish to ask the Assistant Minister to consider disbanding the Police Reserve unit because it has become an execution squad. Mr. Kassam is in Norway after killing two church-men in Embakasi and Mr. Khan was extradited. Can he consider disbanding this Police Reserve force because it is an execution squad?

**Mr. Sunkuli:** Mr. Speaker, Sir, no. The hon. Member is making an outrageous claim. He knows that

KPR has been a very useful force and in fact, the hon. Member is using one particular example that he thinks is bad to ask for the disbanding of a force that has been useful in combating crime.

**Mr. Kamuyu:** Mr. Speaker, Sir, can the Assistant Minister comment on the fact that due to bad training of police reservists, a certain Mr. Singh killed an innocent street boy and the case was dubiously and in fact, suspiciously terminated at the law courts?

**Mr. Sunkuli:** No, Mr. Speaker, Sir.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. What the hon. Kamuyu asked the Assistant Minister to comment on is the case which involved a street boy from my constituency, called Kanampiu. He was asked to comment on the fact that this case was suspiciously and dubiously terminated in a court of law and that Indian went scott free and the boy was buried. He then stands to say "no". What is he saying no to?

**Mr. Speaker:** Order, Ndicho! The question put to the Assistant Minister was whether he could comment or not. It was open to him to say yes or no, and he chose to say no.

*Question No.120*

AFC LOANS TO SMALL SCALE FARMERS

**Mr. Anyona** asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) what criteria and procedures are used by the Agricultural Finance Corporation (AFC) to advance loans to small-scale farmers in the country; and,

(b) if he could give details of loans advanced to small-scale farmers in Kisii and Nyamira Districts in 1993, 1994, 1995 and 1996.

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. D.M. Mbela): Mr. Speaker, Sir, I beg to reply.

Loans advanced to small-scale farmers are based on the Agricultural Finance Corporation's established loan policy and procedures that are meant to ensure sound credit standards. A proposition is therefore, evaluated in terms of the set credit standards such as viability and the payment capacity of the proposed projects and any legal requirements necessary.

However, Mr. Speaker, Sir, the volume of viable agricultural projects always surpass the Corporation's financial resources. As such, the Corporation is not always in a position to meet its obligations. Loan applications are therefore subject to availability of loanable funds.

Mr. Speaker, Sir, between 1993 and 1996 the Corporation advanced loans to 104 small-scale maize and dairy farmers amounting to Kshs5,493,750 in Kisii and Nyamira Districts as follows:-

<u>District</u>	<u>No. Of Farmers</u>	<u>Amount</u>
Nyamira	31	Kshs1,321,350
Kisii	25	Kshs1,000,400
In 1994 it was as follows:-		
<u>District</u>	<u>No. Of Farmers</u>	<u>Amount</u>
Nyamira	16	Kshs1,000,030
Kisii	32	Kshs2,142,000

Mr. Speaker, Sir, the two districts have a delinquency rate of 88 per cent. This is indeed very high and the hon. Member should urge farmers from his constituency to pay outstanding loans if more farmers are to benefit from the Corporation's loans.

**Mr. Anyona:** Mr. Speaker, Sir, there is a very strong feeling among the Abagusii community that we are being marginalised in every area of Government and that is why the community is re-thinking their political stand in the future. In four years, such a rich area like Kisii and Nyamira, only 104 people qualified for loans of Kshs5 million. Now, can the Minister explain why only 104 farmers got these loans? Is it that there were no applicants or what happened? In any case, in 1995 and 1996 there was no single individual from a community of 3 million people who got a loan from this Government and you expect us to vote for you next time.

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I would like to make one correction. It is true that only a total of Kshs5,493,750 was given as loans for the years 1993 and 1994 for Kisii and Nyamira Districts. But the total loan portfolio amounts to Kshs13,286,972-80. I agree with the hon. Member that no loans were disbursed in the two districts in 1995 and 1996 because the Agricultural Finance Corporation did not have much money to lend. I

would also like to add that loans are given out to be repaid. When you have delinquency of 88 per cent, it means there is no security and it means you have to lend very cautiously.

**Mr. Moiben:** Mr. Speaker, Sir, can the Minister confirm to this House whether any farmer in this country benefitted from AFC loans last year and this year?

**Mr. D.M. Mbela:** Mr. Speaker, Sir the question was specifically for Kisii and Nyamira Districts. I do not have the figures for the rest of the country. All I can say is that, between now and the end of June we have an additional Kshs100 million which was sanctioned by this House a week ago.

**Mr. Obure:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House and the nation that no loan was disbursed to Nyamira and Kisii Districts and then when asked by the hon. Member whether there were any loans issued in this country he says, he is only concentrating on Kisii and Nyamira Districts thus, deliberately refusing to answer the question? It is important to know whether the Kisii community has been marginalised as hon. Anyona has alleged or there were no loans issued in the country.

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I can answer a specific question if it is put to me. But, I know for a fact that in 1995 and 1996 hardly any funds were made available to AFC to lend to the country. It is quite possible to marginalise yourself, by refusing to pay back loans because the lender becomes cautious in deciding on whether to lend you the money or not.

**Mr. Mak'Onyango:** Mr. Speaker, Sir, the AFC was established as an arm of the Government for promoting agricultural development because we are an agricultural country. When the AFC is only able to lend so little to so few, is the Minister satisfied that the AFC is still serving its original objective?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I am satisfied. I expect the AFC to transform itself into a farmers' bank which is able to manage the affairs of providing credit to the Kenyan farmers.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. The Minister has made a very serious allegation against a whole community. He says the two districts have had a delinquency rate of 88 per cent. That is what we were talking about. There is an English saying which says: "Before you kill a dog, you give it a bad name." The Kisii community is being given a bad name. Is he in order to accuse the whole community of that 88 per cent rate of delinquency and yet, he cannot demonstrate how much money the farmers have been unable to repay? Is he saying that these loans have not been repaid in full? If not, can he withdraw that remark?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, the loans given out in 1993 and 1993 are not terribly in arrears. For the AFC to make a categorical statement that the delinquency rate is 88 per cent is quite scaring for any financier.

*Question No.013*

POWER RATIONING IN MOMBASA

**Prof. Mzee** asked the Minister for Energy:-

- (a) whether he is aware that Mombasa Town is being subjected to erratic power rationing,
- (b) what the Ministry is doing to end this rationing; and,
- (d) whether he is further aware that millions of shillings are being lost as a result of the rationing and whether he intends to compensate the users for losses arising from such erratic rationing.

**The Minister for Energy** (Mr. M'Mukindia): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mombasa, like the rest of the country, has been affected by the power rationing programme which the Kenya Power and Lighting Company has put in place - which has been occasioned by the shortfall in power generation resulting from two main happenings. One of those happenings is the just ended severe drought and, secondly, the donor suspension of funding to the sector in 1991.

(b) Due to the current heavy rains, the situation has improved to some extent and now there is reduced power rationing in the country.

(c) I am also aware that consumers have incurred losses as a result of the programmed power rationing. While I sympathise with that I am not able to compensate consumers for the losses that they have incurred.

**Prof. Mzee:** Mr. Speaker, Sir, energy is one of the most important things to attract investments into the country. For the last four years, we have hardly had any new industries in Mombasa because of the shortage of energy, water and poor road infrastructure. I would assume this is a very important thing which needs to be solved. What I would like to know from the Minister is the total Kilo Watts requirement for Mombasa Town, the capability of supply, the number of generators functioning in Mombasa and the source of power supply in Mombasa, so that we know that in the future, as you have just promised, there will be no power rationing. What

plans have you to stop this?

**Mr. M'Mukindia:** Mr. Speaker, Sir, Prof. Mzee is quite right to say that for the last four years, we have been having problems. In answer to his Question, I also mentioned that due to the suspension in donor funding for the sector, indeed, we have not been able to invest in this sector for the last five years or so. This should remind Prof. Mzee and his colleagues in the Opposition that they should not have vigorously campaigned for donor suspension for investment in this country. This is a direct result of that campaign and that is why we have not been able to invest in this sector for so many years. Nevertheless, the Government has now put in place a plan to address this very serious situation which has caused untold suffering and brought losses to Kenyans. It is quite true that very few factories have been set up, not just in Mombasa, but throughout the country because investors are obviously not interested in putting up factories when there is no power available.

**Mr. Karan:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead this House and the country at large that the donors suspended grants to this country because the Opposition campaigned against it when he knows very well that the donors suspended aid to this country because of corruption?

**Mr. Speaker:** Order! Order, Mr. Karan. You hold your view and he holds his. So, let everybody hold his own view.

**Mr. M'Mukindia:** Mr. Speaker, Sir, it is well known that Members of the Opposition are the ones responsible for the lack of investment in this country which is causing a lot of untold suffering to a lot of Kenyans. Next time when we conduct our campaigns, I would advise my colleagues to do it, bearing in mind the long term interests of this country. They should not hurt their own people.

To answer hon. Prof. Mzee's question! Mombasa Power Plant supplies power to not only Mombasa but also to the whole country. As you know, Kipevu is a major power generation plant but to ensure that it addresses the situation, we do have the Nairobi Stop-Gap Diesel Power Plant which is being set up and which should be commissioned towards the end of this year. This will generate 45 Mega Watts. At Kipevu, we have a new power generating equipment which has arrived already and which the hon. Member might not be aware of. It will generate 43 Mega Watts and it will also be commissioned in the next few months. At Kipevu itself, Kipevu One Diesel Plant should generate a total of 75 Mega Watts and we expect that, that one will be commissioned by 1999.

We should also have another Power Plant at Kipevu; Kipevu Two Diesel plant generating an additional 25 Mega Watts and it should be commissioned by the year 1999. We do have some work going on at Gitaru Three, a hydro plant which will generate a total of 73 Mega Watts and it will be commissioned by the year 1999. We also have Olkaria Two and Three coming on stream in 1999 and the year 2000.

As Members might probably know already, Sondu Miriu has got the funding from the Japanese Government and that will generate an additional 60 Mega Watts of Power. I would like to mention that although we have power plants with a total of 499 Mega Watts power generation capacity, we do not really know the true demand of electricity in this country. I would therefore, like to assure hon. Members that whenever the need arises, we will go into stop-gap measures to ensure that we do not face the crisis that we have faced in the last two years or so.

**Mr. Munyasia:** Mr. Speaker, Sir, arising from the Minister's answer and noting that I come from a constituency that does not have electricity at all, can the Minister tell this House how the Opposition influences or prevents the donor countries from giving aid to this country - regarding development projects like expansion of electricity?

**Mr. M'Mukindia:** Mr. Speaker, Sir, I am not in the Opposition ranks and so, I cannot tell you the details. But from what appears in publications, yes, indeed you do that. I should mention that in so far as Rural Electrification is concerned, the German and the Finish governments were financing these programmes. When the donor funds stopped, Rural Electrification stopped. That is the situation which hon. Munyasia is facing in his constituency and that applies to the whole country. I think all hon. Members should work hard to restore the confidence of the donor community in this country, so that we can attract funding to these very necessary areas.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, arising from that answer given by the Minister, and not withstanding his innuendos against the Opposition, there has been quite a considerable increase in the industrial sector of this country. Could the Minister tell the House whether or not his Ministry had foreseen this? This Ministry failed to plan for the increase in the usage of electricity, which has subsequently embarrassed them.

**Mr. M'Mukindia:** Mr. Speaker, Sir, as I mentioned earlier, the Government had put in place very comprehensive investment programmes to ensure that we do not run short of power in this country. But never-the-less, when these investment programmes were stopped, our plans were late by six years. But now, we are putting in place programmes to ensure that this situation does not arise in the future.

**Prof. Mzee:** Mr. Speaker, Sir, I listened to the Minister very keenly. He blamed the Opposition for the

lack of electricity supply. But I would like to draw his attention to the fact that the Finish donor funding was stopped not because of the Opposition, but because of the white elephant project called Turkwell. Also, the money that he is referring to as the Japanese---

**Mr. Speaker:** Are you now answering him, or you are asking a question?

**Prof. Mzee:** I am asking a question, but I am building it up. He also referred to the Japanese loan which we have not even approved here in Parliament!

**Mr. Speaker:** Can you now put the question?

**Prof. Mzee:** I have heard all these stories but I would like the Minister to assure this House that, rationing will definitely come to an end and we are going to get the normal supply of electricity, after all that he has said.

**Mr. M'Mukindia:** Mr. Speaker, Sir, first of all, Turkwell is not a white elephant. If Turkwell was not in place when this investment stopped, we would have been short by a further 60 megawatts of power in this country. That would have destroyed the very fabric of the economy of this country. I have admitted that once we have the stop-gap plans in place in the latter part of this year, we shall just have enough.

We will not have spare capacity to take account of maintenance programmes. So, rationing will go on, but at a very much reduced level from what it is today.

*Question No. 008*

TARMACKING OF MIRANGINE-NDUNYU NJERU ROAD

**Mr. Githiomi** asked the Minister for Public Works and Housing when he will tarmack the Mirangine-Tumaini-Ol'Kalou and Ol'Kalou Wanjohi-Miharati-Ndunyu Njeru roads.

**The Assistant Minister for Public Works and Housing** (Col. Kiluta): Mr. Speaker, Sir, I beg to reply. There are no immediate plans to tarmac Mirangine-Tumaini-Ol'Kalou and Ol'Kalou Wanjohi-Miharati-Ndunyu Njeru roads due to lack of funds.

However, these roads will be adequately maintained to ensure that they are motorable.

**Mr. Githiomi:** Mr. Speaker, Sir, this road is the famous Njabini Road. The road was supposed to be tarmacked between 1994 and 1996. I am surprised to hear there are no immediate plans to tarmac the road.

Could the Assistant Minister tell the House whether it is true that KANU has sworn never to tarmac this road until it is removed from power?

**Col. Kiluta:** Mr. Speaker, Sir, I am not party to the oath taken by KANU because I know there is nothing like that. However, the removal from power does not exist because we are here to stay. As soon as we get money, we will tarmac the roads.

**Mr. Gichuki:** Mr. Speaker, Sir, the Assistant Minister has said that he is going to maintain the roads, and he is not going to tarmac them. In view of that, and these are roads that we know very well, can he tell us the amount of money he has used to maintain these roads in terms of gravelling or grading? This is because as far as we know, nothing has been done on these roads for the last ten years. Can he tell us the amount of money he has apportioned to repair these roads?

**Col. Kiluta:** Mr. Speaker, Sir, for his information, the estimate given to tarmac the roads in question is Kshs1.52 billion. That is why the roads cannot be tarmacked at the moment. We are not refusing to tarmac the roads, but we will tarmac them when we get that kind of money. However, for his information, we have spent Kshs900,000 on gravelling the Haraka-Karangathi Road in the same district.

**Mr. Gichuki:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is talking about Karangatha-Njabini Road. The Questioner is talking about Mirangine-Tumaini-Ol'Kalou and Ol'Kalou-Wanjohi-Miharati-Ndunyu Njeru roads. These are different roads. Now, he is giving us stories about some other roads in a different area.

**Mr. Speaker:** If you had held on, you would have got the answer!

**Col. Kiluta:** Mr. Speaker, Sir, I think the Questioner is in a hurry. If he is in a hurry, I would like to tell him that we have already set aside Kshs10,245,600 to do the roads in that area.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, we know that Ol'Kalou is now the headquarters of Nyandarua district, as opposed to Nyahururu. In view of this fact, could the Assistant Minister consider giving an allocation during this Financial Year to tarmac this road? It is one of the roads that connects Ol'Kalou and Nakuru. Since Ol'Kalou will be the headquarters, people will not be able to reach there. Could he do something?

**Col. Kiluta:** Mr. Speaker, Sir, we only have one and half months of this Financial Year left. I really do

not have this kind of money we are talking about; that is Kshs1.52 billion. It is not possible for me to get this money within two months, and I am sure the hon. Member is in agreement. However, we will look into this, together with the other roads in that district, and where priority is given, we will see what can be done.

*Question No. 046*

IMPLEMENTATION OF KILIMANJARO WATER PROJECT

**Mr. Musyoki** asked the Minister for Land Reclamation, Regional and Water Development:-

- (a) what happened to the Kilimanjaro Water Project which took off in the 1980s in respect of Machakos Town Constituency;
- (b) the areas covered by this water project in Machakos Municipality; and,
- (c) the plans the Minister has to ensure that the residents of Machakos Town have adequate water supply.

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Mokku): Mr. Speaker, Sir, I beg to reply.

(a) Kilimanjaro Water Project which is officially known as Nol Turesh Pipeline Water Supply Project was commissioned in 1991, and has since been supplying a total of 11,900 M<sup>2</sup> of water per day to Mashuru, Machakos, Kajiado and Athi River Towns, as well as the people living along the pipeline route.

(b) In Machakos Municipality, the pipeline is connected to all the distribution networks of the municipality, which supply water to the town centre, Kiima-Kimwe area, Migwani, Kenya Israel, Kimutwa and homesteads along Kangundo Road.

(c) My Ministry, through the National Water Conservation and Pipeline Corporation will ensure that residents of Machakos Town get adequate water supply, by reviving the Old Railways Pipeline which used to provide water to Sultan Hamud, Emali, Simba and Kiima-Kiu urban centres before the new pipeline was commissioned. When the old pipeline resumes, water supply to these trading centres will improve. This will enable Nol Turesh Pipeline Water Supply Project to provide more water to Machakos, Kajiado and Athi River Towns.

**Mr. Musyoki:** Mr. Speaker, Sir, the answer that the Assistant Minister has given is not true of what is happening on the ground. The Kilimanjaro Water Project, as he has said, was commissioned in 1991, and it is not until 1992 that Machakos town constituency got enough water. However, since 1993 up today, not even the Machakos District Hospital has water, people are fetching water from rivers taking it to patients in the hospital. In 1992, there was a water project from Machakos town to Mutitoni market-- Even now, the pipelines have been fitted, water kiosks have been set put up and so on, but there is no water. My people---

**Mr. Speaker:** Order! Order! Mr. Musyoki, you are now addressing a public baraza! So, can you put the question?

**Mr. Musyoki:** Mr. Speaker, Sir, since the Assistant Minister has told us that there are plans to supply enough water to Machakos town constituency, can he tell us when this will be done? We have been hearing of this old Kenya railways pipeline project being extended to our people yet there is no water.

**Mr. Mokku:** Mr. Speaker, Sir, it is true there is a water shortage in Machakos town, as the hon. Member says. It is true that the supply and demand of water is not proportional. Actually, the current water supply we are getting is less by 13,250 cm<sup>3</sup> of what we are supposed to get. As soon as funds are available, that problem will be solved.

**Mrs. Ngilu:** Mr. Speaker, Sir, the Kimanjaro Water Project was first earmarked for Machakos town, but that water is now being used to irrigate a flower project at Athi-River farm. Was this water project meant for domestic work or irrigation work?

**Mr. Mokku:** Mr. Speaker, Sir, it is not true that the water which was meant for the domestic purposes has been diverted to irrigation purposes.

**Mr. Omimo:** Mr. Speaker, Sir, the Assistant Minister talked about commissioning the old railway pipeline. That pipeline does not necessarily provide more water. Can he now tell us where this additional water which is going to be put in the railway pipeline is going to come from and how much it is?

**Mr. Mokku:** Mr. Speaker, Sir, the project that will be revived will solve the problems of water and it is estimated to cost Kshs120 million. Once the railway pipeline project is revived, that problem of water will be solved.

**Mr. Leshore:** Mr. Speaker, Sir, this also affects the Maasai who are herding their cattle along the

pipeline. Could the Assistant Minister tell us, if he is also going also to consider supplying water to Maasai cattle which are grazing along the water pipeline?

**Mr. Mokku:** Mr. Speaker, Sir, anybody who lives along the pipelines will get water. There is nobody who is going to be discriminated against.

**Mr. Speaker:** Very well. Questions by Private Notice.

### QUESTIONS BY PRIVATE NOTICE

#### REPEAL OF PUBLIC ORDER ACT

**Mr. Mak'Onyango:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

a) Is the Minister aware that the violence being unleashed on Opposition Leaders by both the police and members of the Provincial Administration is a threat to democracy in the country?

(b) Could the Minister, as a matter of urgency, consider immediate repeal of the Public Order Act as a means of stemming violence?

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

(a) No.

(b) No.

**Mr. Mak'Onyango:** Mr. Speaker, Sir, I think the hon. Assistant Minister is not taking the House seriously on this matter. The question of violence in this country is a matter of common knowledge. As recently as last Saturday, a number of Opposition hon. Members of Parliament or leaders were brutalised and beaten up in broad-day light in the face of wananchi here in Nairobi and I think the Assistant Minister knows this. So, is the Assistant Minister serious when he says "no" to both Questions? In any case, part "b" of this Question is asking the Minister to consider repealing Public Order Act. What is he doing about this particular request?

**Mr. Sunkuli:** Mr. Speaker, Sir, I am not aware of any Opposition hon. Members of Parliament who were "brutalised" last weekend. We have made our stand before clear in instances---

**Mr. P.N. Ndwiga:** On a point of order, Mr. Speaker, Sir. I think I want to lay this arm as evidence of that brutalization.

**Mr. Speaker:** Mr. Ndwiga, I think, it is about time you took the House seriously. Remain serious, if you want to be taken seriously!

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, my point of order is: Is the hon. Assistant Minister in order to mislead this House that he is not aware that hon. Members were brutalised on Saturday and yet we have hon. James Oremo, who is limping, I have bruises here and all over my back? Is he in order?

**Mr. Sunkuli:** Mr. Speaker, Sir, with due respect to the hon. Member, I do not know what that has to do with the police.

I am answering a Question about an allegation made by the hon. Member of actions purportedly committed by the police. That is what I am saying I am not aware of, but I am aware of the events that took place at Kamukunji or thereabouts last weekend, but I am saying that there was no brutalization by the police on hon. Members.

**Dr. Kituyi:** Mr. Speaker, Sir, arising from the reluctance of the Government to consider repealing the Public Order Act, could this Minister tell this House why, on her last visit here as the Minister for Overseas Development, Baroness Lynda Chalker was told by the President of this Government that the Government will go and repeal that Act before the election? Similar undertakings were made yesterday when the top 15 diplomats visited the President? Why is he saying that to the diplomats only for his junior Ministers to come here and say the contrary?

**Mr. Sunkuli:** Mr. Speaker, Sir, when Lady Lynda Chalker visited this country, the Government made no such undertakings. What has been said by the Government is that the laws of this country will continue to be reviewed from time to time and certain sections of the Public Order Act may be reviewed. It is not even true what hon. Kituyi said actually transpired yesterday.

**Mr. Oremo:** Mr. Speaker, Sir, without talking about my injuries, what I am wondering about the Government is that what they say in public and what they say in private is quite the opposite. I was in a dinner party in some embassy with Baroness Lynda Chalker and the Attorney-General and she gave the Attorney-General a little kiss because the Attorney-General promised that the reform process was on the way and the Bill was coming to the House to repeal the Public Order Act and I heard it with my own ears. In fact, I was a little bit



jealous because the Attorney-General then walked with Baroness Lynda Chalker into the garden and it was in the evening. But I heard with my own ears the Attorney-General say that the reform process was on course.

*(Laughter)*

**Mr. Sunkuli:** Mr. Speaker, Sir, what the hon. Member for Ugenya actually heard was the last remark that made that the whole process was on course. What the hon. Member might have heard after having one or two glasses of white wine was not what he said. The Government has made its position clear that with respect to the Public Order Act and other laws, we are on course in trying to find out which parts of the law need to be amended, but the question of repealing the Act has not been considered.

**Mr. Mak'Onyango:** Mr. Speaker, Sir, it is a known fact that the Public Order Act was a law enacted to take care of the emergency situation sometime back in the history of this country. We no longer have an emergency in this country today. Could the Assistant Minister undertake to take all the necessary steps to, at least, get rid of this law which served its cause at another time and it is in the process of ruining this country today so that this particular Act is done away with? We do not have any emergency now Sir.

**Mr. Sunkuli:** Mr. Speaker, Sir, we will constantly continue reviewing the laws and those which need amending will be amended.

#### ELECTION OF KTDA DIRECTORS

**Mr. Murungi:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that all the directors of Kenya Tea Development Authority are illegally in office because their term has expired?

(b) Is he also aware that the term of office of the Managing Director of Kenya Tea Development Authority has expired and that he is illegally in office?

(c) What urgent steps is the Minister taking to ensure the elections of directors of Kenya Tea Development Authority takes place forthwith?

**The Minister for Agriculture, Livestock Development and Marketing (Mr. D.M. Mbela):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am not aware.

(c) Under the powers conferred upon me by Section 192 (4) of the Agriculture Act, I have already extended the terms of the KTDA Board of Directors from three years to four years. The term of office for the current members will, therefore, run for four years from 24th May 1994. In this regard, I am not required to take any steps regarding election of KTDA directors until May 1998.

**Mr. Murungi:** Mr. Speaker, Sir, this is very sad news for the small-scale tea farmers in this country. When the hon. Nyachae was the Minister for Agriculture, Livestock Development and Marketing, he told this House that the tea sector has been liberalised and that the KTDA directors and the Managing Director will be elected by farmers. Could the Minister tell this House why he is misusing his powers under Section 192 of the Agriculture Act to defeat the Government's policy on liberalisation and cheat the tea farmers that they will have the opportunity to elect directors by illegally extending the term of the directors from May 1994 to May 1998? What reasons does the Minister have for extending the terms of the directors of KTDA who have grossly mismanaged the KTDA?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I do not accept that I have cheated the farmers and I am not sure whether that term "cheating" is Parliamentary. Be that as it may, I would like to categorically say that the tea industry is one of the best managed and the farmers are getting a fair earning for their labour. There were specific reasons and assignments that I wanted the Board to complete before we have fresh elections next year.

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, it is true, as hon. Murungi says, that it is sad news for the farmers. Of course, for the last three years, there has been an uproar in this House because of the mismanagement of the tea industry by the current Board of KTDA and the boards of the tea factories. The biggest rip-off in this country for small-scale farmers is in tea. We are wondering and the Minister must tell this House why he is colluding with thieves to deprive the tea farmers of their opportunity--

**Mr. Speaker:** Order! By the way, Mr. Ndwiga, I am sorry. You are wrong. You cannot stand on the Floor of this House and call people thieves unless they have been convicted. Will you withdraw that remark?

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, I withdraw, but could he tell this House why he is colluding with fellows who are already accused before courts of defrauding farmers of millions of shillings to extend their own term of office?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, the trouble has been that the tea industry has been heavily politicised. But I am satisfied it is one of the best run.

**Mr. Kamuyu:** Mr. Speaker, Sir, the Minister has said that the extension dates back May 1994 to May 1998, but when was the exact letter of extension issued and was it signed by the current Minister or the previous Minister?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I signed it myself.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. The Minister did accept that he is the one who signed the letter of extension but the core of my question was on which date this letter was signed?

**Mr. D.M. Mbela:** The details are in a public document, Legal Notice No.51, which was published last week.

**Mr. Murungi:** Mr. Speaker, Sir, the Minister has said that he has extended the terms of the directors so that they can complete certain special assignments. Could the Minister disclose to this House what these special assignments are because they could a pretext by the directors to perpetuate themselves in office for the next three years?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I would like to assure this House that there is no possibility of that being done. There are a certain number of assignments to be done in the course of liberalisation and the Government has even gone further by exempting the KTDA from the State Corporations Act, to assure the farmers that the power is going to be with them.

**Mr. Murungi:** Thank you, Mr. Speaker, Sir. The Minister is deliberately avoiding to answer my question. I asked him: What are these special assignments that have made him to extend the term of the directors? Could he disclose them to the House? He has not done so. Can he do so now?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I think I have answered in general terms that there are a number of functions in the process of liberalisation which we would like them to complete before handing over to a new board or getting their mandate extended.

**Mr. P.N. Ndwiga:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to continue misleading this House that he has extended the term of office for these directors so that they can complete certain assignments, while it is common knowledge that this is in total defiance of a Presidential directive which directed that in the course of liberalisation, one of the things that must be done is that elections must be held from the factory up to KTDA?

**Mr. D.M. Mbela:** Mr. Speaker, Sir, I have assured this House that elections will be held and they would be done by the farmers. They would be done in May, 1998.

**Mr. Speaker:** Next Question, Mr. Henry Ruhiu.

#### IRREGULAR ALLOCATION OF CITY PARK LAND

**Mr. Ruhiu:** Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that 50 acres of City Park in Nairobi have been irregularly allocated to some influential persons without regard to the welfare of Nairobi dwellers?

(b) Is he further aware that more land is at risk of being hived off the 223 acre City Park as there is mounting pressure to allocate more of this land?

(c) If the answers to "a" and "b" above are in the affirmative, will the Minister give the identities of those illegal allottees and assure this House that he will protect this heritage from further alienation?

**The Assistant Minister for Local Government (Mr. Kamuren):** Mr. Speaker, Sir, I beg to reply.

(a) The Nairobi City Council is aware that a portion of the City Park has been allocated. However---

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The hon. Ruhiu asked the Assistant Minister whether he is aware and the Assistant Minister has said that the Nairobi City Council is aware. We are not interested to know whether Nairobi City Council is aware, but is he aware?

**Mr. Speaker:** Order! Order! Mr. Assistant Minister, you are being asked: Are you aware or not? So, would you say whether you are or not?

**The Assistant Minister for Local Government (Mr. Kamuren):** Mr. Speaker, Sir, I am giving a reply to this Question by my hon. friend, hon. Ruhiu. The Nairobi City Council is aware!

*(Laughter)*

**Dr. Lwali-Oyondi:** On a point of order, Mr. Speaker, Sir. We know that there are a lot of people who are aware of a lot of things, even criminal acts. But now, we are asking the Assistant Minister whether he is aware.

**The Assistant Minister for Local Government (Mr. Kamuren):** Mr. Speaker, Sir, the Ministry is now aware. However, when the previous Town Clerk left office, he never handed over to the current Town Clerk any documents pertaining to allocations in City Park. As such, there are no documents within City Hall regarding these allocations. However, efforts are being made to liaise with the Ministry of Lands and Settlement to obtain these documents, which we are doing right now.

(b) The Ministry now is not aware of any pressure to allocate land in City Park. When I was talking this morning to the Town Clerk, he gave me some information which I believe is true. Then I checked with the Ministry and found out that it was true that the Ministry is not aware. If there are any allocations that will have to be done, I can assure the House that my Ministry will not allow that at all.

(c) Because of lack of documents within City Hall, the Nairobi City Council cannot give the identities of the allottees as these identities are currently known to the Council. We are also establishing from the Ministry that since they are not unknown to the Council, we are querying the Council and my Ministry now is not also aware because it is not unknown to the Council.

There is a resolution by the Council that all these plots that have been allocated illegally are being repossessed by the Council through the support of the Ministry.

**Mr. Ruhiiu:** Mr. Speaker, Sir, I am not surprised that the Assistant Minister is answering on behalf of the Town Clerk because the Question is answered by the Town Clerk. That is why he keeps on saying "The Nairobi City Council is not aware", but it is the Ministry that should be aware. This recreation ground of City Park is not only a heritage for the Nairobi residents, but it is a heritage for posterity. We will not allow even one inch of this land to be grabbed by landgrabbers. We consider landgrabbers as common criminals against the Kenyan society and against posterity. We need to get proper identities because the Ministry is covering up and since the Question is not satisfactorily answered, and the Assistant Minister is saying, "However, efforts are being made to liaise with the Ministry of Lands and Settlement to obtain these documents", it means that the Town Clerk, after colluding with grabbers and after allocating the land; which is a recreation ground for Nairobi residents, he moved out of the office with the whole file and took it to the Ministry of Lands and Settlement, when the land belongs to the City Council. Can we give the Ministry time until next week to bring a satisfactorily answer and identities of those grabbers because they are known?

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. I wish to seek the guidance from the Chair. Normally, between the Ministry of Local Government and the Ministry of Lands and Settlement, all the records of legitimate owners of any part of real estate in this country are kept. If an Assistant Minister of the Government comes to the House and says "City Council is not aware, My Ministry is not aware and the Ministry of Lands and Settlement is not aware". Can there still be legitimate ownership of land in this City which is not known to these three authorities, then how do we survive and claim legitimacy as having a Government?

**Mr. Speaker:** Well, my only problem, Dr. Kituyi, I cannot help because I have never been involved in that affair. So, I am not quite aware how they do it, maybe the Assistant Minister can tell us.

**Mr. Kamuren:** Mr. Speaker, Sir, I would want to dwell on the question by hon. Ruhiiu as regards to the file which my Ministry is liaising with the Ministry of Lands and Settlement. As I said, a full Council Meeting took place and passed a resolution that they have to repossess, with the support of the Ministry, all the plots that have been given out to anybody within City Park. Of course, we know it---

**Mr. Speaker:** Mr. Kamuren, let me ask you one simple thing: How difficult is it for the Minister of Local Government to talk to the Minister for Lands and Settlement and find out certain information and documents from that department?

**Mr. Kamuren:** Mr. Speaker, Sir, it is not difficult at all. It is the question of picking a telephone and getting the information immediately. What we are trying to do in this one is that I will follow it up vigorously---

**Mr. Speaker:** I think what I would do is that I will put this Question for tomorrow afternoon. You can walk to hon. Sumbeiywo across there and sort it out, and he can answer that tomorrow. The Question is deferred.

*(Question deferred)*

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. I thank the Chair for that ruling and also the

Assistant Minister for accepting to bring this information later. But can he issue a directive that allocations stop meanwhile, because 24 hours is more than enough for these allocations to continue and the title deeds to be issued? Can he give an undertaking that in the meantime, everything will be held left *status quo* until the investigations by the Ministry of Lands and Settlement are completed?

**Mr. Kamuren:** Mr. Speaker, Sir, in fact, while supporting the Ministry in the resolution to repossess these plots, we will not allow allocation of more land until we get to the depth of what happened in the earlier allocations.

**Mr. Speaker:** Very well. That is the end of Question Time. Next Order!

### POINT OF ORDER

#### MINISTERIAL STATEMENT: LOSS OF TEA

**Mr. P.N. Ndwiga:** On a point of order, Mr. Speaker, Sir. I rise to ask for a Ministerial Statement from the Ministry of Agriculture, Livestock Development and Marketing. In the last two weeks, we have lost a lot of tea in Kathangariri and Ngandori Locations of Embu District due to its non-collection by the Kenya Tea Development Authority (KTDA). We raised this matter in this House last year and last year but one. At that time, the Ministry promised that from this year onwards they would increase vehicles for collection of tea. That has not happened and we continue losing millions of shillings in form of tonnes of tea which is not collected by the KTDA. I would like the Minister to make a Ministerial Statement and address this issue.

Thank you very much, Mr. Speaker, Sir.

**Mr. Speaker:** Very well! Next Order.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

#### IN THE COMMITTEE

*[The Temporary Deputy Chairman*

*(Mr. Wetangula) took the Chair]*

#### THE SUPPLEMENTARY APPROPRIATION BILL

#### Clause 2

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

THAT, clause 2 be amended by deleting the expression "five hundred and sixteen million, eight hundred and thirteen thousand, eight hundred and seventeen", and inserting in place thereof the expression "four hundred and forty million, nineteen thousand, five hundred and seventy six".

*(Question of the amendment proposed)*

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I thought that the Assistant Minister would throw some light as to why the amendment being proposed is necessary.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, the proposed amendment takes into account the very concern that hon. Anyona raised during debate at the Second Reading Stage. In the subsequent schedules we will show that we have deleted the items that were an issue. These were the items that were covered by the Public Accounts Committee Report. If you take those items and all the changes into consideration clause 2 will accordingly change.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I would like to express deep appreciation to the Minister for Finance for having

kept his promise, which he made to this House, that he would effect the necessary redress in the procedures involved in the presentation of the Supplementary Estimates. While doing that, I would like to say that when the Minister was moving the Estimates, and also while he was giving the undertaking yesterday that he would effect the necessary amendment, he did say that there would be no actual expenditure involved in those items, because they relate to expenditures dating back to 1993. If I got him right, that is what he said. I would like the Assistant Minister to explain how come that, that is so. The Memorandum of Objects and Reasons reads as follows:-

"The Supplementary Appropriations Bill makes provision for giving statutory sanction for public expenditures during the year ending 30.6.97 on the basis of the Supplementary Estimates of expenditure 1996/97 Recurrent, and Supplementary Estimates of expenditure 1996/97 Development, and for appropriation of those amounts."

Since we are dealing with Supplementary Estimates for the current financial year, how come that expenditures dating back to 1993 were sneaked into the estimates? Can he explain that?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I would ask hon. Anyona to clearly state which items have been sneaked in. I am not aware of any items that have been sneaked in.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I am referring to what the Assistant Minister has just said. He has said that the proposed amendment of clause 2 is to take into account the expenditures which we had objected to because they were still under deliberation by the Public Accounts Committee. I am very grateful that the Ministry have been true to their words: They have brought the necessary amendment. All the same, I would like the Assistant Minister to give us an explanation. The Minister said yesterday that even if the amendment would be effected there would be no actual expenditure involved because we are talking about expenditure dating back to 1993. That is what the Minister said yesterday. And, indeed, the accounts before the Public Accounts Committee right now are, I think, those of 1993/94. Since we are dealing with Supplementary Estimates for this financial year - that is what the Memorandum of Objects and Reasons says - how come those items were included in the estimates?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Chairman, Sir, that is simple to answer. Those items were there to be ratified. In any case, expenditure had already taken place before those items had been sanctioned by Parliament. The point raised by the hon. Member was sincere and valid enough. But it is not a question of sneaking in the items. Once the expenditure has been incurred, whether it is in the Budget or not, it is up to this House to approve that part of it which was not in the Budget. This is the case here.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I am not satisfied with the answer. Is the Assistant Minister saying that they incurred an illegal expenditure without the authority of this Parliament in 1993, and that they now want to legalise it through the back door, as it were, in 1997 by sneaking it into the Supplementary Estimates for this financial year? The Memorandum of Objects and Reasons says that we are dealing with expenditure for the year ending 30.6.97. The expenditure the Assistant Minister is talking about does not come within this financial year. Is he saying that he spent money illegally? If he did, can he explain why he spent it without the authority of Parliament?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Deputy Temporary Chairman, Sir, it is by sheer financial prudence to bring such expenditure for approval because a Budget is an estimate and we have seen situations in all the years since Independence that expenditures that have been incurred and are not in the Budget are subsequently brought to the House for approval. This is a normal financial prudence and the hon. Member can choose whatever word he wants to use, but this is the reality.

**Mr. Maore:** Mr. Temporary Deputy Chairman, Sir, I believe you have been able to follow the conversation very well about the way the Assistant Minister is avoiding to respond to specific issues having admitted the fact that K£1.5 million was initially spent illegally in the 1993/94 financial year. The money was taken out of the Consolidated Fund without the authority of this Parliament and he is saying that it is okay. There is the normal Budget for 1996/97 financial year which has its provisions. In the middle of the year, we got into a situation whereby the money allocated by this Parliament was not enough and that is why we got these Supplementary Estimates. Why did the Assistant Minister sneak in these items that were not in the original Budget?

**The Temporary Deputy Chairman** (Mr. Wetangula): Has he not been honest enough to explain that? He has explained several times. Any way, it is up to you, Mr. Keah.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I have nothing more to add, it is through sheer financial prudence, that this expenditure was incurred as usual. We have been

bringing in this country year after year---

**Prof. Mzee:** On a point of order, Mr. Temporary Deputy Chairman, Sir. In fact, the argument here is that the Assistant Minister is totally out of order to insist that it is his regular practice to spend money without the approval of this House. We are seeking your guidance if this Assistant Minister is right to stand here and say that this is a normal practice? It is not a normal practice and we should not accept it as normal practice for the Assistant Minister to come here and say that we can spend money without the approval of this House.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I did not say that it is legal neither did I say any of those things. I merely stated the fact that, when expenditure is incurred outside the provisions of what has been approved by Parliament and, once the Public Accounts Committee, the Controller and Auditor-General brings it to the attention of the Ministry of Finance, it is pertinent upon the Ministry of Finance to regularise what has been done irregularly and, therefore, bring it to Parliament and this is the practice in all the Parliaments of the world.

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

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Anyona. With regard to the money irregularly spent, I believe it is an issue in the report of Public Accounts Committee which you usually have humble opportunity to debate and that is why the Assistant Minister has removed those items because they are an issue under query in this report. So, Mr. Anyona, I do not see the quarrel.

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

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Anyona.

*(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 2 as amended agreed to)*

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! Order, hon. Nyanja. If you are aggrieved, can ask for a division. If you want a division, mount it.

**Hon. Members:** Nyanja, here we are!

*(Several hon. Members moved to  
the Table of the House)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! If you are aggrieved ask for a Division and you will have it.

**Prof. Mzee:** This is not a Parliament! We cannot have a Parliament again! We cannot save the situation. We go out!

**Hon. Members:** No! No!

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! Gentlemen, can you take your seats? If you want a division mount it.

**Prof. Mzee:** We are not taking our seats; rest assured. We will continue standing. We are not going to allow the debate to continue because we think we have been cheated enough!

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, gentlemen!

*(Clauses 3 and 4 agreed to)*

**Dr. Kituyi:** On a point of order---

**The Temporary Deputy Chairman** (Mr. Wetangula): If you are on a point of order, I will give you an opportunity to say what you want to say.

**Dr. Kituyi:** Mr. Temporary Deputy Chairman, Sir, how can we assume that the business of the House can continue when we have matters which will entail voting, if we have demonstrated evidence that the Chair

cannot say whether Ayes or Noes, had more numbers, except to serve the interest of the Government?

**The Temporary Deputy Chairman** (Mr. Wetangula): You do know that if you are aggrieved you call for a division.

**Dr. Kituyi:** A division was called for and then you counted the numbers and proceeded to Clause 3.

**The Temporary Deputy Chairman** (Mr. Wetangula): There was no order; you refused to be orderly.

**Dr. Kituyi:** You would have called for a division before proceeding to Clauses 3 and 4.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Members!

Clause 5

*(Several hon. Members stood  
up on points of order)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! If you want to have a point of order, sit down, ask for it and I will give you an opportunity to say what you want to say.

Mr. Muite, I give you the Floor, but remember we are on Clause 5 and you have an amendment to move.

*(Loud consultations)*

### POINT OF ORDER

#### APPOINTMENT OF AN ESTIMATE COMMITTEE

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I rise on a point or order to ask for your guidance on whether this House is in order to enact this Bill into an Act of Parliament, in blatant breach of the Orders of this House. Standing Order No. 146 makes it mandatory for the Sessional Committee to appoint an Estimates Committee. The word used here is; "shall" appoint a Select Committee to be designated the Estimates Committee. The work of that Estimates Committee is set out in Standing Order No. 146(2). In other words, the estimates are supposed to be perused item by item by this Select Committee called the Estimates Committee. This Committee has never been set up and the estimates have not been scrutinised by that Estimates Committee. You will recollect, we are talking about Kshs7 billion of tax payers' money, and when the estimates were laid on the Table of this House, those two huge Volumes had been put in our pigeon holes that morning. In fact, the procedure that was adopted when those estimates were debated was again, in itself, in breach of our own Standing Orders; in the sense that Standing Order No.143 provides that the procedure to be followed during Supplementary Estimates is the procedure which is set out in Standing Order No.142. That means that the estimates themselves should have gone to the Committee stage so that this House should have had the opportunity to go through each item. So, the guidance I am seeking from you is: Is it in order for this Government, with regard to very large sums of taxpayers' money, bearing in mind that Parliament is supposed to be the watchdog on behalf of members of the public--- Is it in order for this Government to act in clear breach of the Standing Orders of this House and to use this Parliament as a rubber stamp to come and rush through each and every item that they want passed? Is that in order? I would like to have your reasoned ruling on these matters because we are now acting in breach of the Standing Orders. We acted in breach of the Standing Orders when we debated the estimates and equally, with respect to this Bill, we were rushed through even yesterday.

*(Prof. Mzee and some other hon. Members  
consulted while standing)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Prof. Mzee and your group. Your continued standing while the proceedings are going on will lead to your exclusion from the Chamber. Hon. Muite is making a very important submission.

*(Loud consultations)*

Order! Hon. Nyanja, hon. Mbui, Prof. Mzee, hon. Achola, hon. Ojode, hon. Mbeo, hon. Onyango, hon.

Munyasia, hon. Githiomi and hon. Muhika shall leave the Chamber.

**Hon. Members:** No!

**The Temporary Deputy Chairman** (Mr. Wetangula): You shall leave the Chamber for the proceedings to carry on. Will those hon. Members I have mentioned leave the Chamber before hon. Muite carries on with his submission?

*(The named hon. Members remained standing)*

You know your continued disobedience would lead to us asking the Sergeant-at-Arms to evacuate you.

**Hon. Members:** *(Inaudible)*

**The Temporary Deputy Chairman** (Mr. Wetangula): I will deal with him after this.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, hon. Anyona. We have an issue here. We will finish and then I will come to you.

The hon. Members whose names I mentioned, will you leave the Chamber?

**Mr. Magwaga:** *(Inaudible)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Magwaga, you will follow them. You are also out.

*(Hon. Magwaga bowed to the  
Chair and left the Chamber)*

Will the following hon. Members leave the Chamber? Hon. Nyanja, hon. Mbui, Prof. Mzee, hon. Achola, hon. Ojode, hon. Mbeo, hon. Onyango, hon. Githiomi, hon. Gichuki, hon. Muhika, hon. Magwaga and hon. Munyasia.

*(Hon. Munyasia left the Chamber)*

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

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, let me finish with these hon. Members first. I will give you an opportunity.

Hon. Members, hon. Magwaga and Munyasia have left. Will you follow suit?

*(All the hon. Members named sat down)*

*(The Sergeant-at-Arms went to persuade  
the hon. Members to leave the Chamber)*

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I think we mismanaged the procedures of the House because we were purporting to transact business---

**The Temporary Deputy Chairman** (Mr. Wetangula): In fact, as a matter of fact, hon. Anyona, there will be no proceedings until the hon. Members I mentioned have left the Chamber. I will give you an opportunity to speak after they have left.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, the decision is this---

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, I am sorry I have not given you an opportunity. In fact, hon. Muite has the Floor. As soon as these hon. Members leave, he will carry on.

Hon. Nyanja, hon. Mbui, Prof. Mzee, hon. Achola, hon. Ojodeh, hon. Mbeo, hon. Onyango, hon. Gichuki, hon. Githiomi, hon. Mutahi, hon. Magwaga and hon. Munyasia, please leave the Chamber. Will the Serjeant-At-Arms ensure that those Members are out of the Chamber? Any Member who heckles will follow them.

Hon. Members, will you quietly leave the Chamber? The Serjeant-At-Arms can only request you to leave. He is not going to physically eject anybody out of the Chamber, but as hon. Members, obey the rules and leave.

*(Prof. Mzee, hon. Achola, hon. Ojodeh, hon. Mbeo,  
hon. Onyango, hon. Gichuki, hon. Githiomi,  
hon. Mutahi, hon. Magwaga, hon. Munyasia and*



*hon. Nyanja left the Chamber)*

*(Resumption of Committee of the Whole House)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Muite, carry on.

**Mr. Muite:** Mr. Temporary Deputy Chairman, I wish to seek your ruling on this matter because the issue of money is one of the most fundamental issues that this House debates. We are supposed to work as the watchdogs on behalf of the taxpayers. Those two volumes were shuffled into our pigeonholes the morning the Estimates were laid in this House. They were debated and within three hours, they were passed. We never got adequate time to contribute and that was in clear breach of Standing Order No.142. The marginal note beside Standing Order No.143 reads: "Procedure on Supplementary Estimates". Standing Order No.143 (2) states as follows:- "The provisions of paragraphs (2), (3), (4), and (5) of Standing Order No.142 (Procedure in Committee of Supply) shall *mutatis mutandis* apply to Supplementary Estimates". When you check paragraphs (2), (3), (4), and (5) of Standing Order No. 142 we must go to Committee Stage and the rationale behind the requirement is so that each item can be examined. In other words, the rationale behind this provision is that there must be no rush when it comes to money. That is why Standing order No.146 requires an Estimates Committee.

The Sessional Committee shall set up an Estimates Committee and in fact, the Estimates Committee is required to appoint a sub-committee of expert so that each time can be examined. In fact, it says, "The Estimates Committee by the House shall report to the House what, if any, economies or improvements of form should be made in such Estimates for the future".

This House is being used by this Government as a rubber stamp. Within three hours an amount of Kshs7 billion, taxpayers' money, has been approved before Members have the opportunity to contribute. Now, today, they want to finish with legalization of this amount. The same rush, where we are not even given the opportunity, is being adopted. Yesterday, before Members could contribute and there were many Members who wanted to contribute, one of the hon. Members from the other side called that the Mover be called upon to reply. Is this in order for this House to act in blatant breach of its own rules and the Standing Orders are made under Section 56 of the Kenya Constitution.

Is it in order for this Government to rush this important Bill regarding money and use this Parliament, as a rubber stamp, deny Members the opportunity to contribute and, in fact, fail to appoint this very important Estimates Committee? Are we legally, constitutionally entitled to proceed with the passage of this Bill and in the absence of that Estimates Committee?

The Chairman of the Sessional Committee, who is charged with that duty, is in this House. Why has the Estimates Committee not been appointed? Why are these Estimates not taken to the Estimates Committee first? We are talking about a lot of money. These are important questions and we need a reasoned ruling by the Chair as to whether we can really now proceed to pass this Bill in breach of our own Standing Orders and, therefore reasoning in breach of the Constitution because the Standing Orders are made under Section 56 of the Constitution. Can we legally pass this Bill in the absence of an Estimates Committee and if not, should it not be postponed until the Estimates Committee is established and is given the opportunity of examining item by item and reporting back to this House? These are important issues and I beg that a reasoned ruling be given to us.

This Government is very fond of acting in very blatant breach of the law and of the Constitution. We are now voting money here to Ministries that are illegal and unconstitutional.

Section 15 of the Kenya Constitution is as clear as daylight. It states the Ministries, the number thereof and money to be spent. Alternatively, this House must pass a law to enable the President to create Ministries and none of this has been done. Therefore, this culture of ignoring the Constitution by this Government has to come to an end and I say that it should come to an end now. This Bill should not be debated any further, it should not be passed whatsoever, let them go and appoint the Estimates Committee and pass these Estimates to the Estimates Committee first.

Mr. Temporary Deputy Chairman, Sir, I move that the House be adjourned.

**The Temporary Deputy Chairman** (Mr. Wetangula): I thought you wanted a ruling?

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, part of it.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Anyona, is it on the same thing?

**Mr. Anyona:** Well, yes.

Mr. Temporary Deputy Chairman, Sir, in view of what we were saying, before disorder engulfed the House and in view of what hon. Muite has said, is the correct position not under Standing Order No.93 dealing with grave disorder? And Standing Order No.93 (1) says:-

"In the event of grave disorder arising from the Committee---"

And we are in Committee Stage right now.

"Mr. Speaker, in this case Mr. Temporary Deputy Chairman shall resume the Chair forthwith."

So that is the first misapplication of the procedures of the House. As soon as there was disorder of the magnitude that was, the correct procedure should have been for the Chair then to assume the Chair.

Mr. Temporary Deputy Chairman, Sir, paragraph 2 of that Standing Order provides as follows:-

"In the event of grave disorder arising in the House---"

In other words if the grave disorder continued after the Speaker had resumed the Chair.

"Mr. Speaker may, if he deems it necessary so to do, adjourn the House forthwith or suspend any sitting for a period to be named by him".

Now, Mr. Temporary Deputy Chairman, Sir, I believe that what has just happened before the House was totally contrary to the procedure of this House.

Mr. Temporary Deputy Chairman, my second point is that while that disorder was in progress, we purported to transact business. We were dealing with Clause 2 of the Bill when the disorder broke out. When the disorder was in process, we purported to transact Clauses 3, 4 and 5. In my understanding, you cannot transact any business in the House when there is disorder.

Mr. Temporary Deputy Chairman, the point the Chair will have to make clear is, have Clauses 2, 3 and 4 been transacted? That is a point that we will have to deal with.

The third point, coming back to what hon. Muite was saying is that the procedure of this House, when Annual Estimates or when Supplementary Estimates are presented--- We may not have done it in the past, we were acting contrary to procedure. The rules require that there shall be an Estimates Committee, but there is not an Estimates Committee in this House right now. So, the Leader of Government Business---

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Anyona, has hon. Muite not made that point succinctly clear in his submission on the issue of the Estimates Committee? Are you not simply repeating what Mr. Muite has said on the issue of the Estimates Committee? In fact, he spoke with such clarity that there should be no point repeating the same argument.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I am not repeating. In any case, if I am required to repeat, it is for the sake of getting action because we have had no action yet, in a state of illegality.

Mr. Temporary Deputy Chairman, Sir, the point is, according to our Standing Orders there is supposed to be an Estimates Committee, but there is none now. Let me leave the rest so that we can save the political skins of some of the people involved in this process. But the second paragraph of that Standing Order No.46, paragraph 42, states the following:-

"The Estimates Committee may examine such annual or Supplementary Estimates of the expenditure presented to the House as it shall think fit."

It talks about the Committee, not the Leader of Government Business, the Minister for Finance and not anybody else. In the event that there is no Committee, in which case the Committee cannot think, sit or otherwise, nothing can happen. Because, if anything happens, then you have flouted that particular requirement on the Standing Order. Having said all that, is it not the correct procedure now for you the Chair to report the progress to the House, so that the House can decide what to do with this Bill?

So, Mr. Temporary Deputy Chairman, Sir, I move that in accordance to the procedure, the Chair now reports progress.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I personally believe that we are very much---

**The Temporary Deputy Chairman** (Mr. Wetangula): I do not think I need your response, I can rule without your response.

**An hon. Member:** But hon. Muite has raised that!

**The Temporary Deputy Chairman** (Mr. Wetangula): It does not matter. Mr. Muite demanded a ruling and he did not raise an issue that required a Government response, the Chair can handle that.

Hon. Muite, I agree with you that the standing orders require the existence of an Estimates Committee. That is Standing Order No.146 (1). There ought to be an Estimates Committee. But if you look at Standing Order No.146(2) it says: "The Estimates Committee may examine". It does not say: Shall examine. It says:-

"The Estimates Committee may examine such annual or Supplementary Estimates of the Expenditure", and so on.

It does not make it mandatory that the Estimates Committee shall and must examine. It says, may. The shall that

hon. Anyona was emphasising is, in fact, in the operation of the Committee and not as a mandatory requirement for the Committee to examine. It is very plain English language and any lawyer or anybody reading it should understand.

Not only that, the point you raised, Mr. Muite, is very pertinent only if you raised it at the time the Bill was being moved. We have already passed the Supplementary Estimates, we are now at the Committee Stage and you ought to have raised this point at the time when the Minister was moving the Motion. Be that as it may, while I agree with you fully that there must be an Estimates Committee, I do not agree with you that it is mandatory that it must examine the estimates before they come here. That is stated in Standing Order No.146(2), and that is my ruling. So these proceedings shall go on; there is nothing illegal about them; there is nothing irregular about them, but if you have a point which you can pursue, you may do so, to have an Estimates Committee set up so that in future it examines the Estimates before they are brought to this House.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, may I seek your clarification because if you read further, part (2) of Standing Order No.146, it says:-

"The Estimates Committee may examine such annual or Supplementary Estimates of the expenditure presented to the House as it shall think fit".

That I agree. But if you go on, it says:-

"Or it shall be referred to it by the House".

Suppose this House now wants to refer to the Estimates Committee, and this is mandatory. It states clearly that: "The Estimates Committee shall". This is not discretionary. It is, if the House decides to refer any matter to the Estimates Committee. The word used is: "Or it shall be referred to Estimates Committee by the House". Suppose this House now wants to refer to that Estimates Committee and in the absence of that Estimates Committee, are we still acting legally?

**The Temporary Deputy Chairman** (Mr. Wetangula): As it is now, we do not have an Estimates Committee. I have agreed with you that, that is an irregularity. We ought to have one but the fact there is not any does not make these proceedings a nullity because the operation of the Estimates Committee is discretionary and not mandatory. It says "may examine." It does not say "shall examine."

**Mr. Orengo:** On a point of order, Mr. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Orengo! Muite wanted a ruling and I have made that ruling and we should move to the next stage.

**Mr. Orengo:** Mr. Temporary Deputy Chairman, I just want to clarify something. As a matter of clarification, and this one goes by the rules of construction, in my view, the word "may" refers to the discretion of the Committee and not the discretion of the House. It is the Committee which has that discretion. So, it should be in existence. If the Committee is in existence, then it may or it may not - it is its discretion. That "may" is not applicable to the House or any other organ. So, the most important point that hon. Muite made is that we must have an Estimates Committee. Initially, we must have an Estimates Committee and then it "may" on its own discretion and not on the discretion of the Chair or Mr. Speaker" but the discretion of the Estimates Committee as it shall think fit. That is "it may."

Mr. Temporary Deputy Chairman, I would, most respectfully, ask you not to arrogate these powers of the Estimates Committee and exercise that discretion which is not conferred on the Chair or on the Speaker. I think that will be compounding the breach that has been articulated very well by the two hon. Members who have spoken here.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Orengo, nowhere in the Standing Orders is it provided that the failure to pass the Supplementary Estimates through the Estimates Committee shall amount to an illegality. There is nowhere and I waited for Mr. Muite to point out that but he did not. I have scanned through them thoroughly and there is no such a thing. Shall we proceed to the next clause?

**Mr. Anyona:** On a point of order, Mr. Deputy Temporary Chairman.

**The Temporary Deputy Chairman** (Mr. Wetangula): I will not give you the opportunity now, Mr. Anyona. If you want me to rule on Standing Order No.93 as you required, there is no grave disorder in the House now. Everybody is very orderly and we shall go on with the business of the House. Let us now move to Clause 5---

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Anyona. I have made a ruling on your requirement on Standing order No.93---

**Mr. Nyagah:** On a point of order, Mr. Temporary Deputy Chairman. We are very orderly at the moment and there is no dispute about that. Do not run away from the responsibilities of the ruling that you are

supposed to give. What hon. Anyona asked was: At the time when clauses 2, 3 and 4 were being transacted, there was great disorder. If you remember, everybody was up on his feet and the Sergeants-at-Arms were already inside this House behind those Members. Could you make a ruling on that? That is what we are asking.

**The Temporary Deputy Chairman** (Mr. Wetangula): If you remember, the Sergeant-at-Arms moved only on my instructions. I have called out Clause 5. Mr. Keah, can you respond to it?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, I beg to move that Clause 5 be amended:-

(a) in the marginal note, by deleting figure---

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Chairman. Nobody likes disorder. We would like this House to be dignified as the highest institution in the land. Is it not a very easy matter since hon. Members are also endowed with reason as much as the Chair that the House clearly acted in breach of Standing Order No.93? We could not constitutionally have passed Clauses 2, 3 and 4 because there was disorder. Is it not a very easy matter for Mr. Temporary Deputy Chairman to go back to Clauses 2, 3 and 4 and we pass them, so that we are seen to be acting legally?

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman. I am grateful to hon. Muite for having put that issue which I raised very clearly. But I did make a further point. The Chair must not be seen to condone the breach of procedure in this Parliament. At the end of my submission, I did propose that in accordance with the procedure, we were asking the Chair to report progress. May be you required me to quote a particular Standing Order and I will---

**The Temporary Deputy Chairman** (Mr. Wetangula): My Anyona, I will cut you short. I think I will accede to hon. Muite's request and go back to Clause 2 and we shall move on. Those with objections and clarifications can seek them. I see nothing wrong with that.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman. Why have you cut me short?

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Anyona! We have gone back to where you wanted.

**Mr. Anyona:** We have not! I am making my point, and my point is this---

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! Order, Mr. Anyona. We will now go back to Clause 2 and I will put the Question which I had put.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Mr. Anyona! You are now becoming disorderly. You have talked on the issue of disorder and we cannot just be dragged behind by you from time to time. You have made rulings on whatever you have demanded. This House is for every Member present here and not just for Anyona.

#### Clause 2

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, I beg to move that: THAT, Clause 2 be amended by deleting the expression "five hundred and sixteen million, eight hundred and thirteen thousand, eight hundred and seventeen" and inserting the expression "four hundred and forty-seven million, nineteen thousand, five hundred and seventy-six."

*(Question of the amendment proposed)*

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

*(Clause 2 as amended agreed to)*

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

#### Clauses 3 and 4

**Mr. Anyona:** Mr. Temporary Deputy Chairman, we were elected to this House to protect the welfare of Kenyans and we are not going to be intimidated by anybody.

Under Clause 3, it says, the sum granted by section 2 shall be appropriated for several services and purposes specified in the second column of the First Schedule in the amounts specified in the third column of that Schedule.

I want the Assistant Minister to explain the following issues: Can the Assistant Minister explain, since these are Supplementary Estimates to cover between now and the end of June, 1997, the entire services of this Government? I would like the Assistant Minister to explain to this House, and particularly to Members from the Kisii community where money for the new Gucha District is. If it is not there, can you explain where that money is going to come from because the district now is a reality and we want our people to know that there is a share in these Estimates. Another issue which is of a legal constitutional nature again is, if you look at the Bill you will see that some of the services that will be financed by the money that we are voting here include services known as East African Co-operation. If that is correct, I would like the Assistant Minister and the Attorney-General and the Government, to explain to this House and Kenyans how come--- This Parliament has not ratified anything to do with East African Co-operation. Not a single treaty has been brought here to tell us that we require to vote money for those services. In which case, any money spent should be brought before this House. Any expenditure we are passing here, that will go to sustain services for which hon. Biwott got a job, when he was jobless; that would be an illegal and unconstitutional expenditure. Parliament cannot vote money so that we can get an individual a job he lost through his own mistakes. Can the Assistant Minister explain whether there is money in his estimates that will---

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, this is Committee Stage. Just seek explanations if you want. You are now debating the issue. Just ask for clarification if you want!

**Mr. Anyona:** It is not just a clarification, but it is a matter of law. This is because we are not required to vote money for something that does not constitute part of the Kenya Government. So, can he explain?

**The Assistant Minister for Finance** (Mr. Keah): Gucha District was created the other day and it shall be in the estimates of 1997/98 Financial Year. With regard to the East African Co-operation, the Government has a responsibility of making negotiations and in the process, they incur expenditure even before the Bill comes here for ratification. This is normal Government machinery.

**Dr. Lwali-Oyondi:** The question of the East African Community did not just happen as an accident. Why is it that the Assistant Minister could not bring a Motion or a white paper here, so that we can discuss and pass such estimates normally?

**The Assistant Minister for Finance** (Mr. Keah): At the appropriate time, a Bill for the East African Co-operation will be brought by the Office of the President. But it is understandable that expenditure needs to be incurred prior to the establishment of such a Community or during the making of such an international agreement.

**Mr. Shikuku:** Katika Clause 2---

**The Temporary Deputy Chairman** (Mr. Wetangula): We are dealing with Clauses 3 and 4. Hon. Shikuku, we have finished with Clause 2.

**Mr. Shikuku:** Lakini kulikuwa na amendment---

**The Temporary Deputy Chairman** (Mr. Wetangula): Even the amendment has gone through.

**Mr. Shikuku:** Basi utanisamehe kwa sababu nilikuwa huko kwenye matanga. Kumbe walipitisha? Basi nisamehe!

**The Temporary Deputy Chairman** (Mr. Wetangula): Yes! I know you were not here.

**Mr. Anyona:** I do not know which page the Assistant Minister is referring to. When he says that the estimates for the new district will be in the annual estimates for the next Financial Year, is he saying that the district will not run or start until the new Financial Year? Is that what he is saying?

Secondly, on the question of the East African Co-operation, he said that you can incur expenditure in the meantime. He said it is normal practice but, of course, it is illegal practice when you **[Mr. Anyona]** do that. When we had the old East African Community, there was a treaty of co-operation which was passed by this Parliament before any expenditure was incurred by the Kenya Government. This time round, there has not been a treaty. Yet, if what the Assistant Minister says is what is happening, then we are breaching the provisions of Section 99 (1) of the Constitution of Kenya, which says:

"Subject to Sub-Section (2) all revenue or other monies raised or received for the purposes of the Government of Kenya shall be paid into and form a consolidated fund from which no money shall be withdrawn except as may be authorised by this Constitution, or by an Act of Parliament including an Appropriations Act, or by a Vote on Account passed by the National Assembly, under Section 101."

Now, the Assistant Minister has admitted that the Bill has not been brought before this Parliament. Yet

the Constitution says that we cannot withdraw any money used for services for which no authority has been given by this Parliament. This Parliament has not given any authority expenditure relating to East African Co-operation. They may have done it in Uganda or Tanzania because they have their own ways of doing things. Are we sure that this Parliament sanctioned these services? So, what are we going to do? Is it right for this Parliament to pass an illegal expenditure which is unconstitutional?

**The Assistant Minister for Finance** (Mr. Keah): Hon. Anyona is certainly at liberty to argue as he does. We have come to this House precisely to seek Appropriations from the House to incur expenditure on the East African Co-operation as well as other services. The Office of the President and the Government must continue to operate.

Before you even think of calling any meeting of Heads of States for discussion, there must be some telephone calls and stationery. There must be some expenditure. That must be understood by hon. Anyona as well as everybody else.

We have come here to ask for substantive amounts in view of the fact that we, as the Government, have to continue to operate. As I said, at the appropriate time, the necessary Bill will be brought to this House.

**Mr. Shikuku:** Mhe. Keah anaweza kutueleza zaidi? Hii ni kwa sababu mhe. Anyona anataka kujua ikiwa mambo haya ni kinyume cha Katiba. Lakini ikiwa fedha zinazohitajika kwa East African Co-operation zimetajwa katika Estimates tulizokuwa nazo hapa, lazima mhe. Keah atujulishe. Zilikuwa kiasi gani? Na kama hakuna, basi itakuwa ni kinyume cha sheria. Atueleze ikiwa zilikuwa kwa Recurrent, Development ama Supplementary, au atuonyeshe ni mahali gani sisi tulipitisha mambo hayo ili tukipitisha fedha hizi sasa, haitakuwa kinyume cha sheria.

**The Assistant Minister for Finance** (Mr. Keah): Bw. Naibu Mwenyekiti wa Muda, hesabu hizi zimo ndani ya Supplementary Estimates. Ndiyo sababu tunajadiliana hapa katika mjadala huu, ili Bunge hili liweze kupitisha hesabu hizi.

*(Clauses 3 and 4 agreed to)*

*Clause 5*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, I beg to move:- THAT, Clause 5 be amended:-

- (a) in the marginal note, by deleting the figure "129,328,311" and inserting the figure "134,534,070".
- (b) By inserting the expression "D10" immediately after the expression "D08".

*(Question of the amendment proposed)*

**Mr. Shikuku:** Bw. Naibu Mwenyekiti wa Muda, kwa kawaida, mhe. Waziri Msaidizi anaposimama na kusema tuondoe hii na tuwekee hii, ni lazima aeleze. Lakini, yeye amesimama na kusema "ondoa hii na kuweka hii", bila kueleza. Haelezi anaondoa nini na kwa nini kiasi hiki cha K£129,328,311 anataka ziondoa na badala yake aweke K£134,534,070. Je, amefikiriaje kuuliza zaidi na alikuwa akitaka kiasi kidogo na anataka tu tupitisha?

**The Assistant Minister for Finance** (Mr. Keah): Bw. Naibu Mwenyekiti wa Muda, sababu ambazo tumebadilisha hesabu hizi na pengine mhe. Shikuku hakuwa katika Bunge nilipoeleza kwamba kati ya zile hesabu au matumizi ambayo yako katika PAC ambayo yana maswali fulani na maswali haya hayajatatuliwa na ndio sababu tumeyaondoa kulingana na First and Second Schedules ambazo nitazoma wakati wake ukifika. Sababu ya mageuzo hayo, hatuna budi kubadilisha tarakimu hizi.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Assistant Minister, that cannot be true because you have not decreased, but you have increased. That is what they are asking.

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

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Anyona! We will get to the answer. A little patience might help, Mr. Anyona.

The Assistant Minister, they are asking why you are increasing the figure and from your explanation, you ought to be decreasing. I think that is what hon. Shikuku is asking.

**Mr. Shikuku:** Correct, Mr. Temporary Deputy Chairman, Sir.

**The Assistant Minister for Finance** (Mr. Keah): Bw. Naibu Mwenyekiti wa Muda, katik kifungu 5 cha

Mswada huu, tuna maelezo ya kila namna. Kupunguza kiwango cha K£129,328,311 ambacho kimepunguzika katika nambari iliyo kubwa zaidi ya ile ilikuwa pale. Kwa hivyo, ukichukua zile ambazo tumeziona, tarakimu hii ya K£129,328,311 itaongezeka kwa sababu tunapunguza. Kwa hivyo, ile tarakimu inayopunguzika na ikiwa utaondoa zile ambazo tutaondoa katika First and Second Schedules. Utaona ya---

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, hon. Keah. Can you give that explanation in English?

**The Assistant Minister for Finance** (Mr. Keah): Thank you, Mr. Temporary Deputy Chairman, Sir. I thought the hon. Member wanted it in Kiswahili language.

All I am saying is that in Clause 5, we are talking of a reduction of K£129 million because we have reduced the other Vote item. This reduction is bound to increase from K£129 million to K£134 million.

**The Temporary Deputy Chairman** (Mr. Wetangula): Now, you are clear. I think you have got that point quite clear.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, that is not why I am standing nor is it me who had raised the point. I understand perfectly because he wants more reduction so the figure goes up.

Mr. Temporary Deputy Chairman, Sir, I would like, through the Chair, to ask the Assistant Minister to explain why in the Supplementary Budget, they always bring in items of capital expenditure? We are now in May and the Budget is going to be in June. If you turn to page 253, Development Expenditure, D01, they are asking for---

**The Temporary Deputy Chairman** (Mr. Wetangula): We have not reached the First Schedule. I think you can ask that question when we reach there. We are only in Clause 5, but what you are asking is related to the First Schedule which of its own, as you can see from the Order Paper.

**Mr. Muite:** Then, I will wait, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Wetangula): I will give you the opportunity. Mr. Anyona, the last one on that.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, under clause 5, we are talking about supply granted under the Appropriation Act, 1996. At the end, he talked about "reduced by the amount specified in the third column of the Second Schedule." The third column of the Second Schedule deals with the A-in-A.

Mr. Temporary Deputy Chairman, Sir, I would like the Assistant Minister to explain why he is seeking to reduce A-in-A which were included in the Appropriation Act. I thought he was looking for money.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, because of those reductions which I have mentioned, which I will detail in the First and Second Schedules, the overall supply required of the Bill will also, subsequently, change to a figure of K£447,019,576 and increases the reduction in supply sought under Clause 5 of the Bill to K£134,534,070. This is really the explanation.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Anyona, I said that was the last.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, the answer is not satisfactory. I understand the reduction relating to those items before the Committee. I do not think that there was any A-in-A which are being considered by the Committee. If they are, then I will be quite satisfied. I thought column 3 here---

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, hon. Otieno wants to give you information.

**Mr. Otieno:** Hon. Anyona, column 3 is supply, but A-in-A is column 4 and the numbering is on the top list.

*(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 5 as amended agreed to)*

#### *The First Schedule*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I propose that the First Schedule be amended. There are about six amendments which primarily relate to the items referred to or which are contained in the PAC for which the hon. Anyona and other hon. Members raised the objection.

THAT, clause 5 be amended:-

(a) In Vote R01, by deleting the figure "119,902,882" and inserting the figure "105,555,882"; thereby causing a reduction of K£14,350,000 which is the figure that is in the PAC under query.

(b) In Vote R04, by deleting the figure "3,727,764" and inserting the figure "827,764"; thereby deleting a figure of "2,900,000 referred to in the PAC.

(c) in Vote D01, by deleting the figure "27,535,637" and inserting the figure "6,035,637"

(d) by deleting Vote D10;

(e) in Vote D35, by deleting the figure "14,006,601" and inserting the figure "6,601,000";

(f) in the sub-total, by deleting the figures, "516,813,817" and "351,313", under Appropriations-in-Aid and inserting the figures "447,019,576" and "1,928,860" respectively.

This is to effect what was requested by hon. Members.

**Dr. Lwali-Oyondi:** On a point of order, Mr. Temporary Deputy Chairman. The Assistant Minister is reading the last figure as 1,900,000. There is nothing like Kshs1 million over there. It is in the sub-total. Could the Assistant Minister repeat the figures of the sub-total in order for us to be clear on this?

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Assistant Minister, could you repeat the sub-total to Dr. Lwali?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, the figures that I read in the sub-total are as follows: by deleting "516,813,817" and "351,313" and inserting the figures "447,019,576" and "1,928,860" respectively.

*(Question of the amendment proposed)*

**Mr. Shikuku:** Bw. Naibu Mwenyekiti wa Muda, kwanza namshukuru Waziri Msaidizi kwa kurekebisha haya makosa makubwa ambapo mamillioni ya shilingi ambazo zingepitishwa tu, *vaaap!* na kupelekwa kule zinakopelekwa na hali---

**The Temporary Deputy Chairman** (Mr. Wetangula): How do we record that Mr. Shikuku?

**Mr. Shikuku:** Yaani, zinapita kama upepo na hali mambo haya yako mbele ya Kamati ambayo inachunguza matumizi ya fedha za wananchi. Na katika Supplementary Estimates tunataka hakikisho kutoka kwa Waziri Msaidizi kwamba makosa kama haya hayatafanyika tena. Hii ni kwa sababu mwisho wa haya mambo ni kwamba watakosoma historia siku zijazo watajua kwamba hii Serikali ilikuwa na watu wengine ambao hawakuweza kuaminika. Hii ni kwa sababu wanachukua nafasi kuweka pesa ambazo wanajua bado tunauliza ni nani "alikuwa" na wanataka tupitishie ili "wale" vizuri bila kuwa na wasiwasi. Katika sub-total, yafaa Waziri Msaidizi aeleze hizi Kshs516,813,817 ni Recurrent Expenditure au ni Development Expenditure. Hii ni kwa sababu kuna sub-total mara mbili. Mimi nafikiri kuna Recurrent Expenditure na pia kuna Development Expenditure. Sasa ni ipi?

**The Assistant Minister for Finance** (Mr. Keah): Bw. Naibu Mwenyekiti wa Muda nitazungumza kwa Kiswahili lakini najua huyu atanitiza. Tukiangalia katika Mswada tutaona ya kwamba kuna "R" na "D" katika hizo figures, kwa hivyo ni zote mbili. Na Schedule ya kwanza ni kuondoa na Schedule ya pili ni kule ambako kumeongezeka na nitakuja kwa Schedule ya pili.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, I would really like to express the hope that this Estimates Committee is going to be put in place because a lot of thoroughness---

**The Temporary Deputy Chairman** (Mr. Wetangula): The Leader of Government Business, I think, had a very eloquent contribution to that.

**Mr. Muite:** No, Mr. Temporary Deputy Chairman. The point that I am making is that we are trying to do a rush job here. The Public Accounts Committee and the Public Investments Committee both carry out post-mortems after the damage has already been done. But if we had an Estimates Committee in place, that is the committee that would prevent the damage from being done. Be that as it may, I would like the Assistant Minister to comment on R08 in the First Schedule, which is on page 262. There is a very large figure there of K£129 million. What was wrong with the original estimates since these are the Supplementary Estimates; for two months? What went wrong with the original Estimates? Why were they wrong with such a very large figure? Or have they increased the army? What has happened to justify the request for such a very large sum of money for two months? That is the first item.

Mr. Temporary Deputy Chairman, Sir, the second item is a general one on D01, D02 and D07 and it is the one that I was raising earlier. Why does this Government make a habit of asking for very large sums of money for what are purely developmental items that can wait for the Budget? How is it so? Are we being told that these



buildings which they want to construct cannot wait for proper budgeting in June? If you look at D01, for example, they are asking for money for the construction of new buildings and extensions to existing buildings. Can an item like that one not wait for the proper Budget in June? Why do you have to bring it in the Supplementary Budget? What is so urgent about it? When you go to D02, it is for Capital Expenditure on new buildings, extensions to existing buildings, renovations and alterations to State Houses and State Lodges; at a time when young boys in Ukambani are eating dogs because of hunger. Do we have to construct, renovate and extend State Houses and State Lodges? Again, what is so urgent? Are the State Houses leaking during the rainy season that they must be repaired now before June? Do we have to carry out extensions? Do we have to build? And even under Vote D07 again, is the sum of nearly K£146 million for the construction of staff houses. Are these not items that, in a civilized Government, would wait for the Budget so that we can find out how much money we have as a nation; how much money are you going to raise; get your priorities right and then bring this budget for debate in June in this House? Why do you have to do it through Supplementary Budgets?

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On a point of information, Mr. Temporary Deputy Chairman. I just wanted to clear one point here which is in connection with the Estimates Committee. The ruling was alright but I want to inform the hon. Members here that there is no refusal on the part of the Sessional Committee to appoint an Estimates Committee. Indeed, the Sessional Committee has given directive to the respective Chief Whips of all the parties to bring their nomination from their parties for all the Sessional Committees.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, if we are going to go in a random manner like that, it would be very confusing. I thought maybe you would call them Vote by Vote so that if there is any comment, hon. Members can stand up. How would the Assistant Minister be able to answer to and fro with many Members raising questions?

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Anyona, we are going Schedule by Schedule. We are on Schedule 1. I want to take all the queries on Schedule 1, then the Minister will respond at once and then, we will move to the next Schedule. Mr. Muite has asked his question and now it is Mr. Shikuku.

**Dr. Lwali-Oyondi:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I feel that if we go that way, it will be very difficult for those of us who have questions to follow up, should they not be answered adequately.

**The Temporary Deputy Chairman** (Mr. Wetangula): In fact, we are proceeding in accordance with the provisions of Standing Order No.105. Proceed, Mr. Shikuku.

**Mr. Shikuku:** Bw. Naibu Mwenyekiti wa Muda, ningependa kumjulisha Waziri Msaidizi kwamba hesabu hizi kufuatana na maoni yale yaliyotolewa, nilikuwa na maoni sawa kuhusu D01, D07 na D10 ambayo imeondolewa. Je, ni haraka gani ambayo inahitaji sisi tupitishie fedha hizi ili ziende kufanyiwa kazi? Hata kama kuna marekebisho ya majengo au upanuzi wa majengo, yatawezekanaje kufanyika katika miezi hii miwili iliyobaki? Haiwezekani! Hata kumpata mwenye kandarasi arudi kazini, haiwezekani. Kama wanataka kulipa madeni kwa kazi ambayo ilifanywa na waliofanya hawajalipwa, waseme hivyo. Ni heri Waziri Msaidizi atueleze hivyo. Lakini kutuambia kwamba sasa wameanza kuongeza au kupanua nyumba na hali haiwezekani katika miezi hii miwili iliyobaki, hatuwezi kukubali. Yafaa, atueleze hapa kwamba wanataka kulipa madeni ya kazi iliyofanywa.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I would be glad to answer the first one on R08, salaries for the Armed Forces. We explained during the Motion that, in fact, the Armed Forces had their salary review and their salaries were substantially increased in the course of the year, and this is the reason why there is that adjustment in order to capture the payments that were approved by the Review Commission for the salaries of the Armed Forces.

In so far as the capital expenditure is concerned, these items are items captured at the beginning of the year and the work has been on-going. Since the items were there in the original Vote items, this is continuing work in progress. But now, it is realised that more money is needed in order to pay for that on-going work which was in the original Printed Estimates, but the original estimates were inadequate. So, this is really an increase in order to capture that additional expenditure.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, I would like to read this with the Recurrent Expenditure notes. The Minister has included an item called "Efficiency Monitoring Unit (EMU)" which was not there in the original Printed Estimates and there is an enormous expenditure involved of K£236,474. I wonder where this "Efficiency Monitoring Unit" was, and why it was not included in the Printed Estimates in June last year.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I can see the Minister is not there, but I intended,

again, to record my appreciation for the fact that the Ministry was honest enough to remove this illegal expenditure and we shall deal with it when the report comes to the House. I would like the Minister to explain under R02, expenditure for salaries and expenses for the State Houses at Nairobi, Mombasa and Nakuru, and State Lodges at Sagana, Kisumu, Eldoret and Kakamega and the President's household. Hon. Muite has raised some aspects of that and I do not wish to repeat that one. What I would like the Assistant Minister to explain to this House is: As far as I know, the President of this Republic does not live in State House; he lives in a place called Kabarnet Gardens. As far as I know, Kabarnet Gardens was the official residence of the Vice-President of Kenya. The current President went there when he was the Vice-President of the Republic.

I want to ask two questions, first, where is the expenditure for that particular residence? Two, where is the official residence of the Vice-President, because that was the official residence of the Vice-President? The President has refused to move to State House because we must be spending money on where the Vice-President lives. Can he explain those two aspects?

*(Laughter)*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, maybe that is a point that the Leader of Government Business can respond to at an appropriate stage. But at this point in time, for me to answer which is the official residence of the Vice-President, I am not qualified to answer that question. But all the same, we have these buildings and facilities that have been created by this Government and they have to be maintained and funds have got to be voted for.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Whereas his answer may be right, it maybe too large a responsibility for an Assistant Minister to answer as to where the Vice-President lives officially but I raised the other---

**The Temporary Deputy Chairman** (Mr. Wetangula): But, Mr. Anyona, there is no provision in the Schedule on any expenditure for Kabarnet Gardens and the Vice-President's residence.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, we know as a matter of fact where the President lives and I am asking him: Where is the expenditure for that? That is the question I wanted him to answer. He has not answered it; but he can answer the other one, what happened to the official residence of the Vice-President?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, that is under R02.

*(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)*

*(First Schedule as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Wetangula): There is a second amendment to the Schedule by hon. Shikuku. There is a Supplementary Order Paper on which hon. Shikuku has proposed an amendment. We are not opening debate, but move the amendment so that we can move because we have a shortage of time.

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

"THAT, the First Schedule be amended in respect of Vote R01 by deleting the sum of K£119,902,882 and inserting in place thereof Kshs117,662,882, being a reduction of K£2,240,000 in the Office of the President".

If you look at page 24 of the Estimates, you will find that this amount has been allocated to the General Service Unit (GSU). My reason for deleting this amount is because the GSU is not giving a good service to the wananchi of this country. You can take into account the clobbering that took place at Kamukunji, where they wanted to kill wananchi. They were not there to scare away people, which should be their job. Once people run away, that should be the end of the matter. To chase people away like antelopes, catch up with them and clobber them when they are lying down, is one of the most barbaric incidents that one cannot stomach and vote so much money, to that unit of brutes.

Therefore, I am moving that this amount, which is for the GSU, be deleted from these Estimates, so that

it can be used later on to re-train the GSU officers and instil some humanism in them, and also make them know that the people they clobber pay the taxes used to pay their salaries. I am sure that there are people who do not support this brutality by police against innocent and unarmed people. According to the law, if there is a fight between two groups, once one person raises up his hands, he has given up and does not have to be beaten.

**The Temporary Deputy Chairman** (Mr. Wetangula): We have heard you, hon. Shikuku.

*(Mr. Muite stood up in his place)*

Under Standing Order No. 45 there is no provision for seconding a Motion in the Committee.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Keah, it is your time to respond. But note that I want very quick and short responses. I do not want long speeches.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Speaker, Sir, we are opposing that amendment in its totality. The GSU has got to continue to provide the security of this country. We, therefore, oppose the amendment.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Muite, you have two minutes: We do not have much time.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, I was at Kamukunji. I would like to pay tribute to the Commissioner of Police and the police officer whom he had sent to Kamukunji - I am forgetting his name. This is because in my presence I saw GSU officers shaking angrily and arguing with this officer, who is in charge of the police in Nairobi. The GSU officers were telling him:

"Leave us alone. Let us loose on these people because we want to murder them".

These GSU officers were shaking with anger, and it is the police officer in charge of Nairobi who refused to let them loose. The GSU in this country is not employed in any manner to guard the security of this nation. The GSU is there to sustain a particular person and a particular regime in power against---

**The Minister of State, Office of the President** (Mr. Koech): On a point of order, Mr. Temporary Deputy Chairman, Sir. The hon. Member has made a very serious allegation: He has said that the GSU officers were saying that they wanted to murder the people. I do not think that anybody in his right mind can ever say anything like that. We should not bring unnecessary incitement to this House. Is he in order?

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, these words were said in my presence and I heard the officers say: "We want to kill them". I do not know what has happened to my friend, hon. Koech. When he was an Assistant Minister, he was a first-class person, who reasoned well. Ever since he got elevated to the Cabinet, his contributions have become different.

I want to support the reduction moved as strongly as I can, because the GSU in this country is being employed for the sole purpose of oppressing wananchi. It is a political force which is there to sustain a particular person and a particular regime without the consent of the majority of wananchi in this country. So, this reduction is most appropriate.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I want to say quite categorically that the Government has full confidence in the GSU, which is there to ensure that the rule of law is upheld. The reasons which have been given here to support the reduction have come from hon. Members who believe that laws, which have been made here, should be broken. I would like to say that legislators, who make laws here, and who went to Kamukunji and broke the law with impunity should be ashamed of themselves.

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Member to say what he has just said? He was rather emotional, and his emotions are worse than those of a baby. How can he say that we should be ashamed? We are airing the views of those who elected us!

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Anyona, you have only two minutes to speak. Hon. Shikuku wants to reduce the money allocated to the Office of the President. If you are supporting him, just say why.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, none of the gentlemen on the other side in the House, except one, has ever landed in the hands of the GSU. The Vice-President has never. Yesterday I was told that my friend, hon. Biwott, was in a guest house in the prisons college.

**The Minister of State, Office of the President** (Mr. Biwott): On a point of order, Mr. Temporary

Deputy Chairman, Sir. I am glad that the hon. Member has brought up that point because it has given me an opportunity to deny categorically that I was taken to a guest house in the Prisons Training College.

**Hon. Members:** Where were you?

**The Minister of State, Office of the President** (Mr. Biwott): I was where Mr. Anguka, the late Oyugi and lawyer Mr. Oraro were. I would appeal to hon. Members on the opposite side of the House to stop engaging themselves in this "Biwott syndrome".

**The Temporary Deputy Chairman:** That is a point of argument and not a point of order. Let hon. Anyona finish his point.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, the truth of the matter is that I was in Kamiti Maximum Security Prison and hon. Biwott was not brought there, though that is where arrested people are normally brought. But the point I am making is that this is a very serious matter. Those who have been in the hands of the GSU know the seriousness of it. Hon. F.P.L. Lotodo knows it. You never know when we take over power--- You never know it, but even a mad man can take over power. When we take over power, the people on the other side of the House will be in serious trouble.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, you know very well that constitutionally, a mad man cannot take over power in this country.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On point of order, Mr. Temporary Deputy Chairman, Sir. I am sure you heard what hon. Anyona said emphatically that when they take power they are going to commit atrocities. Is he in order to issue threats in this House because, I believe that no hon. Member is allowed by the Standing Orders of this House to issue threats when he has precisely done so? He should withdraw.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I issued no threats at all. I gave a friendly warning because in 1982 when I was arrested, I was taken to the GSU Headquarters and that is where I stayed and I know that you have never been there. You never know, that is all I said. I gave you very friendly advice. Take a risk because you never know what the future has in store for you.

**The Minister for Commerce and Industry** (Mr. Angatia): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am seeking your guidance. The amount that we are debating on, K£119,902,000 has already been reduced by the Assistant Minister to K£105,000. Hon. Shikuku is increasing it and yet when he was moving the amendment he was talking of decreasing it. We now have a sum of K£105,000,000 but he is talking about K£119,902,000. Which is which?

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Angatia, you came to me and I gave you an explanation to that point.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Thank you, Mr. Temporary Deputy Chairman, Sir. First of all, I would like to say that, that amendment should be rejected because hon. Shikuku himself recognises the importance of continuing to perfect the function of the Paramilitary Unit. This requires more funds, not a reduction.

Mr. Temporary Deputy Chairman, Sir, the GSU has not been accused of anything specific. It is hon. Muite, who was on a mission of law breaking and purports to have heard some comments which are not true---

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for hon. Sunkuli, a one time magistrate, to stand up here and accuse me of having been on a mission of law breaking when he knows or ought to know perfectly well that the Public Order Act is wholly void and unconstitutional and there is an obligation on the part of every right thinking Kenyan to defy that law? My commitment is to the constitution, and not to unconstitutional laws.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Chairman, Sir. The hon. Member may have his opinion and maybe disagree with the law, but he definitely has no discretion but to obey it. The hon. Member knows that the GSU serves a good purpose in Nairobi and other parts of the country.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Wetangula): What it is, Mr. Busolo? Order! I have closed the contribution. Order, Dr. Otieno-Kopiyo!

**Dr. Otieno-Kopiyo.** On a point of order, Mr. Temporary Deputy Chairman, Sir. The notion is continuously and steadily chipping, in that, if we break a certain law, they ultimately call the GSU or the police to break our bones. Are we being told that the law is not going to be applied through the arrest of the offenders and arraign them before a court of law, so that they can be punished in accordance to the law, or GSU and the police are going to take over and punish us individually? Is that the true position of the Government? Can the hon.

Biwott reply now?

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

**Mr. Shikuku:** You gangsters!

**The Assistant Minister for Education** (Mr. Komora): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Shikuku in order to call us gangsters here? That is what he said.

**The Temporary Deputy Chairman** (Mr. Wetangula): Order! I did not hear that. Did you call them gangsters, hon. Shikuku?

**Mr. Shikuku:** He is the one who has put this matter on record. I think, I mentioned something to that effect. When they behave the way they are behaving, what other name can you get?

**The Temporary Deputy Chairman** (Mr. Wetangula): Can you withdraw?

**Mr. Shikuku:** Yes, I withdraw, but I do not know which is the kinder word. I would like to substitute it with the words "people who do not believe in peace or people who believe in breaking the bones of their own fellow citizens".

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, Shikuku!

### Second Schedule

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move the following amendment:

THAT, the Second Schedule be amended:

(a) by inserting the following new note immediately after Vote D08 -D10 The amount required in the year ending 30th June, 1997, for the Ministry of Agriculture, Livestock Development and Marketing for general administration and planning, crop development, land and farm development, integrated agriculture and livestock production, agricultural education, livestock development, veterinary services, rangelands development services and the National Cereals and Produce Board... 5,205,759 - 1,577,547

Mr. Temporary Deputy Chairman, Sir, the reason for that, is because we have deleted it altogether from the First Schedule, it then becomes a reduction.

(b) in the total reduction, by deleting the figures "129,328,311" and "27,066,965" and inserting the figures "134,534,070" and "28,644,512" respectively;

(c) in the Grand Total, by deleting the figure "387,485,506" and inserting the figure "312,485,506".

These are purely arithmetical adjustments.

*(Question of the amendment proposed)*

**Dr. Otieno-Kopiyo:** There is some problem here because he is talking about Vote D8 and then, the subject matter of the insertion is Vote D10. He is saying that because they have already removed it from R10--- In any invent, there was no D10 and the process is anomalous.

**The Temporary Deputy Chairman** (Mr. Wetangula): We are dealing with page 270.

**Dr. Otieno-Kopiyo:** Mr. Temporary Deputy Chairman, Sir, it does not make sense at all.

**The Temporary Deputy Chairman** (Mr. Wetangula): Ask the Assistant Minister. What is it that you want him to clarify?

**Dr. Otieno-Kopiyo:** Mr. Temporary Deputy Chairman, Sir, he is saying that it is purely arithmetical. But when you do an arithmetic, there should be some basis from which you either subtract or add. Where are we subtracting from and where are we adding to, and how does it add up?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, with due respect, the hon. Dr. Otieno-Kopiyo has not been around. I have spent virtually the whole afternoon explaining the additions and deletions. As I have said, the Second Schedule is a Schedule relating to decreases. Therefore, having deleted something in the First Schedule, we need to show it as a deletion in the Second Schedule.

**Dr. Otieno-Kopiyo:** Mr. Temporary Deputy Chairman, Sir, it is that "something" that I want to know. I think the whole House deserves to know which "something" they are deleting from, so that we can have an

addition. He says it is arithmetical and I have a calculator, so I want to add up and see if it works.

**The Temporary Deputy Chairman** (Mr. Wetangula): But you see, Dr. Otieno-Kopiyo, you are not asking any specific question.

**Dr. Otieno-Kopiyo:** I am asking the specific question, which is: Why that he says that this is purely arithmetical. I am prepared to accept that but I want to be satisfied that, that is the case. From where are you deleting and where are you going to add? It is very reasonable, with due respect.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, if my friend had only been here from the beginning--I will now have to take you back. You will notice that on page 264, we have deleted the entire D10.

**The Temporary Deputy Chairman** (Mr. Wetangula): That is correct.

**The Assistant Minister for Finance** (Mr. Keah): Because we have deleted it from here, it ought to appear on your schedule of deletion and we are including the D10 here. This is all I am saying.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I do not know whether you want us to deal with that amendment or whether you want us to deal with other matters in the schedule.

**The Temporary Deputy Chairman** (Mr. Wetangula): We are dealing with the amendment first.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I sought the guidance of the Chair.

**The Temporary Deputy Chairman** (Mr. Wetangula): You are right. You can ask your clarification.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, I want to refer to Vote D13, which deals with the Ministry of Public Works and Housing. In this particular case, I want an explanation from the Assistant Minister of Finance. Where is the money under this item for the Kisii-Chemosit road, C21, which was supposed to start on Friday the 2nd of May, 1997, and has not started?

The second explanation I want is: Why has it not started and when is it going to start? Is it yet another falsehood to the community? Secondly, I want to refer to Vote D30, which deals with the Ministry of Energy, with particular reference to Capital Expenditure, including General Administration and Planning, Renewable Energy Development, Electric Power Development, Petroleum Exploration and Substitution and Regional Development Authority, Kerio Valley Development Authority, Tana and Athi Rivers Development Authorities. I have two questions there. First, I want the Assistant Minister to explain what he means by petroleum exploration since Kenyans are being fleeced by the oil companies, and yet, we are told we are spending money on exploration of petroleum. What are the results of any exploration done in the past? How can we keep pouring money down the drain without any results? Can he tell us what petroleum they have discovered and what potential there is in this kind of thing? Secondly, on that particular item, why is it that it is only three authorities: Kerio Valley, Tana and Athi? What about the others? What about the Lake Basin Development Authority? Where is the money for that particular one?

Finally, on page 31, I would like the Assistant Minister to explain--- He talks about money for all sorts of things like primary schools, secondary schools and teachers' education. What money is he spending on primary schools? On what specific items? As far as I know, primary schools are entirely maintained by parents.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Assistant Minister, have you got all the questions?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I have got all the questions on D13, D30 and D31. I would like to plead with you that the question as to when the Kisii-Chemosit road would start, would be a very valid question to the Ministry of Public Works and Housing. I would invite hon. Anyona to do just that so that he can get a substantive answer because I, from the Ministry of Finance, would not know when work would start on that road.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Anyona, I think that is a very fair answer.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, this is part of the problem we have run into because the procedure of Parliament was not followed. We thought that the estimates should go through a Committee of Supply in the normal manner under Standing Order No. 143, but that was short circuited. If that had been done, maybe, the Ministries would have been able to answer. Now we are being told that this Assistant Minister cannot answer that question. Who is going to answer because we are dealing with the estimates now? When do I get the answer if I do not get it now? He can ask his colleague to answer, but we must get the answer. It is a collective responsibility.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, with due respect to his feelings and concerns, I am afraid this is a question that he would have to refer to the Ministry of Public Works and Housing.

On the issue of the Ministries of Energy and Education, we are here making adjustments to the original

budget, and the nitty gritty of the details of the amounts can be read singly from the Vote Book, and I would refer him to the Vote Book.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, throughout this Supplementary Estimates, there has been a reduction in the medical allowances. We know very well that the various members of staff in the Government and elsewhere suffer a lot when they fall sick. Why is it that there has been reduction throughout in the medical allowances?

**The Assistant Minister for Finance (Mr. Keah):** Mr. Temporary Deputy Chairman, Sir, much as I appreciate the importance of medical attention, the stomach takes priority to medicine because for medicine, we can even go to *miti shamba*. What we have done is to remove sums of money from certain Ministries, so that we can apply them for food relief.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The Assistant Minister for Finance is proposing that Kenyans resort to *miti shamba* in case of medical inadequacy, so that he can meet bills for paying for maize when we have already suffered from malnutrition and other diseases. Is that not serious?

**The Assistant Minister for Finance (Mr. Keah):** Mr. Temporary Deputy Chairman, Sir, that was with a light touch.

**Dr. Otieno-Kopiyo:** Okay. So, will you withdraw it as a Government policy?

**The Temporary Deputy Chairman (Mr. Wetangula):** He says it was with a light touch.

**Dr. Otieno-Kopiyo:** But what is the tough touch? Are we going to get medicine in the hospitals or should we resort to *miti shamba*? While I am here, may I move to the next point, which is very important?

**The Temporary Deputy Chairman (Mr. Wetangula):** Dr. Otieno-Kopiyo, you stood on a point of order. Let him respond to your point of order.

**Dr. Otieno-Kopiyo:** The President whom we respect very much goes to Rachuonyo District and says that that road will be repaired. He goes to Kisii and says Kisii-Chemosit Road will be repaired. He even says Kshs580 million has been put aside for it. Now, when we ask the same Question in Parliament, we are told that there is no money for such a thing. Whom should we believe, the President on the road to Kisii or the Minister for Public Works and Housing? Treasury should clarify that, for the sake of good governance.

**The Assistant Minister for Finance (Mr. Keah):** Mr. Temporary Deputy Chairman, Sir, in any case, we cannot debate issues of the Presidency or the President here and use that as an authority or basis for our discussion. Hon. Anyona wanted to know the date when---

**The Temporary Deputy Chairman (Mr. Wetangula):** You have already answered that question.

*(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)*

#### *Second Schedule*

**Mr. Shikuku:** Thank you, Mr. Temporary Deputy Chairman, Sir. I beg to move:-

THAT, the Second Schedule be amended in Vote R19 - Ministry of Information and Broadcasting by deleting the sum of K£944,619 and inserting K£844,619 thereof, a reduction of K£100,000.

The reason for this is that we have complained time and again in this House that the Kenya Broadcasting Corporation(KBC) is discriminative in its news coverage. It should be for all; the Government and the Opposition. We are now faced with a situation where we are expected to vote money to this Ministry which only covers speeches by the Ministers. They do not even cover speeches by hon. Members of this House. As a sign of disgust, some of us who are taxpayers and the majority taxpayers because the Opposition had 3.4 million votes when KANU had 1.9 million votes, we wish to reduce this amount of money. We pay more taxes, and yet, KBC does not serve this side of the House. Therefore, we are moving that this amount of money be reduced so that KBC can know that they are not the mouthpiece of KANU, but of the nation at large. I know that you do not want me to make a long speech, but there are many Members on this side of the House who are very much disturbed and willing to contribute on this Motion. I beg to move.

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

THAT, the Second Schedule be further amended in Vote R13 -Ministry of Public Works and Housing by deleting a sum K£9,953,433 and inserting thereof K£9,943,433, a reduction of K£10,000.

This is because, the usual Road Levy in this county through fuel and also when these roads are tarmacked, within a month or two you get big potholes that even the hon. gracious lady can just disappear in them.

**The Minister for Culture and Social Services** (Mrs. Mwendwa): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is hon. Shikuku in order to say I can disappear in a pothole? I do not think I can disappear. Is he in order to look at me? I am not a child.

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I was just doing that with a light touch taking into account her stature. The potholes in this country are so deep that if she ventured going in, we would not see her at all. We might see the hon. Vice-President because he is a bit tall and has got a long neck, but that hon. Lady cannot be seen in some of these potholes.

Mr. Temporary Deputy Chairman, Sir, I am reducing this amount from the personal emoluments of the officers who are normally bribed to say that roads are properly done and they get their "cuts" then in two months time, there are a thousand and one potholes on that road.

Mr. Temporary Deputy Chairman, Sir, with these few remarks, I beg to move.

*(Question of the amendment proposed)*

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, the Kenya Broadcasting Corporation is a very important institution and in fact, if you ask anybody in Kenya at random, they will tell you that it is called "KANU Broadcasting Corporation". They do not call it Kenya Broadcasting Corporation.

Mr. Temporary Deputy Chairman, Sir, in a country like Kenya where the largest circulating newspaper - the *Daily Nation* is read by only about two million people out of a population of nearly 30 million people, the Kenya Broadcasting Corporation is the medium that reaches the majority of Kenyans in the countryside. This is the reason why the KANU Government has been absolutely efficient in ensuring the Opposition in this country has no access to KBC. That is the medium that is listened to in Kitui, Baringo, Turkana and everywhere. The Opposition in this country is confined to Central Province, Nairobi, certain parts of Rift- Valley, Western Province and Nyanza. In the rest of the country, KANU reaches them through the radio and yet, this is run not by the Kshs10 that KANU collects for membership every year from their members. This is run by our money; taxpayers money, yet we are excluded. Does this Government not have some duty conscience. If they have, can they agree to this reduction? In order to give us the opportunity to register our disgust. Please remember there is always tomorrow. Ya Mungu ni mengi, huenda ikawa.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Chairman, Sir, the Kenya Broadcasting Corporation should be supported because if it was doing its work the way the *Daily Nation* is doing, just to report what the Opposition is doing, it would be disastrous.

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Assistant Minister to accuse the *Daily Nation* of being pro-opposition when he knows perfectly well that Mr. Kiboro, the Managing Director of *Nation* Newspapers is a personal friend to this "small" man? They have lunch together all the time, and also they gave him---

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, hon. Muite! If you want the other side of the House to respect you, you have a corresponding duty to respect them. What is the point of making a reference to your colleague as "this small man here?" He is an hon. Member of this House! Hon. Muite, you have to withdraw that remark.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, I withdraw and apologise, particularly because my wife comes from his constituency.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Chairman, Sir. Hon. Members of this House should make development contributions to this nation and the KBC will report. The KBC will not just report anything and the political things which hon. Muite goes on to say in abuse of that party or the other. Let him constructively contribute to the development of this country and the KBC will report him.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, the Government totally opposes both the amendments. First of all, they have been made in disgust. We do not discuss disgusting things here. It is very unfortunate that he should make his proposition through vengeance.



We ought to be practical. We are objecting to those amendments in toto because when you listen to "*Leo Katika Bunge*", KBC will report hon. Shikuku for the umpteenth time.

With regard to the Ministry of Public Works and Housing, can you imagine when he says this ought to be reduced from the personal emoluments of the officers? Can you imagine what rage there would be if hon. Shikuku's emoluments were reduced by K£10,000? It was only yesterday when he called for an increase of the salaries of hon. Members by 200 per cent.

**Mr. Shikuku:** On a point, of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Assistant Minister in order to mislead this House as to what I said? The people I am proposing that their emoluments be reduced by K£10,000 are those responsible in approving and certifying that a road has been properly tarmacked and only after two months you get potholes on it. If this hon. Member does not see potholes, then, I do not know what he can ever see. I am sure his constituents will vote him out.

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

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

#### THE CUSTOMS AND EXCISE (AMENDMENT) BILL

##### Clause 2

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

THAT, Clause 2 be amended in paragraph (b) by deleting the word "sugar" and inserting the word "beans".

*(Question of the amendment proposed)*

**Dr. Otieno-Kopiyo:** Mr. Temporary Deputy Chairman, I am grateful as a Member representing many people who grow sugarcane, that this may be done. But one assurance that we must seek from the Assistant Minister is whether or not, between the time when they published this Bill; we have been told it was some time in February, 1997 and now, that no sugar has come in. This is because under the law and the Act they used in this publication, that law was provisionally in effect. Are we being told that this amendment is going to

##### [Dr. Otieno-Kopiyo]

come into effect when other people, whom I do not want to mention, have already imported a lot of sugar in this country, and that this sugar is somewhere in the market? I would like an assurance from the Assistant Minister. That would be important for us because it would be superfluous to make an amendment in this respect, and then have a situation where a lot of sugar is already floating in the market.

**The Assistant Minister for Finance** (Mr. Keah): I want to confirm that there is no sugar that has been brought into the country duty-free. That is the assurance that I am giving you.

*(Question, that the word 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 2 as amended put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Wetangula): Can we have hon. Muite's amendment?

**Mr. Muite:** I would like to move the amendments, and to say that I had some little consultations with the Minister in question. If you look at the Bill the way it is worded closely---

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Muite, the correct procedure is for you to read your proposed amendments.

**Mr. Muite:** I was trying to save time. I am moving that Clause 2 of the Bill be amended as follows:

(i) That paragraph (b) 1 (a) be amended by deleting the word "may" and substituting in place thereof the word "shall".

(ii) By inserting a new paragraph (c) as follows: Provided that the power of the Minister to decrease/increase the rates of duty in accordance with (b) above, shall not be exercised after 30th of June, 1997 without the prior authorization by a resolution of the National Assembly.

(iii) Renumbering "c" and "d" as "d" and "e" respectively.

The third amendment is consequential, if the other two amendments are carried through. In all the first amendments, you will see from the language employed in Clause 2 1 (a) and I quote:

Notwithstanding the provision of Sub-Section (1), the Minister may by order in the Kenya Gazette, decrease the rates of duty on maize, wheat, beans, milk or rice by any amount during periods of civil strife, national disaster or calamity declared under any written law for the time being in force.

The amendment is the word "may" there. "--- may, upon revocation of the declaration, increase the rates of duty by such amounts as may be necessary to restore the rates prevailing immediately before the declaration". The word "may" here is permissive. The Minister has got a discretion---

**The Temporary Deputy Chairman** (Mr. Wetangula): There are two, "mays". Do you want to delete both and put "shall" or only the first one?

**Mr. Muite:** No! it is the last one that is pertinent.

**The Temporary Deputy Chairman** (Mr. Wetangula): Okay.

*(Question of the amendment proposed)*

**Dr. Otieno-Kopiyo:** Thank you, Mr. Temporary Deputy Chairman, Sir. First, "shall" is appropriate because the intended commodities are already in the country and the process is already complete. So, you know, the exercise has been consummated. The second one is that I beg to disagree with the hon. Muite. Maybe in Kikuyu Constituency, the maize would have sprouted and people would have the produce. But in my view, the hunger does not end just simply because the rains have fallen. I think it would take quite a while before the plight of the people in Ukambani can actually be completely alleviated. For that reason, I think that we should give the leeway that, so long as hunger exists in the country, the Minister should have the discretion to allow essential commodities to be imported into the country. In any event, they did not need us to clear the state of emergency and they did not need us to do all the other things that they have done. So, what we are trying to do here would not stop them from doing what they really will be able to do. They declared the state of emergency and they imported the maize before we knew it. So, this process here will not help us in any way and I do agree with him on the third one. If they wish to come back, they will come back through the state of emergency again and we have no control over it. The main thing is really to get rid of the Nyayo Government and before I sit down, I would want to correct the hon. Muite when he said that his wife comes from hon. Kamotho's constituency. As far as I know, the Secretary-General of KANU has no constituency anywhere in the country.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, I rise in support of the amendment because of that discretion that would have allowed the Minister to continue either voluntarily or under pressure from the various traders and the politically-correct people. The Minister should also take into account the milk situation. The milk is already increasing and I hope the Minister will not allow anybody to import milk because we shall again be in the trouble that we had before where we had a lot of milk products worth over Kshs2 billion and nobody could get rid of it because the market was flooded. Therefore, I would request the Minister not to allow

some of these foodstuffs like milk and rice which are in plenty at the moment to be overrun by cheap imports from overseas.

With those few remarks, I wish to support.

**The Assistant Minister for Finance** (Mr. Keah): Thank you, Mr. Temporary Deputy Chairman, Sir. We have no problems whatsoever and we concur with the hon. Muite on his first proposal and that one we accept that the word "may" be dropped and substituted with "shall". However, on number two, we propose to amend his Motion by deleting Item 2 and our reason for doing that, and we have discussed with the hon. Muite, is that we think having accepted the "shall", we are deleting number 2 and number 3 this is the amendment and we are doing so primarily because even if the President does not revoke his declaration, the Minister for Finance has absolutely no power whatsoever to exempt anybody unless he does so by gazette and bringing it to this House. We are in concurrence with hon. Muite on that and, therefore, I beg to amend the Motion accordingly that Clause 2 and Clause 3 be deleted.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, we are very conciliatory and co-operative people on this side of the House. So, in view of the fact that the Assistant Minister has conceded on the first amendment, I would support his amendment. I can only express the hope that when it comes to the constitutional and political reforms which we must enact before the next General Election, the same spirit is going to apply.

*(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 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Customs and Excise (Amendment) Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Speaker in the Chair]*

#### REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

#### THE SUPPLEMENTARY APPROPRIATION BILL

**Mr. Wetangula:** Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Supplementary Appropriation Bill and approved the same with amendments.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister, Office of the President** (Mr. Sunkuli) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Speaker, Sir, I beg to move that The Supplementary Appropriation Bill be now read the Third Time.

**The Assistant Minister, Office of the President** (Mr. Sunkuli) seconded.

*(Question proposed)*

**Mr. Shikuku:** Bw. Spika, kwa vile Mswada huu umeanza kuwa sheria, ninafikiria kwamba Wizara ya Fedha imesikia maoni yetu. Sisi tumechaguliwa kuja Bunge hili si kutoa Harambee, lakini kutoa maoni ya wananchi na wananchi wakiumizwa na Serikali hii kwa kupigwa rungu kama juzi, tunapinga jambo hilo. Lakini kwa vile wamekuja leo kama nzige, hatuna njia nyingine. Watapata yale wanayotaka, lakini wajue ule msemu kwamba Tunaongea na jiwe, hata kama halijibu, limesikia".

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, the fact that now we are giving the money to the Government to do what they have requested, we only pray that they would be able to do what they have promised to do. The most important contract between the Government and the people, is not what the Opposition says, is what the Government feels is its moral obligation to its own citizens who pay taxes to it.

The second important thing is that accountability is not a matter of slogans between political parties. It is an obligation of a governing party to be accountable to its own citizens.

Lastly, Mr. Speaker, Sir, the lavish expenditure that is going on within the Government, particularly in the ruling party, KANU, when the citizens are starving and eating dogs, should be discouraged. It is disgusting that the Government should use so much money on motorcades that collide with one another while the citizens have no food to eat.

**Mr. Kibaki:** Mr. Speaker, Sir, I support the Bill, and I only want to emphasise a very serious matter. Earlier on, when we were on a separate debate, we raised the question of contracts that have been given to people to build particular roads and have been paid some money, but have not done the work. This is the second year since the contracts were awarded and public money given to contractors. We would like the Minister not to reply to the debate in general, but to assure this House that if those contractors are to continue to deal with the Government they must fulfil their contractual obligations or have their contracts withdrawn.

It is really criminal for the Government to pay taxpayers' money to somebody who does not do any job. We are asking for something sensible. It is the duty of the Government to be accountable. It is not accountable if it cannot enforce a contract. If it is scared of certain contractors, and cannot enforce contracts with them, then what kind of Government is it? We have the Murang'a-Kangema-Kiriaini-Othaya-Nyeri Road - and I have talked about it before - for which a contract was awarded two years ago. The road is now finished. Mobilisation money was paid but, the contractor is nowhere to be seen, and no work is going on. This is criminal. Even if the Ministry of Public Works and Housing is a party to the looting - it is probably capable of doing anything - the Ministry of Finance has a duty to enforce the contract.

Secondly, here we are granting money so that Provincial Administration and police officers may do their duty and be paid their salaries. But the Provincial Administration officers must not be used as tools. They are not "Hitler's tools" to be used to tell Kenyans lies, that there was no meeting in Nairobi. The police were battling with the public for nine hours, but somebody announced that no members of the public turned for the meeting! The Kenya Broadcasting Corporation (KBC) went on broadcasting this falsehood. Who were they cheating? Was it Kenyans or themselves? The Government may please itself but it should not misuse the police to clobber people who are peacefully going about their business.

Finally, now that we are granting this money we should have the KBC covering all events. At present, there is a blackout on the Opposition. Can the KBC be used to serve all of us? It cannot be a KANU Broadcasting Corporation!

**Mr. Speaker:** Before I put the Question, I think it will be in the interest of the House that we have the other Bill reported as well. We will extend our time by a few minutes, unless there is a serious objection to it.

*(There was no objection to extension of time)*

I can see that there is no objection from the House to extension of time.

*(Question put and agreed to)*

*(The Bill was accordingly read)*

*the Third Time and passed)*

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

**Mr. Wetangula:** Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Customs and Excise (Amendment) Bill and approved the same with amendments.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister, Office of the President** (Mr. Sunkuli) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Assistant Minister for Finance** (Mr. Keah): Mr. Speaker, Sir, I beg to move that the Customs and Excise (Amendment) Bill be now read The Third Time.

**The Assistant Minister, Office of the President** (Mr. Sunkuli) seconded.

*(Question proposed)*

*(Hon. Muite stood up in his place)*

**Mr. Speaker:** Mr. Muite, do you want to make a brief intervention?

**Mr. Muite:** Yes, Mr. Speaker, Sir. Now that this Bill is becoming law I wish to express the hope that this Government will be very serious and will have the political will to close the loophole of corruption that exists in the Mombasa Port of Kilindini. It should know that this House, particularly this side of the House, is extremely concerned with the fact that we have ruined our agriculture by allowing importation of cheap grains. We have ruined our commerce and industry and it is not enough for us to pass this Bill into law. I do express the hope that this Government, from now on, will have the courage and political commitment to really get the economy of this nation back on its feet for the benefit of the majority of our people.

**Mr. Shikuku:** Bw. Spika, inafaa pia Serikali ijue kwamba sisi sote hapa tunataka watu wetu wafaidike kutokana na ushuru wa forodhani. Ninaona kwamba kuna watu ambao watakosa kazi watakapokufa tu. Watu wengine wamefanya kazi, wakastaafu na kupata malipo ya uzeeni, lakini kila siku wanaendelea kupewa kazi hapa na pale. Kuna mtu ambaye amepewa kazi katika Kenya Ports Authority. Watu kama hawa hawawezi kukaa nyumbani na kutumia mali ambayo wamepata? Kwa nini mtu mmoja, ambaye amepata malipo ya uzeeni, anaendelea kupewa kazi hapa na pale! Hakuna watu wengine ambao wamesoma, na wanaweza kupewa kazi katika Kenya Ports Authority? Huyu mtu mmoja alikuwa mkuu wa mkoa na anaendelea kupewa kazi huku na kule! Kwani yeye alipigania Uhuru kuwashinda watu wengine wote? Hii ni ishara mbaya sana kutoka kwa Serikali hii! Haifai kuwakubalia waliokula waendeleo kula zaidi, na kuwaacha wale wasio na kitu wafe!

**The Assistant Minister for Finance** (Mr. Keah): Bw. Spika, naichukua nafasi hii kulishukuru Bunge hili kwa vile ambavyo Wabunge wametuunga mkono katika Miswada hii miwili. Yote ambayo wameyasema tumeyasikia. Sisi, kama Serikali, tunayajali maslahi ya wananchi kwa kila nanma, na tutatumia kila njia na kuendelea kuwatekelezea wananchi haja zao kama Mungu atakavyotusaidia.

*(Question put and agreed to)*

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

ADJOURNMENT

**Mr. Speaker:** Hon. Members, it is now time for us to interrupt our business and the House is adjourned until tomorrow, Thursday, 8th May, 1997, at 2.30 p.m.

The House rose at 6.35 p.m.