

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th October, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Very well. We will have one hour for Questions.

Question No.721

POPULATION IN KENYAN PRISONS

Mr. Kagwe asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) what the population of all prisons in Kenya is; and,
- (b) how many of the prisoners are considered hardcore cases.

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mrs. Kilimo): Mr. Speaker, Sir, I beg to reply.

(a) There are 89 prisons, two borstal institutions and one youth corrective training centre, all with an inmate population of 43,393.

(b) There are 20,179 prisoners who have been admitted to prisons two or more times. This category of prisoners is considered as the hardcore.

Mr. Kagwe: Mr. Speaker, Sir, nearly 44,000 prisoners feed on food that is paid for by the taxpayers in Kenya. The prisoners do literally very little for the country. First of all, what is Kenya's prison capacity *vis-a-vis* the current number of prisoners?

Mr. Speaker, Sir, secondly, could we start using the prisoners, particularly the ones

who are not hardcore criminals, in development projects like road repairs? They should not just sit in prisons, eat our food and do nothing.

Mrs. Kilimo: Mr. Speaker, Sir, the present prison buildings were meant to house 16,000 prisoners. I acknowledge the fact that there is congestion in prisons, and the number of inmates now is about three times the prisons' capacity. We have put in place, and this was commissioned some few weeks ago, the Community Service Order Scheme. This will decongest the prisons as minor offenders will serve the public as non-resident prisoners. Some of the inmates were put in before the National Rainbow Coalition (NARC) Government took over power.

(Laughter)

Mr. Speaker, Sir, some of the prisoners were imprisoned before the NARC Government took over power. That means that some of their cases could have been minor, but due to the corruption that

was there in the Judiciary, they were not given the Community Service Order Scheme option, and are in prison illegally. So, we are still working out how they will be released, and put on the Community Service Order Scheme. However, from now on, minor offenders will be put on Community Service Order Scheme.

Dr. Galgalo: Mr. Speaker, Sir, you will recall that yesterday we spent a lot of time because Ministers gave irrelevant answers when they were asked valid simple questions.

(Applause)

The number of prisoners who were imprisoned during the former KANU regime is irrelevant. We are asking what needs to be done now. The Commissioner of Prisons recently said that there are about 9,000 inmates who were jailed because of inefficiency and corruption in the Judiciary. Could the Minister request His Excellency the President to pardon those innocent prisoners, so that we decongest our prisons?

Mrs. Kilimo: Mr. Speaker, Sir, as the hon. Member has mentioned, the inmates were imprisoned through court rulings. We still have to prove through the courts again that they are innocent and then ask the President to pardon them. We are working on that.

Mr. J.M. Mutiso: Mr. Speaker, Sir, the problem in the Department of Prisons is structural. Prisoners are usually transported to the law courts. Could the Minister consider having courts at the prisons, where cases will be heard and determined, so that prisoners can get justice?

Mrs. Kilimo: Mr. Speaker, Sir, that will be more expensive than buying comfortable vehicles for the inmates. We prefer to call them inmates because we value their human rights. We are in the process of buying buses, so that inmates can travel in comfort from the prisons to the courts.

Mr. Kagwe: Mr. Speaker, Sir, life in prison in this country does not encourage rehabilitation of the inmates. Indeed, it has been said that some people go to prison when they are not real criminals, but come out of prison hardened criminals. This is because of the state of affairs in prison. Therefore, could the Minister consider improving life in prison, so that the inmates are rehabilitated? She should increase the number of rehabilitation officers in Kenya, so that prisoners can come out as people who can fit in society rather than coming out as criminals who then start terrorising us.

Mrs. Kilimo: Mr. Speaker, Sir, rehabilitation process is already taking place. In fact, in the next recruitment, our prison warders will go for a nine-month course instead of the usual six-month course so that they can deal with inmates as human beings, take care of their human rights and make them better citizens.

Mr. Speaker: Next Question, Maj. Madoka!

Question No.848

REPAYMENT OF HELB LOANS

Maj. Madoka asked the Minister for Education, Science and Technology:-

- (a) how much money is owed to the Higher Education Loans Board (HELB) by students who have already graduated from all the public universities;
- (b) how much of this money is collected as loan repayment every year; and,
- (c) how many graduates are not paying their loans for lack of employment.

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

(a) The HELB is owed Kshs7,478,609,682 by students who have already graduated from public universities.

(b) The annual recoveries of loans since the establishment of the HELB in 1995 have continued to increase. The amounts have increased from Kshs59 million in 1995/1996, to Kshs584,765,000 in 2000/2003. The total loan recovery as at 30th June, 2003 was Kshs2,890,486,206.

(c) There are 86,000 graduates who are not repaying their loans due to several factors, apart from unemployment. Some of these factors include, death, deliberate default or immigration outside Kenya. It is not, therefore, possible to know the number of unemployed graduates who are not repaying loans as the reasons for non-payment are varied. They go beyond unemployment.

Maj. Madoka: Mr. Speaker, Sir, it is evident that the HELB cannot continue to assist needy students if they do not take urgent measures to recover this money. We are aware that those students who are actually being deducted money are those employed by the Government. Those who are not employed by the Government are not being followed strictly to pay the loan. Could the Assistant Minister tell us what positive steps they are taking to ensure that these loans are repaid?

Dr. Mwiria: Mr. Speaker, Sir, I appreciate the fact that there are a lot of defaulters who are employed. Already some measures have been taken. The number of loan re-payers from even the public sector has been increasing. Every effort is being made to ensure that graduates in the private sector are also identified so that they can pay. In some cases, there are already some who are paying. However, it is up to us to support the HELB identify all those students. In brief, every effort is being made to ensure that we get to them.

Mr. J. Mutiso: Mr. Speaker, Sir, could the Assistant Minister consider disbursing the HELB funds on a constituency basis?

Mr. Speaker: Mr. J. Mutiso, what does that have to do with recovery of HELB money? It is irrelevant!

Dr. Godana: Mr. Speaker, Sir, the hon. Assistant Minister evaded answering the question by Maj. Madoka. It will be good if he can state precisely what methods or mechanisms the HELB has put in place for the purpose of tracing those who graduated and have not been captured through the public service job placements. That is, those in the private sector and those who are abroad. What mechanisms are there for tracing them?

Dr. Mwiria: Mr. Speaker, Sir, the best mechanism is to send questionnaires to the private sector and exactly ask them how many graduates they have employed. We, as a Ministry, can use those lists to check whether they are repaying their loans or not.

Mr. Speaker: Very well, you have not actually even begun from here. You have not even asked me.

Maj. Madoka: Mr. Speaker, Sir, could the Assistant Minister tell us how they determine the rate of recovery? For example, I know one civil servant, who was being paid a salary of Kshs7,000, was being deducted Kshs3,500, leaving him with less than half of this salary. How do you determine how much should be recovered from the salary?

Dr. Mwiria: Mr. Speaker, Sir, the HELB came to Parliament to determine who has not paid those loans. Some hon. Members have begun paying these loans. Therefore, that effort has been made.

Consideration on amounts of recovery is based on the proportion that will leave you with a reasonable amount to be able to continue living comfortably. The HELB does not certainly recover a lot of money from employees; they leave a reasonable amount that will make it possible for whoever is employed to be able to survive.

Mr. Speaker: Very well. Thank you, Mr. Assistant Minister
Next Question, Prof. Mango!

PAYMENT OF DUES TO BUSIA
SUGAR-CANE FARMERS

Prof. Mango asked the Minister for Agriculture:-

(a) if he is aware that cane farmers in Busia who delivered cane last year to Mumias Sugar Factory (MSF) have not been paid; and,

[Prof. Mango]

(b) what urgent measures he is taking to have the farmers paid immediately.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that cane farmers in Busia who delivered cane last year to MSF have not been paid Kshs133 million.

(b) The delay in payment to the farmers was caused by cash flow problems experienced by Busia Sugar Company (BSC) after the new Board of MSC withheld payment of subsidies to BSC.

The two companies have now reached an agreement and payment to the farmers is expected to be effected before the end of November, this year.

Prof. Mango: Mr. Speaker, Sir, the cane farmers delivered cane to MSF. This cane was crushed and sugar was sold. How come the farmers are being paid from subsidies?

Mr. J. Nyagah: Mr. Speaker, Sir, the arrangement between BSC and MSC was such that MSC was to do the bulk of the work on behalf of the farmers in Busia. There was an arrangement and agreement on how that would work. Payments were made at one point. However, when the new board of MSC came on board, there were certain disputes over the payment arrangements and how much BSC should be paid by MSC based on the work they were doing on behalf their behalf. That is what we are referring to. As I said, it has been agreed upon and they will be paid.

Mr. Osundwa: Mr. Speaker, Sir, could the Assistant Minister explain to this House why a Government parastatal like MSC should subsidize a privately owned company? Who are the directors of BSC?

Mr. J. Nyagah: Mr. Speaker, Sir, I do not have the names of the directors of BSC.

Mr. Speaker: Mr. J. Nyagah, you can get the names of those directors from the Registrar of Companies.

Anyhow, proceed on!

Mr. J. Nyagah: Mr. Speaker, Sir, the arrangement was that because of the need to expand production and help farmers of western Kenya, the Government felt it was necessary to ensure that the farmers of Busia also benefitted. That is why MSC was willing to use its facilities to assist the farmers of Busia. I do not have the names of the directors of BSC at this particular moment, but I wish to confirm that this was in an effort to help the farmers of Busia.

Mr. Speaker: Mr. Osundwa is asking why you are subsidizing a private company.

Mr. J. Nyagah: Mr. Speaker, Sir, even Mumias Sugar Company is a private company, and there was need for it to assist the people of Busia so that they could benefit from the crop.

Prof. Mango: Mr. Speaker, Sir, could the Assistant Minister tell the House whether Mumias Sugar Company will pay the farmers Kshs133 million plus interest?

Mr. J. Nyagah: Mr. Speaker, Sir, the arrangement which has been reached between Mumias Sugar Company and the farmers of Busia is on the principle amount. It does not include interest.

Mr. Speaker: Next Question!

Mr. Kimeto: Mr. Speaker, Sir, I beg to ask Question No.810

An hon. Member: It is Question No.633!

Mr. Kimeto: Mr. Speaker, Sir, I beg to ask Question No.033.

Mr. Speaker: Order! Wear your spectacles today, Mr. Kimeto! Could you try to read it again?

*Question No.633*REPOSSESSION OF KOIYET
CO-OPERATIVE SOCIETY LAND

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

- (a) what action he has taken to have Plot No.158, which is part of Koiyet Co-operative Society land, revert to public utility; and,
- (b) what further action he will take to cancel the registration deed in the name of Mr. Kiprotich Kigen for the said plot.

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

(a) Plot No.158 in Koiyet Settlement Scheme is private property, and I have no legal authority whatsoever to interfere with such property.

(b) The plot was legally allocated to Mr. Kiprotich Kigen in 1967 in accordance with the procedures for allocation of settlement plots and, therefore, cannot be taken from him unless it is compulsorily acquired in accordance with the law.

Mr. Speaker, Sir, if the local authority concerned has the money to compensate Mr. Kigen, then they could request my Ministry to initiate the process of acquisition. The other alternative is to compensate Mr. Kigen with an alternative land of equal value. However, this entirely will depend on whether he is willing to accept such an offer and the availability of the funds.

Mr. Kimeto: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his answer. However, I would like to inform him that this plot originally belonged to the society and this is where Kipsimbol Primary School and Kipsimbol Market stand. Could the Assistant Minister agree to give the people of Kipsimbol authority to negotiate with Mr. Kigen?

Mr. Ojode: Mr. Speaker, Sir, I will struggle to answer him.

Mr. Speaker: Why are you struggling?

Mr. Ojode: Mr. Speaker, Sir, the reason I am saying that is because the land belongs to an individual, and he has already been issued with a title deed. I agree with the hon. Member that there are shops, schools and a cattle dip on the plot. I have said that if they can convince the owner of the land to leave it for public utilization, then I will be able to find him an alternative land.

Mr. Kimeto: Mr. Speaker, Sir, on behalf of the people of Kipsimbol, if the Assistant Minister says that he can find him an alternative land, I am ready to do the negotiation so that Mr. Kigen can be given the land.

Mr. Ojode: Mr. Speaker, Sir, that is exactly what I have said. If they can get an alternative land which I can eventually give to Mr. Kigen, I will do that even tomorrow and leave this particular land for public utilization.

Mr. J. Koech: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered the Question, because this land was grabbed and the title is in the name of Mr. Kigen. Again, on the same land, there are some public utilities. Could the Assistant Minister order that Mr. Kigen relinquishes the areas which contain public utilities because the society was not supposed to pay for them?

Mr. Speaker: Order, Mr. Koech! You are saying that the land was grabbed, while the Assistant Minister has said that it was legally allocated in 1967. Where have you guys been? I think the best thing you can do in the circumstances, if you think, really, there is adverse occupation or something like that, is to go to court. I do not think we will turn this House into a court to adjudicate ownership disputes. I think it is outside our purview.

Mr. Kimeto: On a point of order, Mr. Speaker, Sir. In 1963, this land was given to the

society, and in 1967, with the assistance of Ministry officials, it was grabbed and given to that gentleman. Was it in order for him to be given the plot?

Mr. Speaker: I think you had better go to court. Next Question!

Question No.733

REVIVAL OF GARISSA ADC FARM

Mr. H.M. Mohammed asked the Minister for Agriculture:-

(a) whether he is aware that the ADC Farm in Garissa which used to be a role model in the region for both crop and livestock production was run down and abandoned; and,

(b) what plans he has to revive this very important farm.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the ADC Farm in Garissa, which used to be a role model in the region for both crop and livestock, has stalled owing to the frequent shifting in the course of the Tana River. This has adversely affected the quantity of water and the irrigation infrastructure. Due to the above problem, it has become impossible to undertake crop and livestock operations profitably, even after numerous attempts to scale down the project.

(b) The Ministry is studying various possible options to revive the project. The following are the options which we are studying: Construction of open channel upstream; construction of a barrage and relocation of the pumping house site to a firmer ground. The first and second options would provide a long-lasting solution.

Mr. H.M. Mohammed: Mr. Speaker, Sir, I thank the Assistant Minister for being honest because he admitted that this was a very important farm, but it was abandoned by the Government. This river has never changed course. It is still there, and other farms continue doing irrigation. This farm was abandoned because of corruption. Could the Assistant Minister make sure that this farm is revived and this option he is talking about is implemented immediately, so that people can start enjoying the fruits of the farm?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, initially, the farm was under the management of the Government before being handed over to ADC. I wish to confirm that in 1991, because the river had shifted its course, the ADC had to dig a diversion canal of up to 200 metres, which implies that the river had indeed been shifting. That is the reason why we should do what I have proposed because if we do not do that, it will be difficult to sustain the river.

The problem we have is that the new estimates indicate we would need Kshs100 million to get this project off the ground again. Until we find that money, it is difficult for us to start immediately. We are willing to continue looking at it, though we do not have Kshs100 million today.

Dr. Godana: Mr. Speaker, Sir, the Assistant Minister has said that they will need 100 million to re-start the project. Presumably, therefore, they have done some study and costing to arrive at that sum. Is the Assistant Minister ready to table what authority he is using and what study has been done?

Mr. J. Nyagah: Mr. Speaker, Sir, the problem we had with this project since it was a socio-political project was that it was initially started in a hurry and, therefore, we were not able to do the study on it. That has been part of the problem. However, now the ADC has done a study which came to the figure of Kshs100 million. I do not have a copy of the project study at the moment, but that is the information that we have received from the ADC. I will look for more information and bring it to this House next week.

Dr. Godana: On a point of order, Mr. Speaker, Sir. I think it is out of order for the Assistant Minister to say that he will provide the information without giving us any indication of time. The manner in which he has taken advantage of you calling someone else to speak suggests that he is not aware, or even sure that he has a study. Could he give a categorical promise that he will table the study by Tuesday next week or tomorrow?

Mr. Speaker: Order! Order! I think that is an important issue that was raised by hon. Mr. H. M. Mohammed. The Assistant Minister has said that it is the only such project in that area. I think it is important that the Minister becomes serious and gets all the details that he requires, so that the House is satisfied. I am encouraging the Assistant Minister to look at this unique case properly.

Mr. J. Nyagah: Mr. Speaker, Sir, as you know, we are committed to helping that part of the country, and I will bring it in about two weeks' time. The information I require is for me to present something presentable to Parliament. I promise that in two weeks' time, he will have it. Thank you, Mr. Speaker.

Mr. Mwandawiro: Asante, Bw. Spika. Je, Wizara ya Kilimo ina mipango gani ya kulinda na kuendeleza mashamba ya ADC ambayo mengine yalikuwa yamenyakuliwa, na ambayo ni muhimu kwa utafiti wa kilimo?

Mr. Speaker: Are they in Garissa?

Mr. J. Nyagah: Mr. Speaker, Sir, we know the importance ADC farms had in the past. The Ministry of Agriculture has appointed a task force to go into the details so that the ADC can play the role it used to play in the past. Therefore, there will be a task force and once that report is out, we will bring it to Parliament.

Mr. H.M. Mohammed: Mr. Speaker, Sir, the Assistant Minister said that the project requires Kshs100 million. The project was worth billions. Those people who went to Garissa in the 80s will confirm that the project included hundreds of trees. Some of them were mango trees, citrus trees, other crops, and even grade cows. This is not the only irrigation scheme that has failed in that region. We know of Bura Irrigation scheme that has almost failed. Could the Minister assure this House that he will either provide the Kshs100 million and rehabilitate the farm or authorise us to take over the farm, and run the irrigation project?

Mr. J. Nyagah: Mr. Speaker, Sir, the farm has never been worth billions of shillings; 610 acres can never be worth billions of shillings. However, we do understand the importance of the project and that is why we are finding ways of financing it. We fully understand the need to help farmers in that particular area. As we said, we shall bring the report to show what we are doing. Part of the problem was that it would appear that there was very poor planning in the 70s and 80s when this project was initiated.

Question No.874

FINDINGS OF SUGAR TASK FORCE

Mr. Bifwoli, on behalf of **Mr. Wamunyinyi**, asked the Minister for Agriculture:-

- (a) how much money has been expended by the Amayo-led task force on the sugar industry; and
- (b) what the findings of the task force are, and what impact it has on the cane farmers.

The Minister for Agriculture (Mr. Kirwa): Mr. Speaker, Sir, I beg to give the following reply.

- (a) The total amount expended by the Amayo-led task force on sugar industry was Kshs13,058,889.

(b) The findings of the Amayo-led task force on the sugar industry are contained in the report of the task force on the sugar industry crisis, and among the main recommendations are:-

- (i) High cost of Kenyan sugar by regional standards.
- (ii) A number of sugar companies have experienced severe cash flow problems and some have been placed under receivership.
- (iii) Failure to pay cane farmers on time.
- (iv) Liberalisation of the sugar industry was embraced without having prepared the industry for the consequences.

(v) The industry is suffering the effects of many years of neglect, lack of goodwill, lack of planning, mismanagement, corruption, nepotism and dilapidated infrastructure.

The impact the task force findings have had on the farmers are:-

(i) Major changes have been effected in the running of the industry by appointing new management boards and chief executives of the various organisations under the industry.

(ii) The Government has reduced the sugar development fund lending rates from 23 per cent to 5 per cent in order to make the credit more accessible and more affordable to the farmers.

(iii) Accrued interest and penalties totalling to Kshs4.7 billion have been written off.

(iv) Negotiations are under way with a view to reschedule the outstanding loan balance as per the recommendations of the same report.

(v) Millers have been advised and instructed to import fertilizers in bulk to reduce the cost of the same.

(vi) Research funding by the Kenya Sugar Development Fund has been increased by 100 per cent as per the recommendations.

(vii) The Sugar Board has intensified surveillance and regulations of sugar importation into the country, thus reducing dumping of cheap sugar in our market.

(viii) The Government has increased the tax on COMESA sugar by 120 per cent.

(ix) The local millers are now able to sell their sugar.

(x) Some millers have already been able to clear some substantial amounts of arrears owing to individual farmers.

Mr. Bifwoli: Mr. Speaker, Sir, you have heard the Minister say that some millers have already been able to clear substantial amounts of arrears owed to farmers. What about the millers who are unable to pay farmers? What plans does the Ministry have to assist millers pay the farmers?

Mr. Kirwa: As a consequence of that report, we did set up a small team comprising of millers and members from my Ministry to work out modalities of ensuring that the milling companies do get some credit from one of the banking institutions so as to pay farmers as soon as possible. We are working and I can assure the House that a report shall come out soon as far as that is concerned.

Prof. Olweny: Mr. Speaker, Sir, one of the main aims of this task force was to revive the sugar industry; that means, giving incentives to the farmer. Some companies which were closed or are under receivership owe farmers a lot of money. That is one of the findings of the task force. What effort is the Government making to have this money paid to the farmers so as to give them incentives for sugar-cane cultivation?

Mr. Speaker: That is a repetition, is it not?

Prof. Olweny: It is not a repetition, Mr. Speaker, Sir.

Mr. Speaker: Order! I will be the judge of that.

Mr. Shitanda: Mr. Speaker, Sir, since most of those recommendations of the task force touched on non-compliance with the Sugar Act by some millers, could the Minister tell us what his Ministry is doing to make sure that millers comply with the Sugar Act?

Mr. Kirwa: Mr. Speaker, Sir, there are a number of steps we have taken as a [Mr. Kirwa] Ministry. One, the Kenya Sugar Board has been instructed to comply with the provisions of the Sugar

Act, 2001, and ensure adherence of the same. Two, we have already sent names of possible people we can appoint to the Sugar Tribunal to ensure that if there are any disputes arising from any provisions of the Sugar Act, we do have effective handling of the same matter.

Prof. Oniang'o: Mr. Speaker, Sir, Kshs13 million could have given 130,000 farmers Kshs10,000 each and it would have made a difference for them. Part "b" of the Question has not been answered. How has the work of this task force changed the farmers' lives?

Mr. Kirwa: As for the first question, I do not think the matter was as simple as that. I found a number of reports in the Ministry when I took over. One of them is the EMU Report and other reports that have been presented before the Ministry. As the Minister, I wanted an operation manual so that I could guide the process of restructuring the sugar industry as effectively as possible. As to the second part of the question, it is a question of semantics. I have clearly stated the efforts we have made as a Ministry, and we are sure that the response as far as the farmers are concerned is very positive on the ground. It may be a slow process, but in due course, we will realise good returns on our investments.

Mr. Speaker: Last question, Mr. Bifwoli?

Mr. Bifwoli: Mr. Osundwa has pleaded with me. Let me give him the last chance.

Mr. Speaker: You are a very generous man.

(Laughter)

Mr. Osundwa: Mr. Speaker, Sir, arising from the Minister's reply, we know this task force was appointed this year. He informs the House that this task force consumed Kshs13 million. Could he tell us for how many days this task force met? Last year, the Kenya Sugar Board appointed a task force to look into the same issue. They submitted their report in March this year. Hardly a month later, the Minister appointed another task force. Is this not a way of the Minister trying to raise money for the UDM party of which he is a member?

(Applause)

Mr. Kirwa: Mr. Speaker, Sir, I am happy that Mr. Osundwa does recognise the existence of the UDM. More importantly, I think this is a serious matter. I do not understand which report Mr. Osundwa is referring to. I said I have so many other documents before me as the Minister, and I wanted an operation manual. To answer the second part of his question, the task force took more than 60 days in doing this particular job. The details of the allowances paid to the officers, according to the records, are available for any hon. Member who may wish to have them. More importantly, we did appoint a task force in the presence of my former Assistant Minister when he was still in my Ministry. I do not understand why he is disowning it now.

Question No.522

RELEASE OF MR. KIHARA'S TITLE DEED

Mr. Wamwere asked the Minister for Health:

(a) whether she could order Pine Breeze Hospital of P.O. Box 3116, Nakuru, to release Mr. Mwangi Githinji Kihara's title deed, Gilgil/Karunga Block No.3/192 Shoka, which has been surrendered in lieu of unpaid hospital bills incurred as a result of hospitalisation

of his late son, Duncan Maina; and,

(b) when the title deed will be released to Mr. Kihara.

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I beg to reply.

Pine Breeze Hospital released the title deed to L.No. Gilgil/Karunga Block No.3/192 Shoka to Mary Njoki, wife of the late Duncan Maina, on 2nd May, 2002, after she had cleared an outstanding bill of Kshs5,735.

Mr. Wamwere: Mr. Speaker, Sir, I am glad that the Assistant Minister has given me a positive answer. I have no further questions. I appreciate.

Mr. Speaker: Very well. Next Question!

Question No.834

X-RAY MACHINES FOR ITEN
DISTRICT HOSPITAL

Mr. Chepkitony asked the Minister for Health:-

(a) whether she is aware that the two X-ray machines at Iten District Hospital have been out of order for about one year; and,

(b) what urgent measures she is taking to ensure that the hospital has functioning X-ray machines.

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the two X-ray machines at the Iten District Hospital broke down early this year and efforts are being made to have them repaired. In the meantime, the hospital continues to use a portable X-ray machine to render services to the patients.

(b) M/s Phillips Limited who are the maintenance agents have assessed the requirements for the repair of the X-ray machines. Since the spare parts are not available locally, these have already been ordered from overseas.

Mr. Chepkitony: Mr. Speaker, Sir, this Question has not been fully answered. The Assistant Minister has omitted to mention the other types of X-ray machines. There are two types, Phillips and a Japanese make. He has only mentioned the Phillips make. It has taken too long to repair these machines and it is costing patients a lot of money and inconvenience to travel all the way from Iten to Eldoret. Could the Assistant Minister assure this House that he will repair these machines within the shortest time and if possible he should mention when the machines will be repaired.

Mr. Konchella: Mr. Speaker, Sir, one of the two machines which broke down was supplied under a Spanish aid programme. It was a Phillips machine. The other one was a Shimantsu X-ray Machine from Japan. Both of them have broken down and spares have been assessed by Phillips for the Phillips Machine. The agents of Shimantsu who are here are assessing the Shimantsu spare parts. They have ordered spare parts for the two machines from both countries. The repairs will be done once the spare parts arrive in the country.

Mr. Boit: Mr. Speaker, Sir, could the Assistant Minister assure this House that, in future, they will purchase or acquire machines which we have spare parts? If you go to many hospitals, you will even find ambulances which have just broken down after functioning for only a short while. They do not have spare parts and our local drivers cannot even handle them. Maybe, these X-Ray machines are too complicated for our local radiographers to handle. Could the Assistant Minister assure this House that they will acquire machines which can be serviced locally?

Mr. Konchella: Mr. Speaker, Sir, we will do so.

Mr. Sasura: Mr. Speaker, Sir, the Assistant Minister is not taking this Question seriously. Only last week, an X-Ray that was taken by an existing X-Ray machine in the district indicated a normal situation whereas there was a head injury and haemorrhage in the brain. When the patient was brought to Nairobi, he was in a critical condition. Could the Assistant Minister consider sending a team to all district hospitals

in this country to assess the condition of these machines? All the X-Ray machines at the district level are obsolete and they are not serving the purpose for which they were purchased initially.

Mr. Konchella: Mr. Speaker, Sir, I agree with the sentiments expressed by the hon. Member. We have a problem of the maintenance of our X-Ray machines which were bought from Philips Company. The company has refused to service the machines and yet in June, we paid them Kshs100 million out of a total of about Kshs200 million for the normal yearly maintenance. This company is taking us for a ride. I believe they are not honest and they are not doing the Ministry of Health any good. But we will do our best to maintain the machines.

Dr. Galgalo: On a point of order, Mr. Speaker, Sir. The Assistant Minister has said that they paid Kshs100 million to Philips Company for servicing the machines and the company is not servicing them. Why are they paying the company if they are not servicing the machines? What interest does the Ministry have to pay them when they are not offering the service?

Mr. Konchella: Mr. Speaker, Sir, we have no interest. The problem is that those who drew up the contract during the last Government messed up everybody here in this country.

Mr. Speaker: Very well! Next Question, Mr. Akaranga!

Question No.839

X-RAY MACHINE FOR VIHIGA
DISTRICT HOSPITAL

Mr. Akaranga asked the Minister for Health:-

- (a) if she is aware that Vihiga District Hospital does not have an X-Ray machine;
- (b) when the Ministry will provide the X-Ray machine to the hospital; and,
- (c) what further action she will take to have the generator repaired.

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Vihiga District Hospital has not had an X-Ray machine since its inception. To alleviate the situation, a mobile X-Ray machine was provided to the Hospital in May, 2003, from the Kakamega General Hospital, but it has since broken down, and it is beyond repair.

(b) The Ministry has allocated Kshs10 million to the hospital for the purchase of a new X-Ray machine this financial year. Specifications for the type of X-Ray machine to be purchased have been drawn up, and tenders for the supply of the machine will be advertised in the print media next month.

(c) The Ministry has already allocated Kshs300,000 for the purchase of a circuit breaker and control switch gear for the generator.

Mr. Akaranga: Mr. Speaker, Sir, I appreciate that the Ministry has allocated Kshs10 million for the purchase of the new X-Ray machine for Vihiga District Hospital. But could the Assistant Minister tell us exactly when will the new X-Ray machine be installed in Vihiga District Hospital?

Mr. Speaker, Sir, I am asking this Question because Vihiga District Hospital is the only hospital along the Kakamega-Kisumu Road.

Mr. Konchella: Mr. Speaker, Sir, I have said that the specifications for the X-Ray machine have been drawn up and it will be advertised in the media by next month so that willing suppliers can bid.

Mr. Arungah: Mr. Speaker, Sir, could the Assistant Minister tell us how they decide which district hospital should get an X-Ray machine and which should not?

Mr. Konchella: Mr. Speaker, Sir, every district hospital has a right and the need to have an X-Ray machine. The hon. Member should inform me which district hospital he is talking about because they are supposed to have one. But if they do not, it is because there were no funds. This is now being planned to be purchased.

Mr. Akaranga: Mr. Speaker, Sir, the Assistant Minister said that the Ministry has allocated Kshs300,000 for the purchase of a circuit breaker and control switch gear for the generator. This

money is just lying idle in the Ministry instead of being transferred to Vihiga District Hospital. Could the Assistant Minister tell this House exactly when these funds will be transferred to Vihiga District Hospital?

Mr. Konchella: Mr. Speaker, Sir, the Kshs300,000 is for purchase of a circuit breaker and control switch gear for the generator. This was left out when the generator was delivered to the hospital by the suppliers. It is ready and it is a matter of the authority to incur expenditure (AIE) being sought and it can be issued any time. If they wish, we can issue it even next week.

Mr. Speaker: Very well! Next Question, Mr. Kofa!

Question No.856

UPGRADING OF MAKERE DISPENSARY

Mr. Speaker: Mr. Kofa not here? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

ILLEGAL ALLOCATION OF KERGEIMOI
WOMEN GROUP PLOT

Mr. Koros: Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Could the Minister confirm that Plot No.241 - Turbo Settlement Scheme in Uasin Gishu District - belongs to Kergeimoi Women Group?

(b) Is he aware that the said plot has been irregularly allocated to a Ms. Rael Jeptoo Boit of P.O. Box 2899, Eldoret?

(c) Could the Minister immediately nullify the allocation and revert the land to the women group?

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

(a) I cannot confirm the ownership of Plot No.241 - Turbo Settlement Scheme in Uasin Gishu District since this scheme was administered by the Provincial Administration. My Ministry was not involved in the allocations and no details on the scheme have so far been forwarded to us.

(b) I am not aware of either the allocation or the re-allocation.

(c) I will be able to nullify the allocation once the scheme has been registered.

Mr. Koros: Mr. Speaker, Sir, the person who grabbed this land is a NARC nominated councillor. She grabbed this land after being nominated by NARC on the pretext that she was the Government. What action is the Assistant Minister going to take about her nomination?

Mr. Ojode: Mr. Speaker, Sir, you are aware that anything to do with nomination does not fall under my docket.

(Applause)

Mr. Sambu: Mr. Speaker, Sir, the Assistant Minister has said that these plots were allocated by the Provincial Administration. Notwithstanding the issue of collective responsibility, I know that the map for Turbo Settlement Scheme is being held by the District Lands Officer, Uasin Gishu District, because I have been there to check on a similar matter. Would he direct the District Lands Officer, Uasin Gishu District, to forward the map with the names of all the allottees to the Ministry?

Mr. Ojode: Mr. Speaker, Sir, I have mentioned here that as we talk, I do not even know the

beneficiaries of this plot. It was because this particular parcel of land was part of Turbo forest. The allocation was done by the Provincial Administration. Once they register all the names is when they forward them over to my Ministry for the issuance of title deeds. As at now, I do not even know who the beneficiaries are. But I will take action once the names have been forwarded to my Ministry.

Mr. Koros: Mr. Speaker, Sir, the Assistant Minister has said that he will only act after the list of registration has been forwarded to him. Could he also take action on the person who made a forgery? She claims that she has connections with some powerful Ministers.

The Assistant Minister for Lands and Settlement (Mr. Ojode): Mr. Speaker, Sir, I do not even know who the beneficiaries are! How do I take action and yet, I do not know whether that lady is a beneficiary? I can only take action once the names of the beneficiaries have been forwarded to me.

REPAIR OF KITAMBAASYE PRIMARY
SCHOOL ROOF

Mr. M. M. Maitha: Mr. Speaker, Sir, although I do not have a written answer, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Kitambaasye Primary School in Matungulu Division has had its roof blown off by the wind?

(b) What is the Ministry doing to ensure that the school is assisted to do the required repairs?

(c) How much money has been released for the repairs?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I beg the indulgence of hon. Members and the Speaker because we got information on this Question yesterday afternoon. So, we would like to give an answer next week.

Mr. Speaker: Is that okay with you, Mr. M. M. Maitha?

Mr. M. M. Maitha: Mr. Speaker, Sir, the situation on the ground is very serious. Although the Assistant Minister says he received the Question this morning, I filed it many days ago. But I am obliged to accept his request.

An hon. Member: Until tomorrow!

Mr. Speaker: Very well! Next week.

Mr. M. M. Maitha: Mr. Speaker, Sir, when will he answer the Question?

Mr. Speaker: Order, hon. Members! I think what you need, Mr. M. M. Maitha, is a remedy to the situation. The Assistant Minister will probably serve you better if he has the time to go and find out what is happening. So, let us give him until next week. I encourage the Assistant Minister to find a remedy that will help the hon. Member and the children.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, before I go to find a remedy, I would like to say that the problem emanated from the National Assembly. The National Assembly was to send us this Question well in advance. We only got it this morning. So, the problem was not with the Ministry.

Mr. Speaker: Very well! Next week.

(Question deferred)

COMMUNICATION FROM
THE CHAIR

DEFERMENT OF COMMITTEE OF THE WHOLE HOUSE ON CONSTITUENCIES DEVELOPMENT FUND
BILL

Mr. Speaker: Order, hon. Members! That is the end of Question Time. We have Order No.7,

Committee of the whole House. I think that is not ready. We are not ready for the Committee because there are certain amendments that are being preferred against that Bill, and which are not ready. So, that Order will be deferred until next week. We will go straight to Order No.8 after this. So, there will be no Committee of the whole House because the amendments are not ready. I hope they will be ready next week.

Next Order!

Mr. Cheboi: On a point of order, Mr. Speaker, Sir. When will it come before the House again? It is a very important Bill!

Mr. Speaker: Order! Hon. Members, I have told you again and again and I will repeat. When the Chair has made a decision, just live with it. Relax. It will come next week. In the meantime, relax.

*(Committee of the whole House on Constituencies Development Fund
Bill deferred)*

BILLS

Second Reading

THE RETIREMENT BENEFITS (AMENDMENT) BILL

(The Minister for Finance on 23.10.2003)

*(Resumption of Debate interrupted
on 23.10.2003)*

Mr. Speaker: Mr. Minister, I understand you had just started to move the Bill. So, proceed!

The Minister for Finance (Mr. Mwiraria): Thank you, Mr. Speaker, Sir.

(Loud consultations)

Mr. Speaker: Order, hon. Members! It does help the House if we could listen to the presentation by the Minister in silence, so that we could contribute to this Bill meaningfully.

Proceed, Mr. Minister.

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I had started moving this Bill, but time ended up before I had completed. I want to repeat very briefly what I had said. The object of the Bill before the House is to make certain amendments to the Retirement Benefits Act of 1997, in order to harmonise its provisions with the other laws of this country. Hon. Members would remember that during my Budget Speech, which was quite broad, several measures on economic recovery contained therein were a reflection of the NARC Government's intentions in most of the key areas of the economy.

One sector, whose emergence is receiving visible attention, is the pension sector. The Retirements Benefits Authority (RBA) was created in order to regulate that important sector that assists in mobilising savings for the welfare of our senior citizens.

The current legal framework for the pension sector needs to be strengthened for the better administration of the sector by the regulator. It is for that reason that I have brought the present amendments before this honourable House.

Mr. Speaker, Sir, currently, the benefit schemes are compelled to adopt the same accounting

period used by the regulator; that is, the month of June every year. I propose to introduce flexibility by allowing the schemes to use their own accounting periods.

Currently, there are smaller schemes with funds which are of value of less than Kshs5 million. That fund value makes such schemes to have difficulties in finding viable investment opportunities as stipulated in the Act.

In order to address that problem, I propose to allow smaller schemes to pull funds together for collective investments and to invest where they wish. I am also proposing that those pooled funds could be invested 100 per cent in Government securities. The minimum share capital for such pooled funds would be Kshs10 million. This means that two small amounts of Kshs5 million each can be pooled together and invested in Government securities.

Mr. Speaker, Sir, to inculcate good corporate governance in the pension sector, I propose to require the regulator to publish in at least one daily newspaper and in the *Kenya Gazette* the list of all registered service providers he or she deals with. This is meant to enhance transparency and accountability. The point I have made relates to the amendments contained in Clause 5 of this Bill.

I would also like to move other regulatory amendments to Section 6 of the Retirement Benefits Act. I intend to strengthen the regulator by conferring him or her with more powers to enforce the Retirement Benefits Act by prosecuting people who infringe and violate this Act. The regulator should appoint the Retirement Benefits Authority (RBA) as a public authority for purposes of the Criminal Procedure Code. In other words, I am saying that these amendments are intended to give the RBA powers to prosecute people who infringe the Act. Already, hon. Members are, aware that corporations, such as the Kenya Bureau of Standards (KEBS), the National Social Security Fund (NSSF) and the Capital Markets Authority, have got powers to prosecute under the Criminal Procedure Code.

Furthermore, one of the nightmares a retirement benefits scheme can face, particularly the members of such a scheme, is loss of their contributions in the event of a company winding up. To eliminate this fear, I propose to amend the provisions of the Companies Act to protect retirement benefits schemes by giving refund of members' contributions the first priority over other payments in the event of a company winding up. I believe that this amendment should be effected under a miscellaneous amendments Bill because it affects the Companies Act. I have already pointed out that these few amendments have far-reaching consequences, and are intended to improve the administration of the pensions sector.

At some stage in life, all of us really expect to survive on a pension. What we are doing here is to improve this sector so that it can serve Kenyans who contribute towards their pension today better than if we left the Act as it is now. The Bill also seeks to disqualify scheme members, trustees and sponsors of schemes from acting as auditors of their schemes in order to avoid conflict of interest. Here, we want to ensure that if a bank, for instance, runs a retirement benefits scheme, it is not allowed to audit the scheme because if it does that, there will be conflict of interest.

Finally, I would like to say that the enactment of this Bill will not entail additional expenditure of public funds. This is a very short Bill, and it is really intended to safeguard the savings of retirees. I hope that this Bill will get the full support of hon. Members.

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

(All Ministers remained seated)

Mr. Speaker: Do we have anybody to second the Bill? Mr. Balala, would you like to second the Bill? I do not have to force you to do so!

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Speaker, Sir, I would like to second the few amendments that the Minister for Finance has moved. These

amendments will improve checks and balances, as the Minister has stated.

(Loud consultations outside the Chamber)

Mr. Speaker: Mr. Clerk-at-the-Table, there is total disorder out there! Could you, please, restore order out there?

(Question proposed)

(All hon. Members remained seated)

Mr. Speaker: It seems that nobody is interested in contributing to this Bill!

*(Question put and agreed to)
(The Bill was read a Second Time and
Committed to a Committee of the
whole House tomorrow)*

Second Reading

THE INSURANCE (AMENDMENT) BILL

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

The insurance industry is one of the prime movers in the financial sector. However, in recent times, the efficacy of this industry has been undermined by numerous problems which need to be addressed urgently. I fully agree with major stakeholders in this industry, that nothing short of major reforms in the industry's regulatory environment can restore vibrancy in it.

In this regard, I am already considering to put in place some measures aimed at turning around the insurance industry. While the measures I am contemplating to take are elaborate and may not be addressed within the framework of the national Budget, I nevertheless propose to move some minor amendments as contained in this Insurance (Amendment) Bill, which I have moved should be now read a Second Time. These amendments will reduce the cost of compliance and strengthen the regulatory capacity of the Insurance Department in my Ministry.

Mr. Speaker, Sir, let me refer specifically to one area of insurance which has been causing ripples in this country to the extent of making hon. Members jittery because of the institutions which have been closing down recently. Here, I am referring to the Health Management Organizations (HMOs). Normally, they register themselves under the Companies Act with minimal capital determined at the company's discretion. They then register themselves under the Health Act as clinics and proceed to provide medical insurance. I repeat that these HMOs first register themselves as companies under the Companies Act; they register themselves then as clinics under the Health Act but proceed to provide insurance for medical purposes. The problem in this type of arrangement is that the capital base of these organisations and their solvency levels are not able to support the random size and frequency of claims, and at the same time meet unregulated operational costs.

In order to reverse this trend, I propose to amend the Insurance Act to bring the HMOs under its ambit since these bodies do nothing else but offer medical insurance. My proposal has far-reaching consequences and will protect the insuring public in the event of collapse or mismanagement of an HMO.

One other major problem in the insurance industry is that of lack of technical knowledge amongst senior management in the insurance companies. In the last decade, there was a mushrooming

of insurance companies, many of them headed by people who wanted to make quick money but who had absolutely no knowledge of the insurance industry. This problem is compounded by the fact that, in some underwriting companies, the board of directors is usually very small and individuals make key decisions affecting the insurance industry. I, therefore, propose to require that insurance companies must have a minimum of at least five persons on the board, who have some experience and knowledge in matters such as insurance, actuarial science, accounting, finance and banking. I further propose that senior managers in insurance companies be people with qualifications in the same areas. By proposing these measures, I will kill more than two birds with one stone, in that we shall ensure prudent and sound corporate governance in the insurance industry, and also entrench and inculcate professionalism in the management of insurance business.

Mr. Speaker, Sir, in this Insurance (Amendment) Bill I am also proposing various amendments aimed at strengthening the Commissioner of Insurance's mandate in regulating the industry. Specifically, I propose that insurance firms be required to provide the Commissioner with quarterly details of statistical and other information such as audited revenue accounts, balance sheet, profit and loss account and statements admitted for assets and liabilities. This information will enable the Commissioner to evaluate the performance of the underwriters in order to know early the firms that are undergoing difficulties and thereafter take remedial measures.

[Mr. Speaker left the Chair]

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

As things stand today, it is very easy for an underwriter to run into problems and reach the stage of winding up before the Commissioner of Insurance finds out.

In order to ensure sound corporate governance in both private and public sectors, I propose to require the Commissioner of Insurance to publish in the Kenya Gazette, and in two daily newspapers in the country, names of members of the insurance industry whose registration has been cancelled. This is because companies often wind up but brokers and other people continue selling their services. We want to make sure that the public gets to know which insurance company has ceased to operate. This is intended to create awareness to the general public about the institutions that have stopped operations. I believe this will go a long way in stopping the swindling of innocent Kenyans.

Mr. Temporary Deputy Speaker, Sir, further, I propose to require insurers to publish copies of their annual returns not later than 30 days subsequent to depositing the same with the Commissioner of Insurance.

Finally, to discourage unauthorised persons from transacting insurance business, I am empowering the regulator to inspect and control all persons registered under the Insurance Act. In this way, we will be moving the insurance industry in the same direction as the banks, for which we have a fairly strong inspection unit under the Central Bank of Kenya.

Mr. Temporary Deputy Speaker, Sir, as I pointed out in my opening remarks, the insurance industry needs major reforms and a regulatory environment in order to modernise its operations. These issues are already being addressed by my Ministry, and I am requesting hon. Members to support these few amendments as stop-gap measures while awaiting a fuller amendment of the Insurance Act later in the year.

The enactment of this Bill is not likely to entail any additional expenditure on the part of the Government.

With those few remarks, I now beg to move.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Speaker, Sir, I beg to second the Insurance (Amendments) Bill. This will extend the scope of insurance businesses and make some provisions to streamline the operations of persons

engaging in insurance business.

I second the Bill.

(Question proposed)

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill that has been moved by the Minister for Finance. In supporting this Bill, we, as a country, do realise that the law on which the insurance business has been conducted for a very long time has been weak and not all-inclusive. The Minister has done well to especially bring under the ambit of the Commissioner of Insurance, the regulation of the Health Management Organisations (HMOs). We have experienced, in the very recent past, huge losses and, in fact, closures of such medical insurance providers. Indeed, the public has lost colossal amounts of money and fortunes that were invested in the covers that were provided by these HMOs. So, in that spirit, I think this House will do the Kenyan public a lot of good if we pass this Bill so that the Commissioner of Insurance and, indeed, the Minister can bring order into that sector of the insurance industry that currently operates without any regulation.

Mr. Temporary Deputy Speaker, Sir, the amendments that have been proposed by the Minister to limit the number of insurance agents that one insurance company can serve concurrently is welcome. This is because we have in the past seen proliferation of insurance brokers and agents, a majority of whom do not even have an address or the benefit of a telephone line. Most of these brokers; briefcase persons, have, indeed, turned out to be conmen. Many insuring persons have lost money to people who masquerade as insurance brokers or agents. I think it is time the Government brought order and made sure that persons who do not qualify to transact insurance business actually do not take part.

Mr. Temporary Deputy Speaker, Sir, the registration and the regulation by the Commissioner of Insurance of persons, especially, principal officers of insurance companies-- I propose that the Commissioner of Insurance should have a say on insurance brokers, agents and the chief executives of these organisations because an insurance cover is a field that requires a lot of expertise. When somebody buys insurance he is not buying a piece of bread or a bag of potatoes. He buys a piece of paper. It is only that piece of paper that shows that a person has an insurance cover. So, the Commissioner of Insurance has a duty to make sure that persons who sign those pieces of paper in the names of policy papers and cover notes are persons of integrity; persons who can be trusted and persons who have the knowledge to make sure that as they collect the money from the public, they will in turn provide the service when they are called upon to do so.

Mr. Temporary Deputy Speaker, Sir, the Commissioner of Insurance should move further. I agree with the Minister for Finance that some of the insurance companies, because of the nature of regulation, actually deteriorate to a state where they actually collapse before the Commissioner of Insurance is aware that such companies are having problems. I think it is important that, in good time, the Commissioner of Insurance should advise and, if need be, regulate some insurance companies if they are seen not to be performing well. It is important for the Commissioner of Insurance to put in place mechanisms for him or her to know how insurance companies are performing so that the insuring public are informed well in advance of the performance of insurance companies so that the insuring public can safeguard their interests in as far as insurance is concerned. I agree with the Minister for Finance when he says that insurance companies that have long been closed down should actually be published in the Kenya Gazette. I suggest that instead of two dailies, we should put it to four dailies, so that there is not a chance that the public can miss to know that a specific insurance company has ceased to transact business and, therefore, they are not duped into buying cover where an insurance company has already closed down.

Mr. Temporary Deputy Speaker, Sir, I wish to propose to the Minister for Finance that there has been a recommendation by the stakeholders in the insurance industry of what was called structured

compensation. It is important for the Government to do something to make sure that insurance companies do not collapse. It is not in the interest of the Kenyan public, Kenyan investors and the insuring public, for us to close down one insurance company after the other for whatever reason.

I think that, apart from the fraud that goes on in the insurance industry, and which is fuelled by corruption in that sector--- It is good that something is happening in the Judiciary because, for a very long time, there has been collusion between irresponsible lawyers and members of the Judiciary to the detriment of insurance companies and, sometimes, to the detriment of the insuring public. I think it is time that we, as a country, put in place mechanisms that will make sure that those who are licensed to carry out insurance business have enough fall-back; to make sure that the insurance industry is stable. What happens in this country now is that a bus can be insured for Kshs200,000, but that same bus can incur a claim of Kshs100 million. The insurance company that has underwritten such a risk is exposed in such a bad way that it becomes impossible to carry out insurance business in a field that has that amount of exposure. I think we have a duty to structure compensation so that the investors in the insurance industry are not tempted to fraudulently engage in exercises that try to defeat the course of law.

So, as a matter of urgency, the Minister should, of course, in consultation with the stakeholders of the insurance industry, introduce a mechanism of ensuring that claims are reasonable and the period between the time when such claims are lodged with the insurance company and when they are paid up is reasonably short. As it is now, because of the nature of the claims in the industry, sometimes it takes three to four years for a claim to go through.

It is not in the interest of the insuring public or the insurers themselves to drag payment of claims, because it costs money for both the insuring public and the insurance companies and the lawyers become the beneficiaries.

I do not think it is prudent that, as a country, we should spend a lot of money, time and other resources, chasing claims. The Commissioner of Insurance and, indeed, the stakeholders in the industry, should ensure that we put in place regulations and legislation that will make the claims reasonable, and the periods between the lodging of a claim and its payment short, so that we can put our effort and time in improving the quality of service provided by insurance companies. That is in the interest of the insuring public.

Mr. Temporary Deputy Speaker, Sir, this is the first step in the right direction; in putting order in the industry. We have a long-drawn battle between insurance companies on the one hand, and the insuring public and lawyers on the other. It is now time we asked players in the legal fraternity to be responsible. We have, in the past, seen cases where lawyers have outrightly stolen from their clients. The legal profession is very honourable. If lawyers cannot live up to that honour, the Minister has no choice but to put in place legislation that will ensure that the insuring public gets its dues in claims lodged, and the lawyers get their pay for services rendered. It is time, as a country, we put our house in order. This step by the Minister is in the right direction.

With those many remarks, I beg to support.

Mr. Nyachae: Mr. Temporary Deputy Speaker, Sir, first, I must declare my interest in the insurance industry.

An hon. Member: Correct!

Mr. Nyachae: I have heard an hon. Member on the Government side say "correct". I know that he is in that industry as well.

Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill by the Minister for Finance, but I would also like to make some observations.

The insurance industry must be understood as one of the channels of making savings in any country. It should be as powerful, in making savings, as banks. However, in this country, we do not seem to have developed a deliberate policy to encourage life insurance. There is a tendency by many of

the insurance companies to operate general insurance, which in reality does not make much sense in terms of savings for the country.

I would, therefore, like to encourage the Minister and, through him, the Commissioner of Insurance, to find ways of encouraging all *bona fide* insurance companies to ensure that they find ways of developing and encouraging life insurance in their companies.

Secondly, I listened to the Minister explaining the proposed amendments. We must realise that, in order to make insurance companies perform well, there is need to guide them very closely, particularly the new ones.

Mr. Temporary Deputy Speaker, Sir, in this country, the insurance industry has a major handicap at the level of actuaries. There are very few qualified and experienced Kenyan actuaries in this country. Many of them are brought into the country from outside on work permits. We need to have a deliberate policy. Unless an insurance company uses an actuary to guide and show them that they are going in the wrong direction in their performance, they will go blindly and, in the end, they will find themselves collapsing.

An actuary can actually assess an insurance company and tell it: "Sorry, you are not moving in the right direction. You had better wake up and do this and that." If such an advice is ignored, I am certain that the Commissioner of Insurance will listen to the actuary more than to the insurance company that is refusing to take the advice. So, in this respect, I think we need a deliberate policy to encourage Kenyans to train in this field, even if it means sending them overseas to train from one country to another. They will come back and be very useful people in this country.

Mr. Temporary Deputy Speaker, Sir, the Minister talked about quarterly balance sheets. Looking at that proposal from a business point of view, and considering the big insurance companies which have branches all over the country, to prepare a balance sheet every three months and present it to the Commissioner of Insurance; I believe, that time is not enough. We do not want the Commissioner for Insurance to be given information which is not accurate. We should, instead, insist that after every six months - within the seventh month - the Commissioner for Insurance must have a balance sheet to show which direction a company must go.

In that connection, if balance sheets are going to be sent to the Commissioner of Insurance, either quarterly or after every six months, then the Ministry of Finance must agree to expand the Department of the Commissioner of Insurance. Who is going to analyse those balance sheets? For your information, the balance sheets of insurance companies are as tricky to analyse as those of banks. You are not talking about a trading company. Those are very complicated businesses which require a lot of monitoring. Otherwise, you will run into problems. The Commissioner will have a heap of balance sheets to analyse at the end of every quarter. He would find that very difficult, unless he is given analysts, who understand insurance accounts, to work for him. That is absolutely necessary.

We have talked about brokers. It is a fact these days that the Commissioner of Insurance insists, and I think quite rightly, that brokers must be known and licensed. He can be given the information in order to license them. But I think, as it is done in all banks, there should be some degree of inspectorate. The Commissioner of Insurance should have inspectors visiting the insurance companies, looking at their books and the returns being sent by brokers, in order to establish that they are doing the right job. That is because brokers are the people who process insurance claims and get clients for the companies. They can make insurance companies either succeed or fail. By the time you get hold of the brokers, when they have killed the insurance company, you will have---

(Messrs. Raila and Awori were applauded as they entered the Chamber)

Mr. Temporary Deputy Speaker, Sir, I observed a second of silence because His Excellency the Vice-President and the Minister for Home Affairs was coming in.

Hon. Members: And the Prime Minister!

Mr. Nyachae: I do not wish to join your game on the Government side! So, leave me alone.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, I would like to encourage the Commissioner of Insurance to have regular interaction with insurance companies regarding the training of their personnel. Some of us, who belong to the bigger insurance companies, have realised that we are training insurance personnel for others who have become parasites. They prey on our trainees! They do not contribute to the training. I think there is need for every insurance company to train its personnel more regularly, rather than wait for other insurance companies to train theirs and poach them. It is important to have a requirement compelling each insurance company to contribute something towards the training of personnel. That is necessary because without trained personnel, an insurance company becomes a very complicated matter and can collapse before you realise where you are. You can see money coming in, in form of premiums, but you do not realise how much is going out in form of claims. That can be a very dangerous situation.

It is important that the Government becomes a partner in that area, as opposed to being only a controller. I say this because most of the time, we see the Commissioner of Insurance issuing instructions as opposed to making consultations. I would like to see an arrangement similar to the one between the bankers and Central Bank of Kenya. The Central Bank of Kenya and the Kenya Bankers Association work together. The Kenya Bankers Association sits down on an agreed calendar and raises policy issues and other things that need to be done. It then goes to see the Governor for discussions. That kind of an arrangement should also exist in the insurance industry, because it involves money.

I think we should also appreciate the fact that we have brokers who are given certificates of insurance before a policy is issued. You see a vehicle moving around and when it is involved in an accident, the person starts claiming compensation and yet, the broker had not notified the insurance company and he had taken the money from the insured person. He had not paid that money to the insurance company. So, the insurance company did not prepare the policy and yet, the certificate had been issued by the broker on behalf of the company. So, when a claim arises, the insurance company says: "But you have no policy with us!"

I strongly feel that there must be a system. Probably the initial certificate of insurance should last for a month, while the policy is being prepared. After that period, if the policy does not exist, no certificate is issued. That would end the war.

Mr. Temporary Deputy Speaker, Sir, there is also the question of lawyers and ambulance chasers. One way of dealing with ambulance chasers is to require every insurance company to employ, at least, one lawyer. He or she can then deal with other lawyers because he or she would look after the interests of the insurance company. That is better than having a lawyer from outside, who is an ambulance chaser, and who comes to threaten the insurance company without any legal background. Their background is that of insurance. They start paying claims without legal formalities being followed. The only way of dealing with lawyers who are ambulance chasers is for insurance companies to hire one or two lawyers of their own. If they make a mistake, they know their jobs will be at stake. I think that is absolutely necessary and it needs to be done.

Mr. Temporary Deputy Speaker, Sir, when it comes to talking about insurance, I might take too long but I want to emphasise that we need to support this industry. This industry can contribute to the economic growth of this country through savings if we encourage the insurance companies to work more closely with the Commissioner of Insurance, who should have a much bigger team so that the industry can grow. I want to re-emphasise the point that the growth of life insurance in this country

has been very slow because, as far as I know, there are only four insurance companies, out of several, which are actually performing very well in life insurance. All the others are doing very poorly in life insurance especially in the area of savings and are concentrating on quick money which is in the general insurance.

With those few remarks, I beg to support.

Mr. Muriithi: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Insurance (Amendment) Bill. As hon. Nyachae has said, I also have an interest in the insurance industry. The policy of insurance is to save and protect property but, over the years, the philosophy has changed into profit making without thinking about the risk order. When you look at our current market, we have quite a number of insurance companies which are performing poorly due to under-cutting in premiums. When they do under-cut each other for survival, they have no sufficient reserves to meet claims which come afterwards.

Mr. Temporary Deputy Speaker, Sir, we are quite happy with the amendments introduced by the Minister for Finance, but when we look at the professional qualifications, we have a College of Insurance which was started by the insurance industry and I would like to call upon the Ministry to allow this college to award professional diplomas along with university colleges. This will avoid a situation where the examination markings are done in Europe and it is not possible for our people to pay these examiners due to financial constraints since they are paid in sterling pounds. We would like our college, which is very well manned by the Kenyans who are professionally qualified, to be issuing local diplomas particularly in actuarial services. We import actuarial services from Europe. As Mr. Nyachae will bear me witness, we are now moving down south to get actuarial services. This particular subject should be taught in our universities. We should create a faculty where actuarial sciences should be taught in our colleges. Risk management discipline as well should be taught in our colleges.

Mr. Temporary Deputy Speaker, Sir, on the health medical providers, this particular area is very dangerous. We have seen quite a number of medical providers sinking and Kenyans are losing millions of shillings and I do not see the reason why, after passing this Bill, they should be given 12 months within which to register. In fact, they should register within three months from the commencement of this Act so that they can reveal their financial status to the Commissioner of Insurance to avoid Kenyans losing so much money.

Mr. Temporary Deputy Speaker, Sir, on the incorporation of insurance companies, I think, in 1963 or thereabouts or five years after Independence, there was an Act which was introduced in this Parliament that said that before local insurance companies are registered, 51 per cent of the shareholding should be held by the locals. This figure should be improved now. We have been on our own for 40 years and I do not see the reason why this figure or percentage should not be reviewed upwards and made into a law requiring that all insurance companies, locally- incorporated or those who wish to work in a country or in corporate insurance companies, to provide 75 per cent of the shareholding to the local Kenyans. That is possible because even Mr. Nyachae knows that, in that insurance company where he is chairman, that if they can own 25 per cent of the shareholding, then *Mungu ni Mwema*. So, this issue should be introduced so that the Kenyans can enjoy their labour.

Mr. Temporary Deputy Speaker, Sir, there is a big difference between a broker and an agent and when you say a broker, it is as if that is very wrong and that is not good language in the insurance industry. What Mr. Nyachae should know is that brokers are responsible and they are highly professionally qualified and they should not be treated as agents. Brokers normally receive premiums directly from the clients and they are able to negotiate terms. There is a general understanding between the underwriter and the broker to have a credit of 60 days and this is extended to Kenyans because they should not be denied that facility. They should be allowed to continue trading on a 60 days credit basis and the cheque be paid directly to the brokers but the agents should continue trading on the same

terms as they do; collecting cheques on behalf of the underwriters and be paid their commissions within 30 days.

Mr. Temporary Deputy Speaker, Sir, on the question of stealing of staff, I would say that the insurance industry does not steal staff because they actually poach. That is the right word and poaching is allowed in all spheres of trade.

Mr. Temporary Deputy Speaker, Sir, coming back to premium collection, I strongly feel that the Government should allow total liberalisation in the insurance industry, where the commission and remuneration as they were, would be left between the insurance broker and the underwriter as the principal. I do not understand the question of somebody feeling that the broker might "kill" the underwriter. I cannot understand how on earth the principal can be "strangled" by a mere broker and there are no threats as such as the two work together.

With those extremely few remarks, I beg to support the Bill.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, unlike the previous speakers, I have no interest in this industry. I would like to say from the outset that Kenyans have a very low subscription to life insurance because they have lost faith in the insurance industry. When these companies tell Kenyans to insure themselves, they do not see the value of getting these insurance policies because they are rarely paid. In fact it could easily be more than what you will be finally paid.

If you read through these amendments, you will realise that they are talking of a person having five years experience in the respective sector. But we should talk of somebody from a reputable firm because the issue of requiring only five years experience is not sufficient. We must emphasise that the person must have five years experience from a very reputable company because, even if you possess five years experience from a briefcase company, it is of no value to us.

When you talk of these companies providing their accounts, I think it is important that we specify at what time of the year the accounts should be made available to members of the public. It is not sufficient to say that they must publish their accounts. It is important, for regulation purposes, that these accounts be published at certain times of the year. While I agree that they must be published in at least two public dailies, we must also emphasise that the accounts must be audited by a reputable firm because the accounts could as well be published, but at the end of it all, be audited by a very poor audit firm and the whole essence of publishing the accounts made nonsensical. Therefore, I propose that the accounts must be audited by a reputable firm.

When you read the amendment Clause 10, it says:-

"If a firm operates without authority or if it charges a premium other than that filed with the Commissioner under Section 75, the insurance firm will be charged Kshs200,000".

It does not make sense that when you find a firm that is operating without authority all you need to do is charge Kshs200,000. In the first place, you must take stern action against any firm that is operating without authority. Why should such a firm pay only Kshs200,000 yet it is operating without authority? When a firm operates and charges a premium which is higher than what it requested, it is not sufficient to charge it Kshs200,000. It must be made to refund the extra money that it may have charged its clients. Therefore, I would urge the Minister to include a clause requiring the firms to refund any extra money that they have charged clients and, anybody operating without authority should face stern and, in fact, criminal action.

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

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

Mr. Temporary Deputy Speaker, Sir, when you look at Clause 18, there is a requirement that an insurance firm must notify the public in, at least, two dailies of national circulation, if it needs to be registered. What happens to Kenyans who cannot read a newspaper? My proposal is that such information should be made available on radio and especially in a language that many Kenyans can understand so that many of our rural folk are not disadvantaged by an announcement in the newspapers which they may not be able to understand.

When you talk of insurance brokers, that you can only receive an insurance cover upon the receipt of a cheque by the insurance from a broker, I do not understand how a client will monitor the entire process. To normal citizens, once you have given a cheque to the broker, that is the end of your business. If he can give you an insurance cover, to me, that is as good as the insurance policy itself. Therefore, we should not leave it entirely upon clients to police the relationship between a broker and the insurance company. It is, therefore, my belief that we amend this clause so that the broker can play a role of giving a client the insurance cover and once that is done, it should be deemed to be adequate for the client's purpose.

We should be able to regulate briefcase insurance companies. I agree with the clause that states that the insurance companies must establish where their premises are because some of the briefcase insurance companies or brokers, when you are trying to chase for your claims, they keep on moving from one place to another, thereby making it difficult for you to trace them. There must be a registered office for the insurance companies. Also, there must be a requirement that every insurance company must take a re-insurance cover from a reputable company. We have seen many insurance companies collapse because of their failure to take re-insurance cover from reputable firms.

Concerning the training of employees, you realise that many clients, when making payment, are charged a training levy. We do not understand whether the levy is used for the intended purpose or not. It is important that the Government ensures that the training levy is used for the intended purpose because, as much as we pay the training levy, probably the money is not used for the intended purpose. Therefore, it is my proposal that this Government gets into this industry and regulates the training institutions. I am surprised that we do not have adequate manpower trained in this industry.

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

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to make a contribution.

The insurance industry in this country and, indeed, elsewhere ought to be a source of wealth creation and a social security. People take life insurance covers as a security for their later years. The growth of the insurance industry in this country has been undermined and hampered by lack of, or inadequate regulation. I am happy that this amendment is attempting to enhance the powers of the Commissioner of Insurance so that he or she may have sufficient capacity, not only to supervise insurance undertakers, but also to sanction them when they go wrong.

Mr. Temporary Deputy Speaker, Sir, one of the things that requires to be looked into, in order to put the insurance industry firmly back on its rails is the control and regulation of middlemen, called agents and brokers. Quite often, an agent or a broker would collect money from you, purport to have given you cover and never pass on the money to the insurance company. Those who take insurance policies suffer because of the inadequacy of the law. I would like to urge the Minister to bring a further amendment at the Committee Stage, to the effect that once an agent or broker receives money from a party intending to take an insurance cover - for whichever reason - the insurance company, on whose behalf the agent or broker is acting, is deemed to have been paid and the party automatically becomes insured. I say so because in law, the acts of omission of an agent firmly bind the principal. There must be a way by which the insurance company can get away from the briefcase agents and brokers who roam around the streets without any formal linkages with the principal. An agent and a broker must

have proper, identifiable and displayed accreditation by an insurance company, so that when my good friend Mr. Rotino here insures his car, the agent must actually be able to show him that, for example, he is a legal agent for Kennidia Insurance Company.

Mr. Temporary Deputy Speaker, Sir, I know that the Minister is trying to introduce the two-cheque system extended to the insurance activities. But we all know that, in the world of fraudsters, even a cheque payable to an insurance company might not end up there. The transaction must be sealed and concluded upon a party handing over a cheque or cash to the agent. We have also had a problem in this country of insurance companies and, indeed, many other organizations including banks, falsifying their annual accounts and pretending to be what they are not. You remember there was an insurance company, that at one time covered 90 per cent of the *matatu* business; called Access Insurance Company. An audit firm that appeared reputable would routinely give them a clean bill of financial health by publishing false and fraudulent accounts to show that this company was liquid and had the capacity to undertake insurance business. Eventually, it turned out that the auditor was part of a devious scheme to keep this company in operation when it was, in fact, not just insolvent but bankrupt. That insurance company eventually went under with billions of unpaid claims belonging to people who had been killed or maimed in *matatu* accidents. Because of the inadequacy of the law again, the same auditing firm was neither censured, surcharged nor punished for the misleading professional services and information they had given to the public. They are, in fact, still in operation. The Government and the Ministry concerned must find a way of dealing with those people or firms who provide auxiliary services to the insurance industry and who create an impression that things are what they are not.

The Temporary Deputy Speaker (Mr. Obwocha): There must be a complainant to the Institute of Certified Public Accountants. You cannot just assume that, since the auditor made a mistake, the institute will act. There must be a complainant.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, may I ask the Chair to declare his interest in the matter. But thank you for that information. We have a maxim in law that states that things do not just happen, somebody must cause them to happen. So, if there is a fraudulent balance sheet, whether there is a complainant or not--- In fact, that is why we have a regulator who should be armed with sufficient personnel to not only scrutinize the statement of account, but also go back to the insurance for a physical check in order to tell the public whether what is contained in the balance sheet is, indeed, a true reflection of the financial status of the company. I have no doubt, and it is common knowledge, that the man in the Chair is a reputable auditor and can never make such a mistake.

Mr. Temporary Deputy Speaker, Sir, the last point I want to touch on is the issue of Health Management Organizations (HMOs). There has been no greater fraud committed against the unsuspecting members of the public by these organizations. Whether you are talking of MediPlus or AAR, all of them are always designed to cheat the public.

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

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

There is an organization that mushroomed like winter wheat, called MediPlus, which harvested money from members of the public left right and centre, giving them bogus and non-existent policies in return. I have a friend who is now faced with a Kshs5 million bill in a South African hospital, and which MediPlus promised to underwrite. Now they have said that they cannot pay because they do not

have money, yet they took the premiums from this person. This has happened many times. There are workers who, on a check-off system, have paid their little money to these organizations, which come up with all manner of policies; gold, silver, evacuation - whatever policies - but when it happens that you get an accident or you need them, you do not find them. You find that you have actually been dealing with a balloon that perforates with the slightest puncture by a needle.

Mr. Temporary Deputy Speaker, Sir, the Ministry should come down hard on these HMOs. The case of MediPlus is one of a monumental fraud in the provision of insurance in the health industry. I want to urge the Minister to take appropriate measures, using the available means in the Government, to investigate the activities of these organizations.

Finally, it is desirable that any person or organization that wants to engage in insurance business, whether it is an agent - I have already mentioned that the acts of the agent must bind the principal - must themselves take mandatory insurance cover against their negligence, which may compromise or hurt the interest of the members of the public who they represent.

Mr. Temporary Deputy Speaker, Sir, I note with satisfaction that the Minister has set standards for the people who will be directors, and the personnel of these organisations. We no longer want to have a situation where any Tom, Dick and Harry with a bag of money can establish an insurance company and embark on fleecing members of the public. There must be some minimum qualifications and very stringent supervision; to ensure that insurance companies do the right thing.

With those few remarks, I beg to support.

Mr. Salat: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the debate on this Bill.

The Bill the Minister has brought to the House today is a Bill that every hon. Member and Kenyan has an interest in; to ensure that there is order in the insurance industry in this country. Kenyans have had a lot of sleepless nights after they found out that the insurance company they had insured with had collapsed. We support this Bill and we all want to see that order is brought into the insurance industry. The *matatu* industry depends so much on the insurance industry. When Kenyans are involved in road accidents, they find out that their welfare is a matter between them and their God because insurance companies are nowhere to be found when victims need them. This Bill seeks to regulate the industry and we support it.

Foreign companies with big names come to this country to provide insurance services. These companies should be investigated. These companies come to fleece Kenyans because when they are asked to show their accounts, they disappear. This Bill seeks to professionalise the insurance industry, an industry that has been led by quacks. Anybody can wake up today and open an insurance firm because the industry is full of corruption. Insurance brokerage firms that are mushrooming at a very high rate need to be checked. Insurance brokerage firms owned by politically-connected people are allowed to insure parastals and other Government institutions.

We have heard that some insurance brokerage firms owned by politically-connected people are given contracts to insure even Government airplanes and helicopters. You will find that the owners of these brokerage firms are not qualified to provide the necessary services. The Bill addresses the issue of professionalising the industry, and only those who are academically qualified will be allowed to operate in it.

I would like to join my colleagues who have just spoken before me in saying that the two daily newspapers that have been proposed to be used to publish cancellations of insurance companies are not enough. We need to also use the radio. We need to use vernacular languages because we have bogus insurance brokerage firms in the villages which, even after their affiliate insurance companies collapse, still continue to do business. We need to protect Kenyans; by not just limiting ourselves to two daily newspapers. Some people can read English while others cannot. The cancellations should also be announced through vernacular radio services that are currently operated by the Kenya

Broadcasting Corporation (KBC).

Mr. Temporary Deputy Speaker, Sir, you have heard speaker after speaker talk about insurance firms that go down with people's money. These insurance firms give you packages that make you feel certain that, should anything happen to you, your insurance is guaranteed. But that has been the problem. The insurance industry is supposed to give an assurance to Kenyans. It is supposed to provide a soft-landing, but this has not been the case. Medical insurance providers, like Mediplus Medical Services Ltd., come up with a lot of promises and then, in a short while, they go down with people's money. We have heard of insurance firms which receive their clients' money but do not remit it to insurance companies. This Bill seeks to do away with that.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Salat, I hope you are referring to insurance brokers who get money and do not remit it to insurance companies.

Mr. Salat: Mr. Temporary Deputy Speaker, Sir, I am referring to insurance brokers who do not remit the money to insurance companies.

Thank you for that clarification. We should protect indigenous upcoming insurance firms against big names from overseas, which come to this country and overshadow them. When we go to the Committee Stage, we should try to protect our own indigenous insurance companies. The moment we protect the small indigenous insurance firms, this country will develop. In the beginning, I did not declare my interest. I am a layman, but I am a client of insurance companies. Many Kenyans out there are clients also. I am speaking as a client on behalf of Kenyans who have suffered in the hands of big firms that come and promise heaven and, at the end of the day, they give you hell.

With those few remarks, I beg to support.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, while supporting the Insurance (Amendment) Bill, I would like to underscore the need for insurance generally. I wonder how many hon. Members have insured their drivers and staff. I would like to inform you that under the "Master and Servant Act" in this country, you will be held responsible if any loss is suffered by members of your staff. I would also like to remind Kenyans who own property, that it is necessary to insure that property. The purpose of insurance is to reinstate a loss. If a loss will be reinstated, then the purpose of this Bill is very important.

Mr. Temporary Deputy Speaker, Sir, I would like to appreciate that the Insurance (Amendment) Bill is placing more emphasis on the agent and the broker. I think it is befitting that an agent now will represent more than one principal. It is stated in this Bill that the broker or agent can represent a maximum of three principals. This is a good indication that the NARC Government is now trying to create employment. If an agent can represent three principals or insurance companies, then the volume of business will increase. As an economist, I want to imagine that there will be a multiple effect of employment. I believe we can achieve the creation of part of the 500,000 jobs we promised Kenyans. I do not imagine that they will come in any other way.

Mr. Temporary Deputy Speaker, Sir, the Bill is also trying to make amendments that the principal officer of any insurance company shall be qualified. The Minister should have gone a little bit deeper to state that such a principal officer shall be an associate of the Chartered Institute of Insurers (CII). There are certain courses in the insurance industry that really make somebody qualify in this field, including the Bachelor of Commerce Degree (B.Com). It is important that there should have been a clarification on what kind of qualifications one should have rather than being too general.

Mr. Temporary Deputy Speaker, Sir, the issue of bringing health management organizations within the ambit of this Bill is a very good move. This is one area that Kenyans have been very worried about, particularly because many of them have been flourishing in this country, while others have collapsed. This is an opportune time that we bring them under the control of this Bill, so that Kenyans can be protected by such health management organisations. However, the period of 12 months that the Minister is giving them to apply for registration is a bit too long. I would like to agree with Mr.

Muriithi that at least a shorter time should have been proposed. This is because, within 12 months, they might decide to fold and go under receivership with a lot funds that belong to Kenyans. If not three months, six months would have been adequate for them to apply to be health insurance providers.

Mr. Temporary Deputy Speaker, Sir, there are certain industries that cannot do without agents and brokers. One of this is the insurance industry. The other is the property business, where I belong. While I appreciate that the cheque should be written directly to the insuring company, it would have been more liberal if there was an understanding between the agents or the broker and the insurance company. Where we find that a cheque must be written to the insurance company directly, I hope that the insurance company will pay back the brokers and agents in good time. Of course, they have been given 14 days to pay their fees. I hope they will honour that. The Minister should have provided that if they do not honour to pay the agents and the brokers within those stipulated 14 days, then some penalties should accrue.

Mr. Temporary Deputy Speaker, Sir, I want to appreciate that the Bill is also stating that those who shall practise or undertake insurance business without registration shall be liable to a penalty of Kshs200,000. There must be some action on the defaulters. However, I am afraid that a lot of Bills that we pass here become "dead letters"; nobody acts on them. I hope the Minister will be serious enough through the office of the Commissioner of Insurance to police those that are doing business without a licences.

Mr. Temporary Deputy Speaker, Sir, I can also see that there is a new Section 196(a), which states that if somebody is found to have been involved in malpractice, that organization will be degazetted or cancelled. I would like to advise that it is also important to gazette the names of those insurance companies that have been allowed to conduct insurance business. We should not just concentrate on the cancellation bit alone.

Mr. Temporary Deputy Speaker, Sir, I am not sure what the Minister means under Sections 150 and 152, where he wants us to replace the words "insurance surveyor", with the words "medical insurance provider". Those two words are unrelated. How do you replace an insurance surveyor with a medical insurance provider? I thought there is a place for an insurance surveyor in the insurance industry. I think the Minister should check what exactly he is trying to change. Since the technical people from the Ministry are here, they should check what exactly they want to achieve by doing that.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Muchiri, I do not think it is a replacement, if you read that amendment well.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, I may be wrong, and they also may be wrong.

The issue of medical bills in private hospitals is a major concern to Kenyans. I think there must be a way where the medical bills that are given to the medical health providers are audited. Quite often, the bill is quite colossal and unmanageable, just because there is a medical health provider that is going to foot the bill. That is one of the reasons why some of them have gone under. I would like to believe that private hospitals have taken advantage of the existence of medical health providers. There should be some insurance surveyor somewhere, who can be able to audit some of the bills to the advantage of those who pay them.

One time I was bothered about those bills, and I took the initiative to audit them. I was able to recover Kshs50,000 after my own valuation of the services that they had provided. I think the Government should be concerned about those private hospitals that place high hospital bills without caring about Kenyans.

Mr. Temporary Deputy Speaker, Sir, I would also like to suggest that insurance companies move to other new avenues of business. For example, they always insist on insuring a house which is permanent, whereas we know that there are many houses that are semi-permanent, but they are

valuable. The other day, at a trading centre in my constituency, about 20 shops were gutted down by fire. The loss that we incurred in Ndaragwa Centre was very colossal that I have now to deal with about 70 victims whose shops were gutted down by fire. When such things happen, I keep wondering where the National Disaster Management Fund managers in this country are, so that they can take care of such disasters. They should also have come to the rescue of those people who got burnt in Banana area. The National Disaster Management Fund office under the Office of the President should wake up to the fact that we do not only have to act when bombs are thrown at us, because there are many other bombs in different forms, like fire, *et cetera*. I would like to challenge that office, that Kenyans are looking upon them wherever there is a disaster to restore normalcy.

With those remarks, I beg to support.

Mr. Keter: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Insurance (Amendment) Bill.

First, I must say that this amendment is long overdue, because the insurance industry is one of the major players in the economy of this country. However, it has been left out to very unscrupulous business people, who fleece the Kenyan market and no action is taken against them. For instance, most insurance companies, and particularly those which have gone under, have a very weak re-insurance base. Unsuspecting Kenyans insure their vehicles and property with those insurance companies, but when it comes to claim settlement, they are not able to compensate the insured persons. The underwriters have already taken---

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir.

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

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, in most cases the underwriters have already taken premiums. I think this amendment has come at the right time, because the office of the Commissioner which will be put in place, will make sure that insurance companies are re-insured properly. They should also ensure that in the event of a company going under and somebody has already taken premiums, the regulators take responsibility. Most of the time when insurance companies go under, insurers are followed by thirdparty claims and are asked to pay again. This means that, in the first instance, there was no point of insuring your property. I hope the Minister is going to look into that issue.

Mr. Temporary Deputy Speaker, Sir, the other point I would like to talk about relates to brokers or agents. The role of the agent and the broker should be standardized, because most of these middlemen tend to acquire licences as insurance agents. To be registered as an insurance agent, they only need Kshs250,000 as a bankers indemnity, whereas a broker needs about Kshs1 million. Therefore, some of the agents are operating bigger businesses than the brokers. I would like to call upon the Minister to standardise the fees, so that there should not be any difference between a broker and an agent. They should all be made to pay the same amount, because from experience, some of the agents are operating bigger businesses than the brokers.

Mr. Temporary Deputy Speaker, Sir, these middlemen also lack professional qualifications. Gone are the days when the insurance industry used to rely on the London Chartered Institute of Insurance. Today, we have the Insurance College, here in Kenya. So, it should be made mandatory for anyone who wants to be an insurance broker, an insurance agent, an underwriter, insurance surveyor or loss adjuster to have at least a minimum qualification of a diploma from the Insurance College of Kenya.

Mr. Temporary Deputy Speaker, Sir, that is going to ensure that people dealing in insurance companies are managable. We have seen instances in the rural areas where some of the agents get one cover from an insurance company and make copies of it. They then sell it to innocent persons who may be seeking insurance covers and may not differentiate between a genuine one from a counterfeit one. It is high time that a security water mark was put on insurance policies to reduce

cases of fraud.

Mr. Temporary Deputy Speaker, Sir, the other issue I would want to touch on briefly is that of insurance health providers. You will realise that this is one area that Kenyans have suffered a great deal. Health insurance services are mushrooming all over the country, from small kiosks to big buildings. The sector is not regulated. There is no one who gives them licences to operate. They do not say where they belong; whether in the insurance industry, or if they are just trading on their own.

It is about time we placed the health insurance providers under the Commissioner of Insurance, where they will be made to get licences and pay money which is equivalent, or not less than what the insurance brokers are paying. I propose any figure between what the insurance brokers are paying and what the insurance underwriters are paying. For instance, we have seen some people paying a lot of premiums and when they visit the hospitals, they are turned down. You will appreciate that this is usually a time of need when people are going for medical services. For example, in a state of an emergency, somebody maybe sick and is supposed to go to hospital at night. When one presents the card he or she has from the medical insurance companies, it is not honoured at the hospital. However, when he was paying premiums, he was told that he would be free to visit all the hospitals. That is just one area which needs to be regulated because it touches on the lives of people.

Mr. Temporary Deputy Speaker, Sir, I want to slightly go back and talk about insurance companies. We have realised that insurance companies, just like banks, should be made to publish their annual accounts in all local dailies, so that we get to know how sound their financial positions are.

That would help Kenyans make decisions on who to insure with. In promoting the spirit of the Government of wanting to create 500,000 jobs, I believe that it is time the Minister looked at every insurance broker to be responsible for doing business with either one or two companies.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Can we consult quietly, please?

Mr. Keter: Thank you, Mr. Temporary Deputy Speaker, Sir. That is going to help ensure that only persons qualified in this field earn their daily bread.

With those few remarks, I support the amendment.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I stand to support the amendment that is proposed by the Minister for Finance. I also want to agree with previous speakers that it is long overdue. It should have come a long time ago before we had this mess that has affected so many Kenyans in this country. My contribution will be zeroing in on the qualifications of those people who wish to go into the insurance business. The insurance business is based on a fiduciary relationship. That is a relationship of good faith. It is the only profession where people give personal service and yet they are not held personally liable.

When people seek advice from advocates and it is wrongly given, the advocates risk personal liability. The same applies to doctors and people in other professions. When insurance companies, especially directors fail to honour their claims as one of my colleagues said, one institutes law suits against the company and the directors are left to go scot free. The Minister has proposed that we specify the minimum academic qualifications for anybody who wants to start an insurance business. We should not only put academic qualifications, but there should be a requirement that people who want to start insurance companies must possess a certificate of good conduct. Again, there should be a special provision that allows a claimant to go directly for the directors in the event that there are---

QUORUM

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important Bill and we need everybody to be here. There is no quorum in this House and yet we are discussing a very important Bill. We are sitting here because we know it is important.

The Temporary Deputy Speaker (Mr. Khamasi): You have made your point. It is obvious that there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! We now have Quorum.

Proceed, Mr. Mungatana.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I was saying that one of the things that the Bill needs to address is the requirement that when there is non-payment and a claimant wishes to enforce his claim, there should be a provision that allows for direct lifting of the veil so that directors of insurance companies are able to be held directly responsible for this act. They should not hide behind the veil of the limited liability of companies. In cases where there are claims for non-payment that are pending in court against any insurance company, there should be a requirement that for the directors to leave this country, they must get a clearance from the Commissioner of Insurance. The reason is very simple. From past experience by Kenyans, when insurance companies are in trouble, the directors leave the country and they leave their liabilities to be burdened upon these claimants. The country suffers in general.

I would like to urge that the Minister considers this to make sure that the kind of people who are investing in this industry have good faith; they really want to offer that service and they are not criminals. There should also be a way in which we can criminalise obvious non-payment in cases where it is clear that they have collected premiums and they are simply refusing to pay so that we can reduce incidents of trouble in this industry.

With those few remarks, I beg to support.

Mr. M. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to support this particular Bill and say one or two things. First, the office of the Commissioner of Insurance has been a tragic failure in the past. It has failed to effectively supervise and regulate the insurance industry. No wonder we have seen some major insurance companies go under with people's money, most notably the Kenya National Assurance Company which went under despite all the signs that it was ailing. No action was taken to rectify the situation.

Right now, there are insurance companies which are issuing bouncing cheques to clients and yet the Commissioner of Insurance has not taken any appropriate action to address their financial shortcomings. It is, therefore, important that we should welcome the amendment introduced by the Minister to empower the office of the Commissioner of Insurance to ensure that there is better governance, accountability and professionalism in the insurance industry.

Mr. Temporary Deputy Speaker, Sir, I note that the Minister has not found it necessary to make an appropriate amendment to Section 152. The only minor amendment to Section 152 relates to medical insurance.

But I take the view that Section 152 required some major amendments, more particularly Section 152A where the Act says that the Minister would have to consider sufficient knowledge, skill and experience. I think it is important that some minimum qualifications be laid down for agents, insurance managers and brokers. I say this because if we are going to induct professionalism into this industry, it is important that we get the best skills. Today, we have people who go to university and

specialise in insurance law and insurance practice, and others have diplomas. If we are going to raise the standards of conduct in the insurance industry, we have to put some minimum qualifications for insurance agents and brokers. It is not enough to say "enough and sufficient knowledge, skill and experience." I think we need to qualify that and put some minimum standards.

Mr. Temporary Deputy Speaker, Sir, I observe that now the Commissioner of Insurance has greater powers under this particular Bill. He will be able to supervise more effectively because he will be able to call upon the accounts of the insurance companies. They will be published to be able to advise the clients. I think it is a major step in the right direction.

However, I am concerned about one aspect of this particular Bill. This is regarding Section 17. It is quite clear that today, the major insurance companies are foreign-owned, and that the brokers and agents are our local people, who are trying to make it in business. It looks like there is a lot of distrust between the insurance companies and their agents.

Mr. Temporary Deputy Speaker, Sir, I would like to seek your protection from the hon. Members who are consulting too loudly that my voice is getting drowned.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Hon. Members, please, can you give the speaker on the Floor time to be heard? I think there are a lot of consultations in a corner somewhere. Mr. Obwocha, would you, please, make sure that those loud consultations do not come from your corner?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, we were just assisting the new Chairman---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ochola Ogur!

Mr. Ogur: I am sorry, Mr. Temporary Deputy Speaker, Sir. We were congratulating the new Chairman of FORD(K)!

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Order! We can only have one person in this House speaking and be heard, and not your own *Kamukunji* out there.

Proceed, Mr. M. Kariuki!

Mr. M. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir.

I was saying that most of the insurance companies today in this country are foreign-owned. There are very few local ones. Most of our people are trying to eke a living out of agency and brokerage in this particular industry. I see that in the amendment all the insurance cheques would be in the name of the insurer and not in the name of the agents. This, therefore, means that the agents will not hold any monies.

Presently, I am aware that the agents have been holding money on behalf of the [principals for 60 days. Now, it would appear we will have to make a straight cheque to the insurance company. Therefore, the agent would have to get his commission 14 days after.

Mr. Temporary Deputy Speaker, Sir, I have concerns that I do not see any sanctions. They are saying that the broker or the agent will get his compensation 14 days after the cheque is received. But supposing there is a default, what protection has that particular agent got? We need to look into that. We need to have some form of protection and sanctions against the insurers, who fail to honour the commission for their agents. In the final analysis, if we take Section 17 as it is, it will render brokerage and agency totally irrelevant. One does not have to go through an agent. It will take him one month to get you a cover. It is advisable to go straight to the agent, get your cover, have your insurance

certificate and operate on the road as soon as you can. I think the period of one month that one has to pay the money and wait, and the 14 days wait by the agent, needs to be looked into against the circumstances of this country. The principle insurers are, in fact, foreigners.

Mr. Temporary Deputy Speaker, Sir, a lot has been said about ambulance chasers. I would like to make a few comments on that issue. It is a very unprofessional practice as far as the legal profession is concerned. But that can be taken care of, not in this Act, but, probably, in the amendment to the Advocates Act.

I hope that, in due course, the Attorney-General will find the need to make an amendment, particularly to the Advocates Remuneration Order, where the advocates fees would be clearly stated against what the client has to get in a case involving an accident. That would resolve the conflict that has been there in the past, with regard to the much talked about two-cheque system. The two-cheque system is totally unacceptable because that means we are interfering in the relationship between a principal and an agent.

Mr. Temporary Deputy Speaker, Sir, let me say this: As long as the law remains what it is, the insurers will have to take the responsibility for the conduct of the brokers and the agents. They are the ones who appoint the agents and brokers and legally, they are bound by their conduct. I do not think it is fair for anyone to come and intervene in-between. The liability still remains that of the principal, if the insurance agent or the broker misbehaves.

But having said something about the ambulance chasers, there is the good side of the ambulance chasing. Thirty years ago, people who were involved in road accidents were not even aware that they had a right to make a claim. Today, the level of awareness in this country about the need to make claims after an accident is very high. Even the most ignorant people in the rural areas know that after an accident, they have to make a claim. So, there is a good side to it. Much as it is unprofessional for lawyers, it is time we made the information more public. It is time that we conducted civic education to enlighten our people about insurance claims.

Mr. Temporary Deputy Speaker, Sir, we realise today that until and unless you make a claim to the insurance company, it does not bother. Even where the driver, for example, is clearly liable in an accident matter, they prefer to keep quiet, hoping that some citizen somewhere will be ignorant so much that he or she will not make a claim. It is time to make it obligatory under this Act for insurers, where they are responsible for an accident, to pay promptly. Even after cases have been determined by courts three or five years down the road, it is still not possible for most of the insurers to pay in lumpsum. When they pay, they pay in instalments, which really points to their financial instability. I think the amendments being proposed here will help to examine our insurance companies that have financial problems, so that the Commissioner can take appropriate action. Otherwise, many Kenyans have lost their claims because many insurance companies have been operating without proper supervision and sufficient liquidity such that, when an accident occurs, the people who suffer ultimately are the innocent *wananchi*.

With those few remarks, I beg to support this Bill.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. It appears as if this Bill has been debated thoroughly. Am I, therefore, in order to request the Chair to call upon the Mover to reply?

Mr. Obwocha: No! No!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Obwocha! If you have got any issue you want to raise, you do not just start shouting "No!" "No!" You should rise up in an orderly manner, catch the Speaker's eye and raise it!

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has risen on a point of order requesting that the Mover be called upon to reply. However, the House may not be aware that the House Departmental Committee on Finance, Planning and Trade will table a

report on this Bill on Tuesday next week. I am saying this because the Committee has scrutinised the two Bills, one of which was skipped today. We have skipped two Bills today. The first Bill we skipped was The Constituencies Development Fund Bill. We were caught unawares on the second Bill because we did not know that it had been placed on the Order Paper. Could I request the Chair to allow hon. Members who may want to contribute to this Bill to do so because even the report of the House Departmental Committee is not before the House?

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Obwocha, this House cannot be controlled by what goes on in a Committee. This House has got its own mandate, and we will assess the situation here and make a decision. Having said that, I think it is only fair that I give a little time to hon. Members who are interested in contributing to this Bill before I call upon the Mover to reply.

Mr. Rotino: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this very important Bill. Hon. Members could have spent a lot of time contributing to this Bill if they had taken time to read the amendments proposed to it in detail. I am saying this because this Bill affects our people. When a Bill is brought before this House, debated and passed into law it becomes a guiding instrument to the people of this nation. The Ministry of Finance will use this Bill if it is passed to assist our people. We should spend some time debating this Bill.

Having said that, I would like to join my colleagues who have supported this Bill. This Bill is long overdue as it should have been brought before the House sometime back because our people have really suffered. Many of the points I wanted to raise have already been raised by my colleagues, but I would like to highlight a few things which affect our people.

We have got teachers who teach in learning institutions in our rural set-ups, and the insurance industry plays a big role in education. I would like to talk about the education policy which is offered by insurance companies. We should have some officers in the Commissioner of Insurance's office to deal specifically with education policies. I am saying this because you will find brokers, or agents, of insurance companies going to the rural areas and giving our people half-baked information. They give our people insufficient information which cannot enable them choose the right insurance policy to take. Insurance brokers visit rural areas with a set mind to influence our communities to take insurance policies with their companies. This is the case, and yet they do not provide adequate information to our people. I would like to urge the Minister for Finance to ensure that the Commissioner of Insurance establishes a section in his office which will educate our people on insurance matters. The Commissioner should also open offices at the district level to educate our people on the importance of the insurance industry.

Even the National Health Insurance Fund (NHIF) personnel lack the necessary education. Our people are not fully equipped to make any informed choices as far as insurance services are concerned. The Minister should look at this seriously as there are cases where we have helped our people in pursuing their benefits. We have cases where teachers were insured without being given enough information. For example, insurance companies say that if you are involved in an accident, you have to make a claim within three years. I will propose an amendment to this Bill so that instead of making a claim within three years, you are allowed to lodge it within five years. This is because some of our people do not get this information on time, and the legal services in this country are not available to many people. That amendment to increase the claim period to five years is important and it should be included in the Bill.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the third party insurance claims. In rural towns, insurance brokers encourage people to go for third party covers. They do not even educate transporters on the importance of having comprehensive insurance covers. I want to encourage the Minister to empower the Commissioner of Insurance to use his department to educate our people on the importance of having a comprehensive insurance cover. This is because they have lost a lot of money by getting into third party insurance covers. There is nothing in a third insurance

cover, and getting it is just like throwing your money away. It is important, therefore, that our people are educated on the importance of getting a comprehensive insurance cover.

It is also important that insurance companies allow people to pay premiums in instalments. If you tell a businessman that he has to pay over Kshs200,000 for a comprehensive insurance cover, he feels threatened. However, if you tell him that he can pay that insurance premium amount in instalments, it becomes easy for him to pay it.

Insurance firms should offer bonuses, especially on vehicle covers. When you buy a new car and every year you pay, say, KShs300,000 for a comprehensive cover, and you do not get involved in an accident for ten years, the insurance firm should be encouraged to give you a bonus for being careful. This will motivate people to buy comprehensive insurance covers.

I also want to touch on the insurance of livestock. I am a livestock farmer from a cattle-rustling prone area. Insurance firms should be encouraged to provide insurance to livestock farmers. This will go a long way in improving livestock farming and making it a business. Right now, our people treat it as a normal subsistence activity. However, if insurance firms cover livestock, most farmers who live in semi-arid areas will treat livestock farming as a commercial venture. This will improve their economy.

I do not want to end my contribution without touching on the insurance brokers, who are very many in this country. In our rural areas we get many insurance brokers who are not even informed. Some of them are school leavers who move around like hawkers from office to office, enticing people to take insurance covers. However, when you try to ask them certain questions, you discover that they are not knowledgeable enough to assist you. Some of them give you half-baked information. So, the Ministry, through the Commissioner of Insurance, should ensure that people in the insurance industry have the right information. Maybe, we should encourage a certain level of education so that our people get the right information.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the insurance cover against fire. A good example is of our colleague, Mr. Poghiso, whose house was razed down by fire. Up to now, he has not been compensated. If an hon. Member cannot be compensated as fast as possible, how about an ordinary citizen? There should be a system put in place to reduce the bureaucracy that exists within the insurance industry. This is the only way we can encourage our people to take up insurance covers. This is a business that could generate a lot of money and employment for our people. In fact, it could create part of the 500,000 jobs that the NARC Government promised Kenyans. The Ministry should come up with ways and means of controlling the mushrooming insurance brokers in this country. Most of those insurance companies are owned by foreigners. Kenyan brokers get very little out of this business. I want to encourage them to enrol in colleges so that they get quality education on insurance. We should also introduce insurance as a subject in secondary schools so that our students learn the importance of insurance business.

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

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, I do not have much to say about this Bill, except one thing. Back home, there are many widows who come to me for assistance. Their husbands died in road accidents. However, the court awarded them certain amounts of money, but the lawyers refused to pay them. I would like the Minister to bring a Bill to this House to have such lawyers flogged in public because they are horrible people. We have the Complaints Commission in Nairobi. Those poor widows whose husbands died in road accidents are expected to come all the way to Nairobi. Their household income is between Kshs20,000 to Kshs30,000 per annum. How can they meet transport and accommodation costs? They come and spend most of their time on Nairobi streets. It is a pity that they are later told to go back home and come the following month. Something has to be done about this compensation. Mr. Mungatana spoke very well about the crookedness of insurance companies, but he did not talk about the crooked lawyers. So, I would urge him to persuade his

colleagues to fear God and be nice to the victims of roads accidents and make sure that they are fully compensated.

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

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I thank you for allowing me to make some comments on this Bill. Before I go to the specific issues that were raised in our Committee---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Mr. Obwocha, are you entitled to speak from the Dispatch Box?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, when Mr. Nyachae is not here, as his deputy, I can speak from the Dispatch Box.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Obwocha, there is no provision in the Standing Orders for deputy party leaders to speak from the Dispatch Box. So, go to your place and deliver your speech from there.

(Mr. Obwocha moved back to his place)

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, first of all, I want to make general comments about this Bill, particularly on the issue, generally, of the insurance industry in this country.

Before I go to specific clauses of the Bill, I would like to speak about one of the very sad cases that came up concerning M/s Access Insurance Company, which went bankrupt or was under receivership or went **[Mr. Obwocha]**

into liquidation. Everybody knows that M/s Access Insurance Company charged very high premiums. It gave insurance covers particularly to the *matatu* industry. The kind of business that it did was very shoddy. I do not know why the Commissioner for Insurance never detected what this insurance company was doing.

There is a very sad story, which I would like to tell to this House. One of the agents of this company in Nakuru, a Mr. Kariuki (not the actual name), had given insurance covers to his clients, on behalf of M/s Access Insurance Company. When the insurance company went under, two of the *matatu* vehicles he had insured had serious accidents and all the occupants died. At the time the dependants of the deceased persons lodged claims, the insurance company had gone under. Therefore, the awards were never paid by the insurance company. So, the awards that were given to the deceased persons then followed Mr. Kariuki himself. They sold everything that he had under the sun; everything he had worked for all his life. They, in fact, wanted to "sell" even his wife. The bulk of the blame goes to the people who were checking the accounts of M/s Access Insurance Company. That is why I agree with Mr. Wetangula that the accountants who gave "a clean bill of health" to this insurance company should have been followed. But as I said while on the Chair, you need to report the persons behind this company to their institute, if you feel that the institute should have taken action against them.

It is up to the Minister to take up this issue, because it is not late. The firm is going on. This is another Enron in Kenya, where things are so desperate. If you look at the individual cases involved, you will actually sympathise with the situation. So, let me hope that a case like that will not recur in the insurance industry.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I would like you to protect me from my three friends here, so that they can allow me to make a meaningful contribution, by focusing on this very important Bill.

The second thing that I would like to talk about is the way the collapsed insurance companies

have been run. I have in mind the Kenya National Assurance Company (KNAC) where many Kenyans put in their money for life insurance. Since it was taken over by the official liquidator, we would have expected the liquidator to publish the accounts and incomes of KNAC, on behalf of those who had taken life insurance. When a company like KNAC collapses, we would like to know its assets are wisely invested.

Mr. Temporary Deputy Speaker, Sir, we would like to know, through the Minister for Finance, whether the official liquidator has made any money out of those assets. I want to pose the following: If the Government can bail out the National Bank of Kenya, why can it not bail out KNAC, which is a Government owned company and *wananchi* put their money there?

Finally, on that particular issue, is the Government or the Commissioner of Insurance adequately checking the insurance companies, or are we on the road to another KNAC fiasco? Are the companies that are insuring us stable? Is the Commissioner of Insurance taking adequate measures to make sure that they do not collapse?

Mr. Temporary Deputy Speaker, Sir, I want to pose another question. Many of those companies are charging very high premiums. I am happy with what Mr. Michuki has done. He wants to regulate the *matatu* industry, so that the insurance premiums could be reduced. As it is now, they are very high. We need the Commissioner of Insurance or the Minister to re-examine the issue of general insurance cover, particularly insurance premiums for motor vehicles.

Mr. Temporary Deputy Speaker, Sir, let me turn to Clause 17(b)(iv).

Clause 17 (b) (4) states:-

"Section 156 of the Insurance Act is amended-

(b) by deleting subsection (4) and substituting therefor the following new subsection-

(4) A premium cheque collected by an agent or broker, which shall be in the name of an insurer, received by him shall be deposited with, or dispatched and received by the insurer before the commencement of the insurance cover:

Provided that the commission payable to the broker or agent shall be paid within fourteen days of receipt by the insurer of the premium cheque."

Mr. Temporary Deputy Speaker, Sir, there are about four aspects of that amendment which I want to discuss about. The first one is that the difference between agents and brokers is fairly wide because the agents in many cases go directly to the insurance company. Some agents sometimes work for brokers. Now, when you say that the cheque shall be in the name of the insurer, you are assuming that the broker, leave alone the agent, has no claim to part of those funds. Indeed, that is incorrect because when you write a cheque, unless you are writing two cheques to the insurer or to the underwriter, part of that may be commission for the broker. So, you cannot say that you should write the cheque in the name of the insurer and deposit it with the insurer before you get a cover.

Mr. Temporary Deputy Speaker, Sir, now what happens between the time when you have applied for that insurance and when the cheque is received? When the underwriter or the insurer has received the cheque, does he wait for the cheque to be cleared before he gives you the cover or not? I believe that this provision is extremely dangerous.

Mr. Temporary Deputy Speaker, Sir, I think the line we should take is that the moment you have filled the form, given the cheque or the moment you have made any payment to either the agent, broker or insurer, you should be fully covered. You should get your cover fully. What happens there between is between the agent, broker or insurer. That is their business because they are the ones who know their contractual terms. So, we do not want to enter into their contractual terms.

So, as far as I am concerned, the correct position for *wananchi* is that the moment you have contracted either the agent, broker or insurer himself if he is the one giving that cover, that is where

that contract between you and themselves begins.

Mr. Temporary Deputy Speaker, Sir, I would like also to say that the Association of Insurers who appeared before our Committee did actually object to this very bitterly. I would like to join my colleagues to say the following on Clause 3 which is about qualification of board members. This Clause states that:

"The principal Act is amended by inserting the following new section immediately after section 27 -

27A. A person shall not be registered under section 31 unless:-

(a) the board of directors or managing board of such person comprises of at least five members; and

(b) the Commissioner is satisfied that all members of such board have knowledge and experience in matters relating to insurance, actuarial studies, accounting, finance or banking."

Mr. Temporary Deputy Speaker, Sir, I do not have a lot of quarrel with this Clause. However, there are two things that I disagree with. Firstly, actuarial matters are very professional matters. In this country, we know that between the Chair and hon. Members, there are very few Kenyans with experience or education on actuarial matters. Therefore, it is not possible to have all companies to have in their boards, somebody with the knowledge and experience on actuarial studies.

Secondly, it is also not possible that all people who are involved in the insurance industry, or those who would want to form insurance companies, or those who run insurance businesses, be people with experience in these studies. For example, you may find somebody who has access to money, is the chairman of a board yet he or she does not have the kind of experience we are talking about. Therefore, that little proviso should be inserted in Clause 3.

Mr. Temporary Deputy Speaker, Sir, I would like to make a comment on the proposed issue of the two cheque system by the insurance companies to lawyers. I do not know whether this system has been implemented yet. This is an issue we support because lawyers have not lived up to their reputation. Once a lady was passing near a cemetery and near a tombstone she saw and I quote the following words: "Here lies a lawyer and an honest man." She was left wondering how they managed to put two people in the same grave. That is what lawyers have done. They have not lived up to their reputation. That is why the woman was wondering how one can be a lawyer and an honest man at the same time!

Mr. Temporary Deputy Speaker, Sir, as I stand here, in Kisii - and I do not want to quote that lawyer or name him because he may not be here to defend himself - since I joined this Parliament over ten years ago, I have written 87 letters to that lawyer to release money he obtained on behalf of victims of road accidents, which he has been unable to release to them. How do we deal with such lawyers?

When I go to my constituency, three quarters of the business I do is solving people's problems in as far as school fees is concerned. The second one is to help people to claim their money from lawyers. That is one of the problems facing my constituents. So, this two-cheque system; probably if this Parliament supports it, will help to resolve some of the most pragmatic issues we face in our constituencies.

I was wondering if the lawyers themselves were honest about this issue. Why are they refusing the two cheques being written; one for their dues and the other one for what is due to the victims of road accidents?

Mr. Temporary Deputy Speaker, Sir, I also want to say something about insurance brokers. These people must come up with proper regulations to differentiate themselves from agents, because not all of us know what insurance is all about. Sometimes when I meet an insurance agent, I think he is an insurance broker. They should come up clearly and tell us who are agents and who are brokers; what roles they play, how they operate and how we, as a public, can deal with these people. As it is

right now, it is not possible to know who does what.

The second issue I want to tackle on brokers and the Government is that certain brokers in this country have monopolized the insurance business. Some of these brokers are some of the richest people in this country. Certain big insurance businesses in this country have all zeroed in on the insurance business through those in power. I am not necessarily talking about those brothers and sisters of ours who are in NARC or even from the previous regime, I am talking in general. These people are getting this business through the hand of those in the Government. Now, if they are going to monopolize the insurance business to that extent, when are other Kenyans going to benefit? If we are having people zeroing in on all insurance business to their own benefit, when are the other Kenyans going to benefit? Mr. Temporary Deputy Speaker, Sir, when you look at some of these brokers and where they stay, you would think they live in heaven. Some of us look at them and say that we live in slums in Eastlands, yet we are Members of Parliament!

So, in trying to regulate the insurance industry, the Government should zero in on how the insurance business is given to brokers.

If you look at the Objects and Reasons of the Bill, the Minister wants only those people who are registered under this Act to carry out insurance business, including insurance agents. He further limits the number of agents to only three, who can serve concurrently. He also proposes that HMOs be within the provisions of the Act, among many other things therein.

So, Mr. Temporary Deputy Speaker, Sir, if the Minister wants this industry to be properly and conveniently managed, then he needs to streamline its operation. We in this country do not want the---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order! Hon. Obwocha, you will still have five minutes to contribute on this Bill when the House resumes.

Hon. Members, it is now time for the interruption of business this evening. The House is, therefore, adjourned until tomorrow, Thursday, 30th October, 2003, at 2.30 p.m.

The House rose at 6.30 p.m.