

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 8th December, 2004

The House met at 2.30 p.m.

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

PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

The Report on the Implementation of the Pensions (Amendment) Act No.6 of 2003

*(By Mr. Musila)*

### NOTICE OF MOTION

NOTING OF REPORT ON IMPLEMENTATION OF  
PENSIONS (AMENDMENT) ACT

**Mr. Musila:** Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House notes the Report on the Implementation of the Pensions (Amendment) Act, No.6 of 2003, laid on the Table of the House on Wednesday, 8th December, 2004.

### ORAL ANSWERS TO QUESTIONS

*Question No.955*

COMPLETION OF MIGORI DISTRICT HEADQUARTERS

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

- (a) whether he is aware that the construction of Migori District Headquarters stalled over ten years ago;
- (b) how much money the Government has spent on the project so far; and,
- (c) what immediate plans the Government has to resume the construction work and complete the project.

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

(a) Yes, I am aware that Migori District Headquarters stalled over 10 years ago. The project started on 20th April, 1989 and stalled in 1993. It was later wound up in 1999 due to lack of funds.

(b) So far, the Government has spent Kshs162,558,782.20.

(c) Consultation is being undertaken by the Office of the President and the Ministry of Roads and Public Works to revive stalled projects throughout the country. The construction of Migori District Headquarters will resume as soon as the consultations are over, and it will be included in the next Budget for 2005/2006 financial year.

**Mr. Owino:** Mr. Temporary Deputy Speaker, Sir, as you have heard from the Assistant Minister, this project has stalled for over 10 years. Many district headquarters have been constructed on Harambee basis. If a private developer offered to invest in the development of this project and complete it, would the Government be able to pay rent so that this private investor could collect his dues back?

**Prof. Kibwana:** Mr. Temporary Deputy Speaker, Sir, that is a very interesting proposition in which the hon. Member is suggesting that a Government-started project could be privately completed, and there is subsequently a partnership between Government and the private sector in terms of a public building. I am not aware whether this particular policy has been approved by this Parliament.

*(A cell phone rang in the Speaker's Gallery)*

**The Temporary Deputy Speaker** (Mr. Poghiso): Order! Order! Whose phone is ringing?  
All right, proceed!

**Prof. Kibwana:** Mr. Temporary Deputy Speaker, Sir, I have indicated that Migori District Headquarters is earmarked for completion starting 2005/2006 Financial Year and, as a result, I think the Government is concretely committed to the completion of this project.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, we thought this Government would make a difference so that projects undertaken by the Government would not have to be finished by local Harambee efforts or private developers. What is the estimated cost of the remaining works to complete this project?

**Prof. Kibwana:** Mr. Temporary Deputy Speaker, Sir, I am surprised that the hon. Member is not sure whether this Government is making a difference when his party, FORD (P), is part of this Government and he is a front-runner. But the project is estimated to cost Kshs506,196,097 to be completed. So far, about a third of that amount has been spent.

**Mr. Ojaamong:** Mr. Temporary Deputy Speaker, Sir, you will find that from the district headquarters---

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that I am a front-runner in NARC yet I am a Member of the Opposition party called FORD(P)?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Poghiso): Order, Members!

**Mr. Ojaamong:** Mr. Temporary Deputy Speaker, Sir, it is from the district headquarters that most citizens receive services from various Ministries. Busia District has a misplaced headquarters. You will find that the four constituencies comprising of Bunyala---

**The Temporary Deputy Speaker** (Mr. Poghiso): Ask your question now!

**Mr. Ojaamong:** When will the Government construct a district headquarters to serve the residents of Busia centrally, since they travel for long distances to reach Teso where the headquarters is located?

**Prof. Kibwana:** Mr. Temporary Deputy Speaker, Sir, could the Chair advise me whether that supplementary question relates to the Question at hand? I thought we were talking about Migori District Headquarters!

**The Temporary Deputy Speaker** (Mr. Poghisio): Well, I think that is a different Question.

**Mr. Ojaamong:** On a point of order, Mr. Temporary Deputy Speaker, Sir. When will construction of a district headquarters commence---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Ojaamong! It is good for you to ask that question separately.

If you ask the Assistant Minister when it will commence, he may not be in a position to respond. That is a different question from the one Mr. Owino asked.

Last question, Mr. Owino!

**Mr. Owino:** Mr. Temporary Deputy Speaker, Sir, when the NARC Government took power we had a lot of confidence in them. We would not mind if they promised to do things because we believed in them. However, now that we have an amorphous Government called the Government of National Unity, will it stick to the principles of the NARC Government, so that whatever the Assistant Minister says will be fulfilled in that financial year?

**Prof. Kibwana:** Mr. Temporary Deputy Speaker, Sir, according to my understanding, the hon. Member is part of the NARC Government because he is a member of the Liberal Democratic Party (LDP), which is an affiliate party of NARC.

So, I am a bit perturbed that he does not seem to understand that he is in Government. However, we have said that this matter is being considered in the Financial Year 2005/2006.

**Capt. Nakitare:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghisio): Capt. Nakitare, what is your point of order?

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to say that they are still consulting with the Ministry of Roads and Public Works pertaining to the completion of Trans Nzoia and Migori District headquarters when they have already paid the contractor and there is nothing to show on the ground? What is happening?

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Capt. Nakitare! There is a difference between a point of order, a point of argument and a supplementary question. If you stood on a supplementary question, that would, probably pass. That is not a point of order!

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, I stood on a point of order!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Capt. Nakitare!

Next Question, Mr. Kembi-Gitura!

**Mr. Kembi-Gitura:** Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I would like to raise a very pertinent issue. I have just received a written answer to this Question. My understanding of a written answer is that it is supposed to enable the Questioner give it thought and reflect on it and be able to make sensible or intelligent supplementary questions. For me, this is an important Question. I would rather that it is not answered now, that it is deferred, so that I have time to look at this answer, consider it and see whether I will be able to raise important and pertinent issues.

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Kembi-Gitura, the practice is to ask the Question first.

**Mr. Kembi-Gitura:** Mr. Temporary Deputy Speaker, Sir, that may be the practice, but there is nothing written about it!

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Kembi-Gitura, then I will have to drop the Question!

**Mr. Kembi-Gitura:** Mr. Temporary Deputy Speaker, Sir, I do not want to drop it!

**The Temporary Deputy Speaker** (Mr. Poghisio): Then ask it! You are arguing about something which is not even before us. You have not asked the Question!

*Question No.940*

COMPENSATION FOR FINANCIAL INSTITUTIONS TAKEN OVER BY CONSOLIDATED BANK

**Mr. Kembi-Gitura** asked the Minister for Finance:-

(a) if he is aware that in the mid 1980s and early 1990s, the Government, without good cause or reason, took over, through the Consolidated Bank of Kenya Limited, banks and other financial institutions that had been founded and developed by indigenous Kenyans;

(b) if he is further aware that the said founders and developers of the banks and other financial institutions were not compensated when the said institutions were taken over; and,

(c) what urgent measures he is taking to ensure that the said institutions are reverted to their previous owners or that they are adequately compensated.

**The Temporary Deputy Speaker** (Mr. Poghisio): Now that you have asked the Question, we need to hear the Minister. In any case he is not even here. We will come back to this Question later. Let us move on to the next Question by Mr. Onyancha.

*Question No.914*

STATUS OF OFFICE OF  
DIRECTOR OF EDUCATION

**Mr. Onyancha** asked the Minister for Education, Science and Technology:-

(a) if he could confirm that the office of the Director of Education has been abolished; and,

(b) if he could further inform the House when the Education Act will be revised to accommodate reforms being undertaken in the education sector.

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

(a) I wish to confirm that the office of the Director of Education has not been abolished. However, the office has been expanded through reform activities to five directorates; Higher Education, Basic Education, Policy and Planning and Technical Education, each of which will focus on specific areas to improve efficiency and quality of education in the country.

(b) The Education Act will be revised to accommodate reforms being undertaken in the education sector once a sessional paper under preparation is passed by Parliament.

**Mr. Onyancha:** Mr. Temporary Deputy Speaker, Sir, the office of the Director of Education in the Ministry of Education, Science and Technology is a very powerful office created by an Act of Parliament. As it is, the Minister says it has been broadened to have five directorates under it. As far as it is understood, these five directorates fall under the Education Secretary. Where did the Assistant Minister get the power to reorganise, create and broaden this office which is really provided for in the Education Act, which should have been revised in Parliament before that is done?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, I said that as far as we are concerned, the office has not been abolished. I spoke about the challenges that we are confronting as a country in the

Ministry of Education, Science and Technology. We know that when the Education Act was done in 1968, the number of pupils in our schools were very few, from less than 1,000,000 in primary schools to now more than seven million pupils; from much less than 30,000 in secondary schools to almost a million now; from less than 500 students in universities in the 1960s to more than 80,000 overall. There are also other challenges relating to the changes that are taking place both within the country and outside. As a result of these challenges, it is important that we realise that it may be necessary to make certain adjustments as long as we do this within the law. All these changes are in the interest of better improved services in the education sector.

**The Temporary Deputy Speaker** (Mr. Poghisio): Dr. Mwiria, what Mr. Onyancha is basically asking is: whether it is within the law?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, I would like to say that the Education Act has not been tampered with. However, we know that it is necessary to make the necessary adjustments to address coming challenges. I think it is within the powers of the Minister and even the President to create appendages of a position that can support reform.

**Dr. Galgallo:** Mr. Temporary Deputy Speaker, Sir, it has become a trade mark of this Government to establish offices for relatives and friends of people in Government. What the Ministry of Education, Science and Technology has done is essentially to create confusion in the management of that Ministry. Could the Minister consider abolishing these new offices which they purport to be coming up with and establish order back in that Ministry?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, first of all, I would like to say that these positions were actually not created for relatives. These positions were advertised and were open to competition. We got applicants from universities and other sectors of this country. We do not think we have created disorder. If anything, we have improved on provision of services. This is an issue we will look into as we review the Education Act in the coming few months.

**Mr. Sambu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that these posts were advertised and interviews were actually conducted when we know names were just placed as the positions were created? When were the interviews conducted?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, I think Mr. Sambu is not in order because he does not seem to know that these positions were advertised and that, indeed, interviews were conducted. This is common knowledge; these positions were advertised in the newspapers. Mr. Sambu, please, refer to the newspapers!

**Mr. Bifwoli:** Mr. Temporary Deputy Speaker, Sir, you have heard this Ministry created a position higher than the Director of Education. Where did they get the mandate to do so, since that position is not provided for in the Education Act?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, there were consultations before this position was created. The Minister cannot create a position like this without making relevant consultations, even with the President.

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Let the Assistant Minister complete what he is saying!

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, why do hon. Members not want me to finish answering Mr. Bifwoli's question? Is the interest of hon. Members the creation of positions or the efficient supervision of educational services? What is their interest? Is it in services not being provided?

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have a small problem with the Assistant Minister. Is it in order for him to create positions that are not in law? He even goes ahead to tell us that the Ministry held consultations before those positions were created. Are consultations superior to the law of the land?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, maybe at this point we should leave this to the courts to determine. If it is an illegal matter, I do not think it is for Parliament to determine if it is illegal or not. The Minister has the responsibility to conduct his administrative duties.

**The Temporary Deputy Speaker** (Mr. Poghiso): Order, hon. Members! Once an issue is before this House, we do not involve courts in it. This Question concerns this House. If somebody goes to court regarding it, that will be a different issue.

**Mr. Rotino:** Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has been made aware that he did not follow the law, could he consider nullifying those reforms and bringing a Bill here for amendment?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, we know that the current Constitution allows the President to extend mandate for certain positions. That is how certain positions are created, including those of permanent secretaries. In view of that, I would like to say that these reforms should be seen within that context.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order if I requested the Chair to guide us? The Assistant Minister has just said that the current Government can create positions without considering the law. Would I be in order to suggest that the position of a Prime Minister be created without considering the law?

**The Temporary Deputy Speaker** (Mr. Poghiso): That is a good point of order, although directed to the wrong Assistant Minister.

**Mr. Onyancha:** Mr. Temporary Deputy Speaker, Sir, recently, there was a conference on reforms in our education system. Kenyans have been talking about revising the 8-4-4 system of education. Recommendations were made on this, but we have not heard anything from the Assistant Minister. Instead of presenting these recommendations, he has allowed organisations like the Parents and Teachers Associations (PTA) to exist illegally. Is he preparing a Sessional Paper to justify this illegality?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, it is not in the interest of anyone in this House to justify an illegality. The Sessional Paper sets the way forward for education in this country for the next ten years and beyond. I would like to say that the paper has already been put forward to the Cabinet. As soon as it is released, it will be brought to this House. If there are certain things that hon. Members do not like in it, they will have a chance to say so.

*Question No.918*

GOVERNMENT POSITION ON COST-SHARING  
IN HEALTH FACILITIES

**Mr. Ngoyoni** asked the Minister for Health:-

- (a) what the Ministry's official position on cost-sharing in Government health facilities is; and,
- (b) what contingency plans she has put in place to ensure that poor people are not turned away for lack of money.

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

- (a) The health financing reforms were confirmed by the Government between the years 1989

and 1993. These are development plans in which the National Health Policy was laid out for the next five years. Objectives of the plan were to provide health services which were accessible, affordable and of high quality to Kenyans, with a focus on preventive, promotive and rehabilitation services. Health financing was recognised in the plan as a key constraint to achieving this goal. Emphasis was put on developing alternative financing mechanisms, including the introduction of cost-sharing. This was done by the Ministry of Health by increasing the role of social financing through the National Health Insurance Fund (NHIF).

At the moment, the cost-sharing programme is operational in provincial general and district hospitals, but it was abolished in health centres and dispensaries, where a registration fee of Kshs20 and Kshs10 respectively was introduced with effect from July, 2004.

(b) Fee waivers are in place for both in-patients and out-patients, who cannot afford to pay for health services, in line with the Government policy to provide free medical services. There are exemptions which, by law, hospitals do not charge. For example, the treatment of HIV/AIDS, TB, malaria and children under the age of five is not paid for.

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

*[Mr. Deputy Speaker took the Chair]*

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, first and foremost, the answer read out by the Assistant Minister is too general. He has explained the history of cost-sharing but has not addressed my Question.

Secondly, the Minister for Health has been on record telling us that Kenyans should not contribute to cost-sharing. As we speak in this House, many Kenyans are being turned away from hospitals because there is a confusion as to whether patients should pay some money towards cost-sharing. What is the Ministry's position on this issue? Should we continue paying some money towards cost-sharing or not?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I have said clearly that cost-sharing was abolished in all primary health care centres. Patients should only pay a registration charge of either Kshs20 or Kshs10 depending on the primary health centre they have visited. If a patient is denied services because of non-payment, they should complain and action will be taken against the offender. However, cost-sharing is still on-going in provincial and district hospitals until we bring a Bill to this House.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, the Assistant Minister is talking about payment of Kshs20 in health centres and Kshs10 in dispensaries. However, most patients do not visit health centres but congest the dispensaries owing to the higher registration fee. Is there a way of harmonising these fees so that all patients pay Kshs10, whether they visit health centres or dispensaries?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the funds collected are used to pay hospital guards and cleaners. Hospitals do not get adequate funds from the Government. We know that most hospitals in this country are always congested. Therefore, patients need to pay these fees, so that services may be provided to them. The Ministry does not charge children under the age of five or for TB, HIV/AIDS, leprosy, mother and child health programmes, family planning and malaria cases. This is because the Ministry is trying to provide health care to as many Kenyans as it can.

**Mr. Mwandawiro:** Bw. Naibu Spika, Swali hili ni muhimu sana. Je Waziri Msaidizi anataka kusema kwamba mtu akiwa mgonjwa na aende katika hospitali ya wilaya na kulipa Kshs20, au atembelee kituo cha afya na kulipa Kshs10, atapata matibabu?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, that is what I precisely said, that at the primary health care levels, that is the dispensaries and health centres, services are free because we expect

people to walk to the dispensaries and back home.

**[Mr. Konchella]**

However, when you go to a general hospital like a provincial or district hospital, you probably have a patient that requires admission, diagnosis or the need to see a doctor. Therefore, you have to meet the costs of cost sharing because of the expenses involved.

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, this Question intends to shed some light on the conditions that exist now among Kenyans. There are various charges in dispensaries ranging from book, injection and labour charges and yet the Assistant Minister is saying that they are illegal.

Can he say for certain that these charges are illegal so that Kenyans know? Now that cost sharing is not charged at dispensary levels, who pays the support staff, that is the watchmen and the rest?

**Mr. Deputy Speaker:** Order! The question is: If there are no cost sharing charges in those dispensaries and health centres, who pays watchmen and subordinate staff?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Kshs20 and Kshs10 meets that cost but we know it is not adequate. One of the things the Ministry was expecting was that it would create AIEs or funding that will go to these dispensaries.

So, we are now encouraging the Provincial Medical Officers and the Medical Officers of Health (MOHs) in those districts to use some of the caution money at the district level to supplement the payments of salaries for watchmen and cleaners in those health centres until a fund is established. We hope this House is fully aware of what we are trying to do in the Ministry.

**Mr. Ngoyoni:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No, Mr. Ngoyoni! You have asked questions and you can never be fully satisfied. You can still follow the Assistant Minister for further clarification and I am sure he will be able to assist you.

Now, at the request of the Minister for Finance, the next Question by Mr. Kembi-Gitura!

*Question No.940*

COMPENSATION FOR FINANCIAL  
INSTITUTIONS TAKEN OVER BY  
CONSOLIDATED BANK

**Mr. Kembi-Gitura** asked the Minister for Finance:-

- (a) whether he is aware that in the mid 1980s and early 1990s, the Government, without good cause or reason took over, through the Consolidated Bank of Kenya Limited, banks and other financial institutions that had been founded and developed by indigenous Kenyans;
- (b) whether he is further aware that the said founders and developers of the banks and other financial institutions were not compensated when the said institutions were taken over; and,
- (c) what urgent measures he is taking to ensure that the said institutions are reverted to their previous owners or that they are adequately compensated.

**The Assistant Minister for Finance** (Mr. Obwocha): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In 1989/1990, the Consolidated Bank of Kenya Limited acquired, through purchase of all shares at mutually negotiated and agreed prices with the various shareholders, the following nine troubled institutions:

- (i) Kenya Savings and Mortgages Limited.



- (ii) Union Bank of Kenya Limited.
- (iii) Nationwide Finance Company Limited.
- (iv) Estate Finance Company of Kenya Limited.
- (v) Estate Building Society.
- (vi) Home Savings and Mortgages Limited.
- (vii) Business Finance Company Limited.
- (viii) Citizen Building Society.
- (ix) Jimba Credit Corporation Limited.

The affected institutions were taken over on the basis of their inability to pay their depositors in the ordinary course of their business and on the extent of their insolvency.

(b) The shareholders of the acquired banks and non-bank financial institutions were compensated as follows:

- (i) The Kenya Savings and Mortgages Limited - Kshs34,832,021
- (ii) Union Bank of Kenya - Kshs28,051,953
- (iii) Nationwide Finance Company Limited - Kshs27,500,000

As for the rest, their indebtedness was as follows:

- (i) Home Savings and Mortgages Limited was in the red up to the tune of Kshs151 million.
- (ii) Business Finance Company Limited- Kshs131 million
- (iii) Estate Finance Company - Kshs19,557,000
- (iv) Jimba Credit Corporation Limited - Kshs49.7 million
- (v) Estate Building Society - Kshs28 million
- (vi) Citizen Building Society - Kshs5.3 million.
- (vii) Union Bank - Kshs39.9 million
- (viii) Kenya Savings and Mortgage - Kshs6.6 million
- (ix) Nationwide Finance Company Limited - Kshs62 million.

(c) The Government has no intention of reverting back the institutions to the previous owners nor is it considering any further compensation because they have already been compensated. However, the owners who would like to start similar institutions are free to go ahead in accordance with the current law.

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, this, in my view, is a very unsatisfactory answer. I had raised the issue but because of this kind of answer to my Question, even the Questioner has a right to have it deferred. For instance, the information the Assistant Minister has given to part "b" of my Question is not in the written reply that I have been given. So, I am disadvantaged and I cannot be able to ask an intelligent question. to this answer. However, because I was told that I must ask a supplementary question as is the rule of practice, I would like to ask the Assistant Minister this question: It is common knowledge that in the 1980s and 1990s when these banks and financial institutions were taken over, a lot of coercion and strong arm tactics were used to have the shareholders sign over the institutions. For instance, we have been told that Nationwide Finance Company Limited were paid Kshs27.5 million by the Government. However, it is common knowledge that Nationwide Finance Company, as an example, owns Nationwide House on Koinange Street which is worth in excess of Kshs800 million. My question is this: Since the Government, through the Consolidated Bank has continued to collect the rent from that house, has the Government repaid all the depositors the money that was in the red? Secondly, if so, what benefit are the owners who were arm twisted to transfer their shares acquiring from that kind of situation?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, that is a good question. On Nationwide Finance Company Limited, the sale consideration paid to its shareholders was based on the valuation of that institution and taken by BellHouse Mwangi Ernst and Young and negotiations between the Consolidated Bank and the shareholders. The investment of that institution is the Nationwide House Building situated in Koinange Street, Nairobi which was valued at Kshs94 million as at 31st January 1990 and it contributed a lot to the quantum of the agreed consideration. In other words, they paid off

the outstanding debts and what was left was distributed to the shareholders.

**Mr. Billow:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer because in 1980s, over 34 banks collapsed and Kenyans lost billions of shillings of their deposits because of crooked bankers. The Banking Act does not allow those directors to get involved in any further banking. Since the bank is now owned 100 per cent by the Government through the Deposit Protection Fund, the NSSF and other institutions and if the Government considers selling them, could it do so through the Nairobi Stock Exchange so that Kenyans can be in a position to own shares in them as opposed to the former directors only?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, when those banks were sold, the Consolidated Bank of Kenya was formed as a consolidated bank. It is, therefore, in the interest of this country to make it big and enable it to compete with the Barclays Bank and other international banks. We should be talking about putting more money into the Consolidated Bank and giving it more support so that it can be one of the biggest banks in the country. For those directors, I have already said that we can look into the case to encourage local investors.

**Mr. Deputy Speaker:** Last question, Mr. Kembi-Gitura!

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I suppose that you have noted that when I raised the issue of strong arm tactics for the shareholders, it was not answered. The Assistant Minister has not told us that the directors are free to own or start other banks at the moment yet he knows that the law forbids them from being directors of any institution at the moment. Is he satisfied that the valuation given to Nationwide Finance House in January 1990 and the valuation today is sufficient to give a reversion of this property to the initial shareholders of that company?

**Mr. Obwocha:** Mr Deputy Speaker, Sir, we are satisfied that the shareholders of Nationwide Finance Company were adequately compensated. However, if the directors feel that they were not adequately compensated, we can have a look at the case again.

### COMMUNICATION FROM THE CHAIR

DISTINGUISHED GUESTS FROM  
THE TANZANIAN PARLIAMENT IN  
THE SPEAKER'S ROW

**Mr. Deputy Speaker:** Hon. Members, before we proceed with the remaining Questions, I want to make the following communication from the Chair.

I wish to bring to the attention of the House the presence in the Speaker's row of four hon. Members and one staff member of the Parliament of our sister nation, the United Republic of Tanzania.

*(Applause)*

The four colleagues are:

Hon. Stephen Masaba Kazi, MP - Leader of delegation

Hon. Omari S.L. Chumbi, MP

Hon. Christopher S. Wenga, MP

Hon. Margaret Bwana, MP

Mr. Daniel Eliufo, Secretary to the delegation.

The hon. Members and the member of staff are here attending a seminar on the status of the Kenya Solar PV market. They will also be meeting the Kenya PV Market stakeholders. Let me take this opportunity, on behalf of the whole House, and my own behalf, to welcome them to our country

and wish them a successful stay and to enjoy their brotherly country of Kenya.

Thank you.

*(Applause)*

*(Resumption of Oral Answers to Questions)*

I have a special request from the Minister for Tourism and Wildlife because he has to attend an urgent meeting with the World Bank, to answer the Question by Mr. Sasura. Therefore, Mr. Oporo, you will bear with me for a minute.

Question by Mr. Sasura!

*(Dr. Galgalo went to the  
Dispatch Box)*

Are you Mr. Sasura?

**Dr. Galgalo:** Mr. Deputy Speaker, Sir, I had spoken to Mr. Poghishio when he was on the Chair that Mr. Sasura had requested me to ask the Question on his behalf.

**Mr. Deputy Speaker:** Very well. Go ahead!

*Question No.537*

#### OWNERSHIP OF KICC

**Dr. Galgalo,** on behalf of **Mr. Sasura,** asked the Minister for Tourism and Wildlife:-

- (a) who owns the Kenyatta International Conference Centre (KICC); and,
- (b) how much money in rent has been collected from the KICC tenants since April, 2003 and to which account(s) the proceeds were remitted.

**The Minister for Information and Communications** (Mr. Tuju): Mr. Deputy Speaker, Sir, I beg to reply.

The KICC is the property of the people of Kenya and the Government is the custodian. It is currently a parastatal under the Ministry of Tourism and Wildlife. From 1st April, 2003 to 30th May, 2004, Kshs85,675,000.50 had been collected. Out of this amount, Kshs74,359,395.15 has been spent on salaries, maintenance and payment of utilities including water, electricity and telephones, and debts that had not been paid for many years. The amount has been credited to a suspense account operated with the Ministry of Tourism and Wildlife.

Thank you.

**Dr. Galgalo:** Mr. Deputy Speaker, Sir, the Minister has said that the KICC is now a parastatal. We know that in this country parastatals are established through Acts of Parliament.

*(Applause)*

Under what Act of Parliament did the KICC become a parastatal?

**Hon. Members:** Which one? Tell us!

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I need your protection.

**Hon. Members:** From what?

**Mr. Deputy Speaker:** Hon. Members, hold your peace! The Minister is protected now!

**Mr. Tuju:** Thank you, Mr. Deputy Speaker, Sir. From the little knowledge I have, I know that it can be created by an Executive order from the President.

**Hon. Members:** Hakuna!

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

*(Mr. Obwocha went to the Dispatch Box)*

**Mr. Deputy Speaker:** Order! An Assistant Minister cannot ask a question!

Mr. Owino, please ask a question!

**Mr. Owino:** Mr. Deputy Speaker, Sir, the Minister has said that some money has been put in a suspense account. My knowledge of a suspense account is that it is vulnerable to misuse. Could he assure the House that this money will not be misused at all?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that we have done great improvements in this account. Indeed, previously, we found out that the money which used to be collected at the parking lot was collected each lunch time for *nyama choma* by the previous owners. We also found out that rooms like the translation room for conferences was being used for making *chapati*. We have made great improvements and investment on that particular building. So far, in the last one year, it has hosted 22 international and local conferences.

*(Applause)*

It is also going to host another 19 regional and international conferences. These ventures are bringing a substantial amount of income to this country. That money is not only being collected by people who go at lunch time to pick cash from the parking lots but it goes to the Treasury in terms of taxes from those who stay in hotels. I am confident that we are taking good care of that money.

**An hon. Member:** It was the "*karani*" who used to eat all the money.

**Mr. Ndile:** Bw. Naibu Spika, umemsikia Waziri akitaja mambo ya kupika chapati. Tunaelewa kuwa wale waliokuwa wakitumia hilo jumba ambalo lilijengwa kwa pesa za umma, walichukuwa mikopo ya Kshs400 milioni. Tunataka Waziri atuambie kama ni kweli au la. Kama ni kweli, atuambie kama pesa hizo zililipwa. Walitumia cheti cha umiliki wa KICC kupata pesa hizo. Walikuwa ni Bw. Ndolo Ayah, Bw. Musyoka na Bw. Kamotho.

*(Laughter)*

**Deputy Speaker:** Mr. Ndile has perfected the habit of naming people without any reason.

**Hon. Members:** Out!

**Mr. Deputy Speaker:** Mr. Ndile, in future when you ask a question, just do so. If you have information about the gentlemen you are talking about, why then ask the Minister such a question?

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

That habit must cease! Order, hon. Members! We will proceed with the question.

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I am not aware of the loans that were taken against this building. However, one anecdotal evidence that I have in terms of how the building was purchased was that a total of Kshs1,620 is what was used to allegedly buy the KICC.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, there is something called the forfeiture of stolen property. Could the Minister tell us whether he is going to use that provision to put the leaders of KANU to task to account for the money they collected from the KICC during their irregular

possession of it?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I will explore that possibility.

**Mr. M. Kilonzo:** Mr. Deputy Speaker, Sir, on account of the fact that there is a law called Government Lands Act, could the Minister confirm that, in fact, the KICC stands on a piece of land for which a title deed has been issued in favour of KANU for 99 years? Could he also confirm that, that alienation was done in accordance with the Government Lands Act? What has become of that title deed?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I am aware of those arguments. The hon. Member happens to have used that as part of his argument in the court process. I do not want to argue that case here.

**Dr. Galgallo:** Mr. Deputy Speaker, Sir, the Minister is not going to get away with it very easily. When the Ministry moved to the KICC, a court order was issued, which stopped him from taking over the KICC. While in school, we were taught to respect the law. Why did he disobey the court order and take over the KICC?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I would like to correct the impression that has been created on this issue. The court order was to let the *status quo* prevail. As at the time the court order was issued, the *status quo* was that we were already in that building.

**Mr. Deputy Speaker:** Very well! Next Question, Mr. Opoire!

**Mr. Opoire:** Mr. Deputy Speaker, Sir, before I ask the Question, I would like to inform you that I do not have a written reply.

*Question No.998*

MEASURES TO CONTROL MOSQUITOES  
IN BONCHARI

**Mr. Opoire** asked the Minister for Local Government:-

(a) whether he is aware that the sewerage treatment station at Bonyando in Bonchari Constituency is a fertile breeding ground for mosquitoes in an area prone to malaria; and,

(b) what measures he is taking to effectively control mosquitoes breeding in that area.

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

(a) I am aware.

(b) Kisii Municipal Council is handling the issue of mosquitoes under Sections 136 to 143 of the Public Health Act, Cap.242, and Section 145(1) of the Local Government Act, Cap.265, in the following manner: Firstly, the council is spraying lemmocides on the sewerage surface, destroying larvae in a few seconds. Secondly, it is undertaking indoor spraying of a chemical called icon, which has residual effects that last six months. Thirdly, it is planning to clear overgrown vegetation around the sewerage treatment works. Fourthly, the council is planning to fence the sewerage plant and put a gate to prevent animals and human beings from getting into the sewerage plant area.

**Mr. Opoire:** Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer. When is the council going to start putting those measures in place? It is already raining in that area, and that worsens the situation.

**Mr. Tarus:** Mr. Deputy Speaker, Sir, spraying is done twice every six months. The next spraying is due in January, 2005. The vegetation around the sewerage treatment plant will be cleared in early January, 2005.

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, the said sewerage treatment plant is an eyesore in that area. The mosquitoes being bred there are spreading to Kitutu Chache Constituency and killing my people. Could the Assistant Minister tell the House how he intends to compensate the people who

have contracted malaria from mosquitoes bred at that sewerage treatment plant?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, the hon. Member will appreciate the fact that it is difficult to establish the origin of the mosquitoes spreading malaria in his constituency. However, the Government is making every effort to ensure that the malaria menace is controlled.

**Mr. Oporo:** Mr. Deputy Speaker, Sir, first of all, I would like to inform the Assistant Minister that the local authority has enough personnel to clear the vegetation around the sewerage treatment plant. Secondly, the council is fencing the sewerage treatment plant because, recently, a 12-year old child drowned in it. Is the Ministry going to compensate the family of that child?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, that is, indeed, a worrying scenario, but I would like to confirm that the Government has budgeted for the fencing off of that particular area, so that human beings do not get in.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question, which is whether the Ministry will compensate the family of the child who drowned in that sewerage?

**Mr. Deputy Speaker:** Mr. Assistant Minister, you have not responded to that particular question. You had a problem because, there was the issue of compensating people who have contracted malaria, and that of compensating the family of the child who drowned in that facility. So, could you now respond to the question of compensating the family of the child who drowned in the sewerage?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, the Ministry will consider the issue raised by the hon. Member. We will investigate the matter and take appropriate measures.

**Mr. Deputy Speaker:** Very well!

Next Question, Mr. Moroto!

*Question No.799*

CLEAN WATER FOR KAPENGURIA CONSTITUENCY

**Mr. Moroto** asked the Minister for Water and Irrigation:-

- (a) whether she is aware that the residents of Kamorrow, Keringet and Cheptuya have gone without water for the last five years;
- (b) whether she is further aware that the generator that used to pump water is stored in the Ministry's office in Kapenguria due to lack of fuel; and,
- (c) what urgent measures the Ministry is taking to ensure that the residents of those areas receive clean drinking water to avoid water-borne diseases, especially during the long rains.

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

(a) I am aware that the residents of Kamorrow, Keringet and Cheptuya have gone without water for the last five years. The three areas used to be supplied with water by Tartar Keringet Water Supply, which stalled in the mid-1990. The source of the water is Kapenguria River. The construction of the scheme was completed in 1991.

(b) I am also aware that the generating set, which used to pump water at the intake works, was taken to the District Water Officer's store in Kapenguria for safe custody after it broke down. The old generating set requires overhauling before it can be re-installed to pump water for the scheme.

(c) To ensure that the residents of Kamorrow, Keringet and Cheptuya receive clean drinking water, my Ministry has technically appraised Tartar Keringet Water Project to quantify its immediate rehabilitation requirements. For the scheme to be operational, repair of the pumping unit and rehabilitation of the water treatment plant, and the reticulation system, are necessary at a cost of Kshs1.67 million. My Ministry will consider funding the works, alongside other projects, in the

financial year 2005/2006.

**Mr. Moroto:** Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that Tartar Keringet Water Supply used to serve secondary schools, hospitals and primary schools around here. Some are boarding schools. It is the second time, and these people have suffered for a long time. What immediate measures is he going to put in place so that these people can get the services immediately?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, on that particular project, I have said we shall undertake the appraisal of the project which has already been done. It will cost us Kshs1.67 million. Besides that, we have also disbursed Kshs6 million for construction of water conservation structures like dams and tanks in this area. We have also given Kshs5 million towards small water supply stations that can be repaired in that area.

**Mr. Abdirahman:** Mr. Deputy Speaker, Sir, the Assistant Minister has confirmed that the generating set is actually in the District Water Officer's office. We have raised these issues many times because of lack of ownership. The Ministry had in the past talked about handing over these water facilities to communities but there are no clear mechanisms for this.

Most boreholes in our places are getting run down because of lack of clear policy on ownership and good process of handing over. What is the Ministry's position on this and how do we go about **[Mr. Abdirahman]** handling these kind of problems?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, the policy is very clear that Government equipment is stored in Government offices. For this particular case, we have stored it in the District Water Officer's office. For the community water projects, we cannot just hand over machinery to communities until we have given them enough capacity.

**Mr. Moroto:** Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that the Ministry has given out Kshs6 million to the district for dams and other water supply stations. They have also given out an additional Kshs5 million. The Kshs1.7 million he is talking about is very little. Out of the Kshs5 million they have allocated to the district, why do they not give Kshs1 million to this water supply so that it can serve its purpose?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, Kshs1.6 million will be provided for in the next financial year. These other funds are meant to rehabilitate other supplies in the district.

*Question No.949*

MEASURES TO SAFEGUARD KENYANS AGAINST

EXPLOITATION BY FILM COMPANIES

**Mr. Leshore** asked the Minister for Information and Communications:-

- (a) whether he is aware that Kenya is fast becoming a destination for film industry, especially northern and coastal regions;
- (b) what standards he has put in place to ensure that Kenyan communities, actors and transporters are not exploited; and,
- (c) when the Kenya Film Corporation last gave services to the residents of Samburu East.

**The Assistant Minister for Regional Development Authorities** (Mr. Odoyo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Kenya, especially the coastal and northern parts are fast becoming destinations for the film industry.

(b) The Government has, indeed, put in place measures aimed at promoting and protecting the film industry. Among the measures is the requirement that all prospecting film making companies comply with provisions of Cap.222 known as the Film and Stage Plays Act, before being issued with a

licence to shoot a film in any part of the country.

(c) The Kenya Film Corporation ceased its operations in the 1990s and, therefore, no longer offers any film services.

**Mr. Leshore:** Mr. Deputy Speaker, Sir, the Assistant Minister is becoming another actor here. He has told us nothing. Kenyans or our communities are being exploited when the film industry brings more than Kshs700 million every year into this country and yet our people do not get even 1 per cent of that money. What measures does the Ministry intend to take to see to it that communities are benefiting directly and not just the mere act of paying for licences?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, in the past three years alone, the Kenya film industry has brought on board nearly US\$30 million, which is in excess of Kshs2.4 billion, a little bit more than the Kshs700 million the hon. Member has referred to. As in any commercial venture, there is some element of willing buyer, willing seller.

Mr. Deputy Speaker, Sir, as a Government we ensure that the wages that are being paid, first of all do not fall below the normal wages that have been set by the Minister for Labour and Human Resource Development. But it is common knowledge that actors and those who participate in the film industry either as extras are normally paid far in excess of the normal wage guidelines.

With regard to the exploitation of the community, we try to ensure under Cap.222, that the scripts that are being brought to this country are subjected to thorough review before they are licensed for the film to go ahead.

In reviewing those cases, we ensure that there are no immoral materials that may show disrespect to the African and, particularly the Kenyan community, so as to ensure that there is no wrongful display that may hurt our people and this country.

**Mr. Deputy Speaker:** Mr. Odoyo, you are taking so long to answer a question. With respect to you Mr. Odoyo, it is like you are giving a speech!

Next Question!

**Ms. Ndung'u:** On a point of order, Mr. Deputy Speaker, Sir. You called on Mr. Leshore to ask his Question and then you allowed only one supplementary question. Are you not going to allow supplementary questions?

**Mr. Deputy Speaker:** Is that your point of order? The Chair only recognizes hon. Members when they are standing.

**Ms. Ndung'u:** Mr. Deputy Speaker, Sir, I stood.

**Mr. Deputy Speaker:** Could you sit down, Ms. Ndung'u?

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! I am addressing a very important point of order raised by the gracious lady. If, indeed you stood, I did not see you, so I give you the opportunity.

**Ms. Ndung'u:** Thank you, Mr. Deputy Speaker, Sir. One of the measures the Ministry was supposed to take to improve the marketing and growth of the film industry, and to protect it, the actors and the communities affected, was to establish a task force that was supposed to establish a Kenya Film Commission. That task force finished its work three weeks ago and made recommendations, one of them being to establish the Kenya Film Commission.

What action is the Ministry taking on this issue, and when will this Commission be established?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, it is true that this task force completed its work about two and a half weeks ago. I wish to assure the hon. Member that the report of the task force is being studied in detail and some of the recommendations that she has already mentioned will be taken into full consideration, and the Minister will communicate what action the Government is going to take.

**Mr. Deputy Speaker:** Mr. Leshore, do you want to ask a third question?

**Mr. Leshore:** This is the second one, Mr. Deputy Speaker, Sir.



**Mr. Deputy Speaker:** Go ahead.

**Mr. Leshore:** Mr. Deputy Speaker, Sir, regarding part (c) of the answer, I am surprised to hear from the Assistant Minister that the Kenya Film Corporation has ceased its operations. I normally travel along the Nyeri-Nanyuki route and whenever I reach Murang'a, Sagana, Othaya and Nyeri, I see those vehicles stationed there, showing those people free films. Why is the Assistant Minister misleading this House?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, I wish to re-confirm that the Kenya Film Corporation ceased to exist as a corporate body. The films that the hon. Member has referred to are private venture exercises aimed at earning revenue from advertising by showing some films to the communities.

**Mr. Deputy Speaker:** Next Question, Mr. Ethuro!

*Question No.690*

NON-PROSECUTION OF POLICE OFFICERS  
IMPLICATED IN HERDSBOY'S MURDER

**Mr. Ethuro** asked the Attorney-General:-

(a) whether he could name the police officers who were implicated in the murder of a herdsboy, Mr. Amodoi Achakar Anamilem, who died in Lokichoggio Police Station on 8th July, 1996; and,

(b) why the Government has failed to prosecute those responsible for the murder.

**Mr. Deputy Speaker:** Is the Vice-President and Minister for Home Affairs here?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, I wish to ask for the indulgence of the House and you, Mr. Deputy Speaker, that this Question be deferred. As we are aware, the Attorney-General has been very much involved in fast-tracking and bringing about of the East African Federation. So, he is not available at the moment.

**Mr. Deputy Speaker:** So, the Question is deferred. Mr. Ethuro, what do you say? The Attorney-General is not here.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, with due respect to His Excellency the Vice-President and Minister for Home Affairs, somebody died ten years ago! We need guidance from the Chair. Are the functions of this House going to be subordinate to the East African Community or Federation? There must be another Minister responsible when one is away.

**Mr. Deputy Speaker:** Unfortunately, there is only one Attorney-General and he has no assistant! There is not much the Chair can do. In view of what the Leader of Government Business has said, the guidance from the Chair is that the Question be deferred.

Let us move on to Questions by Private Notice.

**QUESTIONS BY PRIVATE NOTICE**

MURDER OF MR. STEPHEN  
KIMANI NYOKABI

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

(a) Is the Minister aware that on 13th May, 2004, Mr. Stephen Kimani Nyokabi and Mr. Samuel Wamui Thuo (Njihia) went missing from their homes in Nguirubi village, Thigio Sub-location, Ndeiya, Limuru.

(b) Is he further aware that Mr. Stephen Kimani Nyokabi was later found murdered in a nearby *shamba*, while Mr. Samuel Wamui Thuo (Njihia) has not been seen since?

(c) Is he also aware that the matter was reported to Ndeiya Police Post and Tigoni Police

Station on 16th July, 2004?

(d) What action has the Minister taken to arrest and prosecute the murderers of Mr. Stephen Kimani Nyokabi and find Mr. Samuel Wamui Thuo?

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

(a) Yes, I am aware that, Mr. Stephen Kimani Nyokabi and Mr. Samuel Wamui Njihia were reported missing at Tigoni Police Station on 31st May, 2004 at 4.30 p.m. and 16th July, 2004, respectively.

(b) Yes, I am aware that Mr. Stephen Kimani Nyokabi was later found murdered in a nearby shamba, while Mr. Samuel Wamui Thuo Njihia has not been seen ever since.

(c) Yes, I am aware that the matter was reported at Tigoni Police Station on 16th July, 2004, as indicated.

(d) A Murder Case File No. Criminal/212/209/04 was opened following the death of Mr. Stephen Kimani Nyokabi. Six people have recorded statements and the file is still open for more information. A suspect was arrested in respect to the abduction of Mr. Wamui Thuo and charged with the offense. The case will come up for hearing on 13th December, 2004.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, the answer given by the Assistant Minister is terribly misleading. The two were youngsters; one was murdered and the other one went missing. In his answer, he has said that one suspect was arrested for the abduction of Mr. Thuo. Mr. Thuo is still missing. How can somebody be arrested and charged for abducting another person, when that person has not been found? Does that mean he was found and recorded a statement against the person already arrested and charged with the offence? What is the position?

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, the position is that the arrested person, Mr. Martin Ng'ang'a Waronja, asked the missing person to go and take photographs at Kiriri village, where it was alleged there were overnight prayers. So, Mr. Martin Ng'ang'a Waronja was one of the last persons to see the missing person. That is why he was arrested and charged with the offense of abduction, contrary to Section 258 of the Penal Code. If the missing person is found dead, that charge would be upgraded.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister not to rush so much with an answer that is totally inadequate. The fact that, Mr. Martin Ng'ang'a was the last person to see the missing person alive, does not, at all, warrant him to be arrested and charged with abduction. There is something beyond that. The two cases are related. The other person was murdered and the other one went missing. Could the Assistant Minister transfer the entire file from Tigoni Police Station to the Criminal Investigation Department (CID) Headquarters and order a very thorough investigation? You agree with me entirely that a charge of abduction is totally incomplete when somebody is missing! The other person is dead. The two cases are related--

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

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, I appreciate where the hon. Member is taking me. I am going to ask officers from the CID Headquarters to look into that matter.

**Mr. Deputy Speaker:** Next Question, Mr. Mwanicha!

#### KILLING OF MOSOBETI PRIMARY SCHOOL PUPILS BY LIGHTNING

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that lightning struck Mosobeti Primary School on 24th November, 2004, killing four pupils and another 25 were injured?

(b) When will lightning arresters be installed in the school to avert any more deaths and injuries?

(c) When will arresters be fitted in all lightning-prone areas countrywide?

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

(a) Unfortunately, I am aware that lightning killed four pupils and injured 30 - and not 25 - pupils at Mosobeti Primary School on 24th November, 2004. That was very tragic.

(b) The school received all the materials for installation of lightning arrestors on the 3rd December, 2004. The installation is being carried out under the supervision of the Ministry of Roads and Public Works at the district.

(c) Due to budgetary constraints, the Ministry cannot provide a specific time frame within which our schools in lightning-prone districts will be installed with lightning arrestors. However, efforts are being made to explore possible avenues of raising additional funds to speed up the process.

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, lightning struck that school on 24th November, 2004. On 3rd December, 2004, the school was supplied with a complete set of lightning arrestors. That is the same thing that happened in Biego, when pupils were struck by lightning. My question is: Where were funds found to provide arrestors to that school, but cannot be found to install the arrestors in other lightning-prone areas?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, the Ministry has a limited budget for the installation of arrestors. I think it is only Kshs4 million. One lightning arrestor cost about Kshs380,000. It is in our interest, as a Ministry, to install arrestors in all schools in lightning-prone districts. However, resources are not available right now. But we are looking for ways to ensure that we have adequate resources to address the problem countrywide.

**Mr. Onyancha:** On the same day, that was on 24th November, two students in my constituency in Kisii District also lost their lives through the same tragedy. Must we ask Questions in Parliament so that lightning arresters can be taken there or will the Ministry do something about it also?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, answering Questions in Parliament is not particularly pleasant. So, we do not like to do these things only when Questions are being asked. As soon as we can galvanise adequate resources, we would like to address the problem once and for all, countrywide.

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, in his answer, the Assistant Minister says that efforts are being made to explore possible avenues of raising additional funds. Could he tell the House what specific efforts are being made to put in place these arresters?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, if he could please repeat the question.

**Mr. Mwanicha:** In the written reply, the Assistant Minister said that efforts are being made to explore possible avenues of raising additional funds to speed up the process. This is a serious problem in our areas. What specific efforts is the Assistant Minister making to address the situation?

**Dr. Mwiria:** We are talking to our development partners to see if they can support this initiative. We do also hope that as a Ministry, we will get more money in the budget. Let us also remember that there are other ways of doing it. The Constituency Development Fund could also be used to solve urgent and needy cases.

#### NON-PAYMENT OF SALARY ARREARS TO MASENO HOSPITAL WORKERS

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that the families of over 70 employees of Maseno Hospital are experiencing serious economic problems due to months of unpaid salary arrears?

(b) what steps has the Minister taken to address the plight of the hospital workers?

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

(a) I am aware that Maseno Hospital has not paid its 72 employees accumulated salary arrears amounting to Kshs13 million since November, 2001. The Kshs13 million is inclusive of the current and past employees of the hospital.

(b) Maseno Mission hospital is an independent A.C.K. run mission hospital based on its constitution and charter. The Ministry has no say nor direct link in the day to day activities of the hospital, including payment of salaries.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the workers in Maseno Mission Hospital and Kenyans in general know that the Ministry of Health plays a regulatory and supervisory role in all public, mission and private hospitals. The Maseno Hospital has a Government-seconded doctor. The Government also sends funds from NHIF to this mission hospital on a monthly basis. Could the Assistant Minister therefore, stop misleading the House by saying that they have no direct link in the running of the hospital and use the funds that they sent there from the NHIF to pay off the salaries of these workers who are really suffering?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Anglican Church Diocese of Maseno is the owner of this hospital and should therefore be held fully responsible for the hospital debts and liabilities including salary arrears and not the Ministry of Health.

**Dr. Khalwale:** Since these salary arrears date all the way up to June, 2001, it is quite evident that the ACK is having difficulty in running the hospital.

Could the Minister consider converting this hospital into a Government hospital?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, we have no powers to take over a hospital which belongs to a private institution. If they wish to surrender it to the Ministry, we will gladly take it over.

#### AWARD OF ROAD CONTRACTS BY DRES

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that District Roads Engineers have taken over the award of all road contracts from the District Roads Committees (DRCs)?

(b) Is he further aware that this has led to payment for works that have not been completed or not done at all?

(c) What is the Minister doing to stop this situation?

**The Assistant Minister for Roads and Public Works (Eng. Toro):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the District Roads Engineers have taken over the award of all road contracts from the DRCs. Award of road contracts in the districts is the responsibility of the respective district tender committees.

(b) I am not aware that this has led to payment of works that have not been completed or done at all. I, however, advise the hon. Member to give me a specific case for my immediate action.

(c) In view of my response in "b", "c" does not arise.

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister is not aware of the obvious. Every now and then, Questions are asked in this House concerning shoddy work which has been done on our roads and paid for. The DREs are known to collude with the district tender boards to award and pay for contracts that have not been done. Section 17 of the KRB Act states that the DRC account shall be distinct from the District Treasury Account. Why can the DRC not be given the final word to ensure that before any payments are done, they are satisfied with the work?

**Eng. Toro:** When Mr. Mwau went to court, some aspects of the DRCs were made inoperational because it was anticipated that the DRCs would establish their own procurement systems which they did not. So, at the moment, the DRCs have to rely on the District Tender Committee's to award contracts for road works. The other thing that also happened after Mr. Mwau went to court is

that Members of Parliament were removed from sitting in the District Tender Committee. So, MPs are not aware of what goes on in the DTCs. So, there is no way they can know whether there is any corruption or not when they are not sitting in those committees.

**Mr. Maore:** Mr. Deputy Speaker, Sir, the Minister was magnanimous enough to seek for examples of where the money has been stolen. In our last DRC, we had a problem with one Eng. Ng'ang'a whereby Kshs2.8 million from Ntonyiri Constituency was allocated to companies which have never done even one meter of the road. He has since been removed from the district to the headquarters after we complained. When will the Assistant Minister get this money back to the account so that we can build roads with it?

**Eng. Toro:** When I said the "hon. Member", I was referring to Mr. Muriungi from Igembe to mention a specific case from his constituency. What Mr. Maore has said is known to us. Investigations on that case are going on and that is why the DRE was removed so that we can find out what happened to the Kshs2.8 million that Mr. Maore is talking about.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, the DRCs were supposed to work very well if the Committees were facilitated. But the members of the Committee are not given sitting allowances, travelling allowances or eating allowances. As a result, they ran away from those committees. So, the DREs are now sitting on their own and doing what they like. When will the Ministry revise the rules so that committee members are facilitated to attend those meetings and therefore, do their job?

**Eng. Toro:** Members of Parliament are supposed to sacrifice and sit in those committees so that they can know exactly where the money allocated to DRCs is going. Prioritisation of roads to be done in every constituency is the responsibility of the respective Members of Parliament. When Mr. Kajwang says he does not sit in his DRC, then he cannot be able to know what is happening in his constituency.

**Mr. Kajwang:** On a point of order, Mr. Deputy Speaker, Sir. I said that there are certain members of the District Roads Committees (DRCs) we appointed - I also attend the DRC meetings - to sit in these committees but are not facilitated to attend. I am not talking about myself because I am facilitated to attend the DRC meetings. There are some members who are not paid allowances, like the ones we are paid when we attend the Constituency Development Fund (CDF) meetings. When will the Assistant Minister amend the rules so that the members of the DRC who are not paid allowances are paid to enable them attend the meetings?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I think the circular to facilitate the members of the DRC to attend the meetings was issued. The members of the DRC, other than those who have been co-opted are paid a sitting allowance of Kshs1,500. The co-opted members are paid travelling allowance.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, unlike in Mr. Kajwang's case, in Nairobi, the DRC, which I chair, meets. I concur with Mr. Muriungi that shoddy work is done on our roads. If you compare the amount of money paid for the work, you will find that it is not commensurate to the work done. This means that the money is paid for shoddy work and the Ministry does not bother to check. Could the Ministry inspect the roads which have been done, find out whether the amount of money paid was utilised properly and take action? The truth of the matter is that money has been paid in Nairobi for work which has not been done!

**Mr. Sambu:** It is all over!

**Eng. Toro:** Mr. Deputy Speaker, Sir, whenever we receive complaints of money being misappropriated, from hon. Members, we send our inspectorate team to the ground to investigate the matter and take the necessary action. However, I would like to point out that the inspectorate team is also composed of engineers, and they know one another. It is better to accept that there is a problem with our engineers. That is why we always urge hon. Members to report the works they are not satisfied with so that we can take the necessary action. Unless hon. Members help the Ministry, we will not apprehend the engineers who steal monies from the DRCs.

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

**Mr. Deputy Speaker:** Order now! Look at the clock! It is past 4.00 p.m. I do not want to extend Question Time!

**Mr. Muriungi:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has requested me to name a road which was not done but money was paid. The road from Kangeta to Kathelwa and from Kathelwa to Laare was allocated money. According to the workplan, there were rock outcrops which were to be removed but they are still there. What will the Assistant Minister do about this road because it was not done? When the Ministry realised that the engineer made a mistake, they transferred him!

**Eng. Toro:** Mr. Deputy Speaker, Sir, we will carry out investigations because the engineer has already been removed to enable us carry out investigations. We will advise the hon. Member accordingly once we ascertain what happened to the money.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. Is this Government, and the immediate former Government, in order to openly flout the law? Section 17 of the Kenya Roads Board [Mr. Sambu]

(KRB) Act clearly states that the DRC account shall be an account separate and distinct from the district treasury. This means that the district accountant is not a signatory to the account. Is the Assistant Minister in order to flout the law with impunity?

**Eng. Toro:** Mr. Deputy Speaker, Sir, it is not in order to flout any law passed by Parliament. The genesis of the district accountants being signatories to the accounts came about because what was earlier anticipated that the signatories would be different from the district treasuries did not happen. The then Government issued instructions through the Ministry for the opening of accounts and the district accountants, their deputies and the DRCs became signatories to those accounts. That is why they continue being signatories to the accounts of the DRCs up to today.

#### DESTRUCTION OF CROPS BY FLOODS IN MANDERA CENTRAL CONSTITUENCY

**Mr. Billow:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that the recent floods in Rhamu Dimtu and Girissa locations in Mandera Central Constituency have destroyed millions of shillings worth of crops?

(b) What action is the Minister going to take to protect the farmers in these areas from the effects of the perennial floods of Dawa River?

**Mr. Deputy Speaker:** Is anyone here from the Ministry of Agriculture? Mr. Billow, I have to defer this Question until tomorrow.

**Mr. Billow:** Mr. Deputy Speaker, Sir, I am travelling out of Nairobi at 5.00 p.m. today. Obviously, the Question will be dropped. However, it is important to say that as we come towards the end of the year, we will assess the performance of some of the Members on the Front Bench. It is sad that some of these Members will enjoy---

**Mr. Deputy Speaker:** Order, Mr. Billow! This is Question Time! I only asked you about the fate of your Question.

**Mr. Billow:** Mr. Deputy Speaker, Sir, I will not be around tomorrow.

**Mr. Deputy Speaker:** Therefore, you will probably wait until there is an Adjournment Motion so that you can make the very good points you are making.

This is not the right time to make those points!

*(Question deferred)*

Hon. Members, that is the end of Question Time!

### POINTS OF ORDER

#### DELAY IN MAKING MINISTERIAL STATEMENT

**Mr. Ndile:** Jambo la nidhamu, Bw. Naibu Spika. Jana, niliahidiwa kwamba Taarifa yangu kutoka kwa Wizara ya Haki na Maswala ya Katiba itatolewa leo.

**Mr. Deputy Speaker:** Mr. Ndile, the Minister for Justice and Constitutional Affairs is not here! It is true that you were promised that the Ministerial Statement would be made today. I do not know who will remind the Minister to issue the Statement tomorrow.

**Mr. Ndile:** Bw. Naibu Spika, unakumbuka kwamba jana wakati Waziri alikuwa na shida kulijibu Swali langu, Waziri mwingine alijitokeza na kulijibu. Ninafikiri kwamba Waziri mwingine anaweza kutoa Taarifa hiyo.

Bw. Naibu Spika, ni vizuri nikusaidie kufanya kazi yako. Umekuwa ukiteta kwamba Mawaziri wengine hawaji hapa kujibu maswali yanayolenga Wizara zao. Nimegundua kwamba Mawaziri wengine wanapogundua kwamba Swali fulani ni gumu, wanajificha kwa choo na wengine wanatoroka! Wakati mwingine, kama Mawaziri hao hawako hapa kujibu Maswali, wako hapa karibu. Bw. Naibu Spika, tutafanya nini? Hata wengine hawapigi kura; wanajificha!

*(Laughter)*

**Mr. Deputy Speaker:** Order, Mr. Ndile! Mimi siwezi kujua mahali Waziri fulani ameenda. Kwa hivyo, siwezi kukusaidia kwa jambo hilo. Ninamuomba Kiongozi wa Shughuli za Serikali ambaye yuko hapa, ahakikishe kwamba Taarifa ambayo Bw. Ndile aliahidiwa imetolewa kesho.

I will now move on to the next Order. To the best of my knowledge, there is no request for a Ministerial Statement from any hon. Member. Is that so?

**Mr. Muriungi:** On a point of order, Mr. Deputy Speaker, Sir. Two weeks ago, I requested for a Ministerial Statement from the Office of the President, but nobody from the Office of the President has clarified that issue.

**Mr. Deputy Speaker:** I remember that. This is a very big issue, Mr. Vice-President and Minister for Home Affairs, because we have so many statements which have been requested by hon. Members and they have not been forthcoming. Could I ask the Clerk to compile the list of all the requests for Ministerial Statements so that, tomorrow, we will know where we stand on those statements. They are quite many.

#### CAUSE OF DEATHS IN MERU PRISON

**Mr. Munya:** Mr. Deputy Speaker, Sir, I also requested a Ministerial Statement on the cause of the deaths in Meru Prison from the Office of the Vice-President and Ministry of Home Affairs. I would like to know whether the statement will be issued or not. The Vice-President and Minister for Home Affairs is here today.

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Deputy Speaker, Sir, I am not aware of that, but if the Clerk could compile all the requests, as you have stated, I will make sure that if there is a statement required from my office, it will be given.

**Mr. Deputy Speaker:** Mr. Vice-President and Minister for Home Affairs, the problem is that, indeed, when that request was made, I was on the Chair and a certain Minister or Assistant Minister undertook to brief the office. I think the problem is that Ministers and Assistant Ministers who undertake to brief their colleagues do not do so. Be that as it may, the Clerk is going to do some homework and find out which statements have been sought and have not been delivered.

## GOVERNMENT POSITION ON SHYLOCKS

**Mr. Serut:** On a point of order, Mr. Temporary Deputy Speaker, Sir. On 2nd November, I requested a Ministerial Statement from the Ministry of Finance and the Minister himself took note. I wanted to know whether shylocking is a legal business or not, and if it is legal, under which Act does it operate? I can see the Minister is here.

**The Minister for Finance** (Mr. Mwiraria): Mr. Deputy Speaker, Sir, unfortunately, I have had to get people to do research on this topic because, quite honestly, there is no law under which shylocking operates. That has been established.

**An hon. Member:** What is "shylocking?"

**The Minister for Finance** (Mr. Mwiraria): Mr. Deputy Speaker, Sir, shylocks are money lenders at whatever rates of interest. They expect you to pay the money back, and if you do not pay, they take their pound of flesh with blood together with the money. I thought that if I give a reply before I have gone to the root of the matter, it will not be adequate. I have people all over the country trying to find out what shylocking means; how it is being done and who does it, so that they can find out what needs to be changed in the laws to bring the whole business under the law.

**Mr. Deputy Speaker:** I think that is reasonable. It means that the Minister is still working on it. We do not need to debate the issue.

## GOVERNMENT POSITION ON KWS CRISIS

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir. As a matter of urgency, yesterday, I requested for a Ministerial Statement on the crisis at the Kenya Wildlife Service (KWS). The Minister did not undertake to respond. Currently, the KWS does not have a Board of Directors, a Director, and the Manyani [Capt. Nakitare] Training College was closed indefinitely. This is affecting tourism in this country.

**Mr. Deputy Speaker:** From which Minister?

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, I directed it to the Minister for Tourism and Wildlife.

**Mr. Deputy Speaker:** You requested the Ministerial Statement only yesterday. So, it is not late. However, tomorrow you should seek for it.

**Mr. Kajembe:** On a point of order, Mr. Deputy Speaker, Sir. I wish to seek a Ministerial Statement from the Minister for Justice and Constitutional Affairs. I would like him to tell this House whether the High Court has a right to---

**Mr. Deputy Speaker:** Order, Mr. Kajembe! The practice is that before you seek a Ministerial Statement, you should see the Chair, so that, that can be facilitated. As of now, I do not know the contents of your Ministerial Statement. Therefore, I will not allow it. The practice is that you should see the Chair before.

Next Order!

## PROCEDURAL MOTION

## EXTENSION OF HOUSE SITTINGS

**The Vice-President and Minister for Home Affairs** ( Mr. Awori): Bw. Naibu Spika, ningetaka kupendekeza Hoja ifuatayo:-

KWAMBA, licha ya masharti ya sheria za Bunge hili, Kifungu cha 17(i) na (ii), Bunge hili linaamuru kwamba vikao vya Bunge hili viongezwe siku ya leo, Jumatano, 8.12.2004, na kesho Alhamisi, tarehe 9.12.2004, 2004, kutoka 6.30 p.m. mpaka 8.00 p.m.

Bw. Naibu Spika, bado tuko na mambo mengi sana, kama vile Hoja na Miswada, ambayo tunataka kumaliza kabla hatujaenda likizo. Ninajua kwamba Wabunge wana haja sana ya kwenda kuonana na wale ambao wanawakilisha. Kwa hivyo, hatutaki kuongeza vikao wiki ijayo, kwa sababu



siku ya Jumapili tutakuwa tukisherehekea Jamhuri na tunataka watu wote baada ya kusherehekea Jamhuri, waelekee nyumbani. Ninajua kwamba, kwa sababu ya kazi nyingi sana, kuna Wabunge ambao hawajaenda kuonana na wale ambao waliwapatia kura na ndio maana yake ninapendekeza Hoja hii.

**Mr. Rotino:** Bw. Naibu Spika, ningependa kumshukuru Makamu wa Rais kwa kunipatia nafasi ya kuiafiki Hoja hii. Kama vile Makamu wa Rais na Waziri wa Mambo ya Kinyumbani amesema, tumejadili Miswada mingi katika Bunge hili lakini kuna kazi nyingi ambayo tunahitaji kufanya kabla hatujaenda likizo. Ningependa kuunga mkono Hoja hii ili tuweze kumaliza kazi hiyo.

Hatukati kurudi hapa wiki ijayo. Tunataka kumaliza kazi wiki hii na ningependekeza tuendelee kukaa mpaka 8.00 p.m.

Kwa hayo machache, ninaomba kuafiki.

**Mr. Deputy Speaker:** The Motion is written in English and I did not want to interrupt the Vice-President and Minister for Home Affairs. Nevertheless, he has moved the Motion in our national language and, therefore, I will proceed in English.

*(Question proposed)*

**Mr. Khamasi:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute on this Procedural Motion. Ordinarily, I would not want to oppose a Motion which has been moved by a man of honour like the Vice-President and Minister for Home Affairs.

In this case, I have my own reservations in supporting this Motion.

My reason for not being very keen on extending the sitting hours of this House is that, even if you extend the sitting hours, quorum will not be there. The Government side, which should lead by example by being here, is the culprit. Ministers are the ones who do not sit here. In fact, after [**Mr. Khamasi**]

Question Time, more often than not, hon. Members of the Front Bench walk out. You will bear me witness because you give me permission to sit where you are seated and that seat can be very cold without the hon. Members of the Front Bench being there. It is not only the Ministers, but even the general Membership of this House is fatigued. Telling the hon. Members to sit beyond 6.30 p.m. to 8.00 p.m., a few hon. Members will be talking to an empty Chamber. It is of no use.

In the past, Bills and Motions in this House have for quite a long time been passed by very few hon. Members. I do not see any reason why we should extend time when actually hon. Members are not seating here. However, I will yield, if the Leader of Government Business, His Excellency the Vice-President, will actually tell us that he will be able to whip the Government side of this House to make sure that we are here. We will debate business as opposed to leaving debates to only a few hon. Members.

Mr. Deputy Speaker, Sir, I am reluctant to support this Motion.

**The Minister for Water and Irrigation** (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion. Most Bills coming to this House will have gone through the Committee Stage and will have been analyzed clause by clause by the relevant Departmental Committees of this House. The necessary amendments will have been proposed. It has been the practice of this House, even in the past, whenever there is business we want to complete, to extend the sittings of the House. I do not think that any one person, even the Leader of Government Business, can be asked to assure the attendance of hon. Members. Each Member has the responsibility of attending. I know that once hon. Members pass the Motion, they will be able to attend to the business of the House as has been in the past.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Hon. Members, I do not think we need to spend more time debating this Procedural Motion. Therefore, allow me to put the Question.

*(Question put and agreed to)*

**COMMUNICATION FROM  
THE CHAIR**

RE-ARRANGMENT OF BUSINESS  
ON THE ORDER PAPER

**Mr. Deputy Speaker:** Hon. Members, before we go to the next Order, we will proceed to the Second Reading, which is the resumption of debate interrupted on 2nd December, 2004, on the Central Bank of Kenya (Amendment) Bill No.13.

Now, by leave of the House and, in this case, I would like to hear if anyone has an objection, we will proceed to the Committee of the whole House immediately at the close of debate on that particular order. There are some technicalities that have arisen and we are not going to handle Order No.9(i) today. So, immediately after the close of the debate on the Central Bank of Kenya (Amendment) Bill, if Members have no objection, we will proceed to the Committee of the whole House on that particular Bill. If there is no objection to that, the leave of the House is given as I have already requested. So, after the debate, we will omit Order No.9(i), while the technicalities are being resolved, and proceed on to the Committee of the whole House to consider the Central Bank of Kenya (Amendment) Bill.

Next Order!

**BILL**

*Second Reading*

THE CENTRAL BANK OF KENYA  
(AMENDMENT) BILL

*(The Minister for Finance on 2.12.2004)*

*(Resumption of Debate  
interrupted on 2.12.2004)*

**Mr. Deputy Speaker:** Mr. Syongo was on the Floor, but since he is not here, he forfeits his chance!

Proceed, Mr. M. Kariuki!

**The Assistant Minister for Foreign Affairs** (Mr. M. Kariuki): Thank you, Mr. Deputy Speaker, Sir. I wish to support the Bill. I also wish to make some brief observations. I wish to raise some concerns about the advisory committee. You will note from Clause 5 that this Committee has been in existence previously under the current Section 39(A). What is really happening is that we have slight changes in the composition. The Director of the Financial Market, the Chief Economist of the Central Bank and the Economic Secretary have been left out.

In addition, under Section 39(A)(2)(f), instead of five members, now we have six. But more important, under Section 39(A), Subsection 5, the committee was supposed to be put in place and make its report to this House after every six months. To me, it looks like, although we have had this provision in the law for a long time, it has not been operational. I think this is a wake-up call for this House. As we continue to make legislation after legislation, it is important to constantly revisit these provisions to find out whether they are being actualised by being put into operation.

Mr. Temporary Deputy Speaker, Sir, as far as Clause 4(D) is concerned, which is the new

provision that will replace Section 39(A), it is important that we distinguish between an advisory role and an executive role. The Governor of the Central Bank of Kenya (CBK) is a member of the Board of the CBK and he performs an executive role within the bank. Now, the composition of this advisory committee consists, among other persons, the Governor himself, Deputy Governor and the Permanent Secretary, Treasury; all who sit in the main CBK Board. I will be more comfortable to de-link the role of the Governor---

### QUORUM

**Mr. Osundwa:** On a point of order, Mr. Deputy Speaker, Sir. Serious observations have been made here about the Front Bench not being keen on taking this House seriously. As you can see, they have just walked out. Therefore, there is no quorum and we cannot proceed like this.

**Mr. Deputy Speaker:** Fair enough! But for the purpose of record, I think it is very unfair to accuse the Front Bench because this time the Front Bench on my left has two hon. Members while the one on my right hand side has many hon. Members. But the second and third benches have no hon. Members. So, I do not think the Front Bench should be blamed. Yes, there is no quorum, but it is cannot be blamed on the Front Bench. Ring the Division Bell!

*(The Division Bell was rung)*

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

**Mr. Deputy Speaker:** Order, hon. Members! As was agreed in the morning, you may consult, but observe the decorum of the House.

*[Mr. Deputy Speaker left the Chair]*

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

**The Temporary Deputy Speaker (Mr. Khamasi):** Order, hon. Members! We now have a quorum. Mr. M. Kariuki, please, proceed!

**The Assistant Minister for Foreign Affairs (Mr. M Kariuki):** Mr. Temporary Deputy Speaker, Sir, I was on the new Clause 4(d) that is being introduced. I would propose that we have the Governor as the Chair of the Advisory Committee. But, the Deputy Governor and the Permanent Secretary, since they sit in the main Central Bank of Kenya Board, should not be members of the Advisory Board. That is because an advisory opinion does not bind. I think it is important that they de-link their role as executive directors from that of the members of the executive committee.

Mr. Temporary Deputy Speaker, Sir, I would also like to observe that Clause 4(d) Subclause (3) says:-

"There shall be at least two women---"

I propose that the Clause should read:-

"There should be, at least, two members of either gender."

That is because times change and men may require some affirmative action, when women will have overtaken us in this process.

Mr. Temporary Deputy Speaker, I welcome Clause 3, particularly where it calls for publication of lowest rates of interest. That introduces greater transparency in the management of the Central Bank of Kenya (CBK) and it is important. I also welcome the provision to have a report made to the House after every six months. That way, this House will exercise its oversight role on the

management of public assets.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members! Apparently, there are no more hon. Members who are interested in contributing to this Bill. I will, therefore, call upon the Mover to reply.

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I am most grateful to the hon. Members who have contributed to the debate on this Bill. As I sat and listened to hon. Members discuss the various issues which arise out of the two amendments, several issues came up. I would like to comment very briefly on some of them.

One hon. Member suggested that the Government should speed up the process of finalising the Micro-Finance Bill. I want to assure this House that, the Government is very concerned about the establishment of micro-finance institutions in this country. They are the only institutions that will make affordable credit available to poor Kenyans all over the country, particularly in the rural areas.

Mr. Temporary Deputy Speaker, Sir, today, one of our biggest problems in this country relates to the way the banking sector is operating. The major banks, particularly the foreign ones, have taken a "wise" business decision to pull out of the rural areas. They have concentrated their activities in major cities where they can get corporate customers and make easy and quick money. As a Government, we want to stimulate economic growth. That is only possible if there is available credit at reasonable rates of interest. It is for that reason that we have already prepared a Micro-Finance Bill, which is in the Attorney-General's Chambers for printing and publication.

Mr. Temporary Deputy Speaker, Sir, I have already mentioned what is happening in the field of banking. I want to tell the House that the Government is seriously considering the establishment of rural banks. We will establish rural banks which will be regional in character and which may be required to invest about 80 per cent of their money in the areas where they come from. We will do that in order to ensure that no part of this country fails to develop due to lack of capital, which normally comes as loans.

Mr. Temporary Deputy Speaker, Sir, some hon. Members have talked at length about the existence of a similar committee under the old setup, and which was not operational. I want to assure this House that, as soon as this Bill is passed and becomes law, the Monetary Advisory Committee will be established and operationalised.

Mr. Temporary Deputy Speaker, Sir, we have many problems in the area of monetary policy. We propose to get our very best brains on economic matters, particularly monetary matters, into the Committee, so that they can assist the CBK in formulating a monetary policy that will help us develop as rapidly as possible.

Mr. Temporary Deputy Speaker, Sir, some hon. Members have wondered why we have proposed, in the amendment, that the Governor, who is the Chief Executive of the Central Bank of Kenya (CBK) to be the Chairperson of the Monetary Policy Advisory Committee. The reason for this is that the committee is supposed to advise the CBK. It will advise the Board of Directors of the CBK whose work is to formulate and regulate monetary policy. So, since the Governor of CBK is also the Chairperson of the Board of Directors of the CBK, it is only natural that he or she chairs the Monetary Policy Advisory Committee.

A suggestion that was made in this House to the effect that we do away with the annual licensing of banks is not acceptable. One advantage you have when you license an institution annually is that you are able to point out weaknesses that an institution has. This enables the institution to rectify the weaknesses and work harder to ensure that it fulfils all the conditions when it applies for re-licensing.

In conclusion, the hon. Members have been very supportive and I am most grateful to them. Some of the suggestions that have been made will be taken on board when the operations of the Monetary Policy Advisory Committee are in place.

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

*(Question proposed)*

*(Question put and agreed to)*

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

### THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

#### *Clause 2*

**Mr. Kagwe:** Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT Clause 4(D)(1) be amended by inserting the following new Subsection (b) immediately after Sub section (a) and renumbering the subsequent subsections:

(b) Achieve the monetary policy objectives defined by the Government through the Ministry of Finance via the following:-

(i) Determining the interest rates to deliver price stability.

(ii) Intervening directly in the financial market to achieve the inflation target set by the Government.

THAT, Clause 2, 4(D)(2) be further amended by:-

(i) inserting the following new Subsection (c) immediately after Sub section (b) and renumbering the subsequent subsection.

2(c) two other internal members responsible for monetary policy analysis and operations appointed by the Bank in consultation with the Minister for Finance.

(ii) In Subsection 2(d) by inserting the following words after the word "Minister"; "with the approval of the National Assembly".

(iii) In Subsection 3 by inserting a new Subsection 3(i) one of the six members appointed under Subsection (d) above may be non citizen of Kenya.

(iv) In Subsection (5) by deleting the words "two months" and inserting in place thereof the words "one month".

(v) In Subsection (6) by deleting the word "six" and inserting in place thereof the word "quarterly".

Mr. Temporary Deputy Chairman,

Sir, the reason why I am reading this is because there is a clarification in the definition itself. I propose

this amendment because, if you look at Clause 2, it suggests that the role of the Monetary Policy Advisory Committee is simply to advise the CBK. If, indeed, we have separated the CBK from the Ministry of Finance and pushed a lot of responsibilities to the CBK, then it is vital that there should be a body that is going to handle all those responsibilities lest we leave the whole decision-making process to one individual; to determine the entire monetary policy of the entire country. That is a very dangerous thing to do.

We sat down as the Departmental Committee on Finance, Planning and Trade to draft this amendment. We actually went to the Bank of England to see how its Monetary Policy Advisory Committee works. Indeed, this is the system that is currently in use there. We need to give a bit of teeth to the Monetary Policy Advisory Committee rather than just give them an advisory role. Otherwise, the committee could be told to move out and then the Governor takes advantage to make whatever decision he wants.

The idea behind the proposed amendment to Clause 2 (4)(D)(2) is to include two other internal members responsible for monetary policy analysis and operations. They should be appointed by the CBK in consultation with other parties. This is because instead of just having the Governor and the Deputy Governor from the CBK, it is useful to have the individuals within the CBK actually dealing with policy analysis to be included in the Monetary Policy Advisory Committee.

Mr. Temporary Deputy Chairman, Sir, the other amendments that I have proposed in the same area include the six members who shall be elected in the Monetary Policy Advisory Committee. They shall perform such a crucial role. We, therefore, feel that the appointment of such people should be double-checked by Parliament or the relevant Committee of Parliament.

Mr. Temporary Deputy Speaker, Sir, in Clause 3, we also propose that a new Subsection 3(1) be added. It reads thus:-

"One of the six members appointed under Subsection (d) above may be a non-citizen of Kenya."

This is something I need to explain clearly. The environment within which we are publishing this Bill is not only regional, but also global. The important word to check there is "may" because it could only be a Kenyan. However, we must look ahead. For example, the Bank of England has one American in its board. Most countries have adopted that idea. The reason is that there may be global resources and expertise that we might want to get into the bank via that route. Again, we know that we are moving towards the regional integration of Uganda, Tanzania and Kenya.

At some point, we may need to have somebody rotating in the Central Banks of Uganda, Tanzania and Kenya in the process of rationalizing. The way to start doing this is simply to say that this individual can sit in the monetary boards of the three countries.

Mr. Temporary Deputy Chairman, so, basically, Mr. Temporary Deputy Chairman, Sir, the whole idea is to give us an international feel to allow us, not the directive, but the possibility of having that international linkage.

We are also deleting the words "two months" in Section 5 and inserting the words "one month". Again, the idea here is that the Monetary Policy Advisory Committee's role is big, and we feel that two months are not good enough. The financial markets are extremely dynamic, and we feel that if they are going to have the teeth that they need, then they should be meeting at least once a month. They should also be given the resources to be able to do so.

Thank you, Mr. Temporary Deputy Chairman, Sir.

*(Question of the amendment  
proposed)*

**Capt. Nakitare:** Mr. Temporary Deputy Chairman, Sir, I need some clarification from my colleague here regarding Subsection 3(i) on the appointment of members. I would like him to clarify whether a non-Kenyan means an expatriate who is coming here to work using a work permit. What

does he mean by a non-Kenyan?

**Mr. Kagwe:** The idea is this; I am not necessarily talking about an expatriate, because the Monetary Advisory Committee is not a full time job as it were, but it is possible to have an eminent scholar or economist who is available to us. Let me give you a good example. If Mr. Greenspan of the United States (US) Federal Reserve Board was to retire tomorrow and decide that he is not going to be very busy and we were to approach him to serve in our Board and he agrees to do so, if we agree with this amendment, it would be possible at that point to offer him the opportunity to serve in our Board. Or, as I had mentioned earlier, if, for example, we wanted and if the Governments were to agree that one individual, who may be a Ugandan, sits on the Monetary Advisory Boards so that he can co-ordinate the monetary policy between the three central banks, then it would also be possible to do so. But we are not talking about the Governor being an expatriate or anything like that. We are talking about a member of the advisory board.

**The Temporary Deputy Chairman** (Mr. Khamasi): Very well, Mr. Minister!

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, let me state quite clearly that I want to oppose the amendments. I am doing so for various reasons. Let us take, for instance, the amendment to Clause 2(4)(D)(2) where it is proposed that we insert a new Subsection (B), which reads as follows:-

"It is supposed to achieve the monetary policy objectives defined by the Government through the Ministry of Finance via the following".

Then, two items are listed:-

"(i) Determining the interest rates and to deliver price stability.

(ii) Intervening directly in the financial markets to achieve the inflation targets set by the Government".

Mr. Temporary Deputy Chairman, Sir, the Monetary Policy Advisory Committee is all-encompassing and all-embracing. In fact, it covers many, many more things than inflation and interest rates. For instance, it covers exchange rates and currency in circulation which, if, for instance you wanted to increase inflation, you would pump money into the economy and inflation goes up. This happened during the time of Goldenberg.

I would like to appeal to the hon. Member by saying that we cannot really go into details unless we take the overall economic definition of what monetary policy is all about. So, I would plead that we leave it open. The committee which will be dealing with monetary policy will comprise of people who are eminent economists in their own right; people who understand what monetary policy is all about and, indeed, they will be working under the chairmanship of the Governor of the Central Bank, who will really be guiding this group.

So, I feel that it is unfortunate that you want to pick only two aspects of monetary policy and highlight them. It is much better to leave the policy in its broadest possible sense and then give these people a free hand to decide at any one given time, if anything goes wrong with the monetary policy. For instance, if there was such a committee today, it would be asking itself: "Why is the Kenya Shilling depreciating? Why is the exchange rate working against the Kenyan Shilling?" That is not mentioned here. "What do we need to do about it? Why is there core inflation as well as the other inflation going up?" They would have to look at all the factors. So, I would really appeal that we should not try to go into specifics because the law as it is, is so broad that it covers all these matters.

Clause 2(4)(D)(2), where I believe the intention is to give the Governor a few more slots in the committee, surely, the committee itself is under the chairmanship of the Governor who is also supported by the Deputy Governor. To me, if you appoint the Permanent Secretary to the Treasury, you do not have to support him with the Investments Secretary and the Director of External Resources, unless he is really not worth his salt. You do not have to add more people from the Central Bank. They are already there. For instance, the Director of Research is the one who should be advising the Governor on what is going wrong, what is going right, or what should be done. But why do you need to have him in an advisory committee? Why do we need to add more bodies?

So, Mr. Temporary Deputy Chairman, Sir, I would once again like to say that this is really not necessary. In fact, if the Governor was able to do it with his people, he would not require the other additional six eminent economists, bankers, or men in the field of money.

Coming to Clause 2(4)(D)(2)(ii) where the amendment requires that the Minister can appoint these six people with the approval of the relevant Committee of Parliament; you, Mr. Temporary Deputy Chairman, were with me in the previous Parliament, and we fought tooth and nail to remove Parliament from the control of the Executive. Are we now going to move right over to a point where we allow the Executive to be run by Parliament?

Mr. Temporary Deputy Chairman, Sir, I thought that what we had accepted in this House before was the fact that, yes, constitutional office holders are so important that, in fact, His Excellency the President needs to seek approval of Parliament regarding the people he intends to appoint.

Once we get down to bringing Parliamentary Committees to run the business of the Government, what will be the business of the Executive? I know the hon. Member may one day be part of the Executive. He should think about this issue. We really must separate the two roles.

Mr. Temporary Deputy Chairman, Sir, the suggestion in Item (iii) is a good one, but I would like to ask: Do we need to put this in law? Are we today not appointing non-citizens to some of our institutions? I know we have non-citizens in some of our committees. We have got somebody from the United Kingdom in the National Social Economic Council. However, that is not provided for in law. We may have more than one. So, why do we need to amend the law to provide that Kenya may appoint somebody from abroad? In any case, anybody seeing it will wonder if Kenyans have lost faith in themselves. Can we not do it ourselves? So, once again, I would really plead that we just drop it and not worry about it.

Mr. Temporary Deputy Chairman, Sir, Clause 4(D), Subsection 5 is fairly specific. It says:-  
"The Chairman of the Committee shall convene a meeting of the Committee at least once every two months and shall convene an additional meeting if requested by at least four board members in writing."

Now, by saying that the Chairman can convene a meeting at least every two months means this Committee will meet a minimum of six times. However, it can meet more often. We really do not want to have a body, or a committee that will be meeting almost perpetually. So, two months is adequate time. I would, therefore, not support the proposed amendment.

Mr. Temporary Deputy Chairman, Sir, on Clause 4(D) Subsection 6 where we are supposed to delete the word, "six" and insert in place, thereof, "quarterly" there, again, what we are saying is that at least once every six months, the Committee shall submit a report to the Minister with respect to its activities and the Minister shall lay a copy of each report before the National Assembly. Now, if we agree that this is a working committee, which is intended to assist the Governor in formulating monetary policies, then to expect them to do a report after every two meetings is, perhaps, asking for too much. I would really be happy to leave it as it is. Let them prepare even quarterly reports, but every six months, let us have a report tabled in Parliament.

Mr. Temporary Deputy Chairman, Sir, with those few remarks, I oppose all the amendments.

**Mr. Kagwe:** Mr. Temporary Deputy Chairman, Sir, I would like to clarify one thing that the Minister has said. Whereas there are issues that he mentioned that I agree with on his explanation, I would like to disagree with one very strongly. This has to do with the first item that I spoke on determination of interest rates. We are not substituting or removing anything that the Minister has got in this Bill. What we are doing is clarifying further because, as he said, the idea is that the monetary policy is wide in its nature. That is why the amendments in Clause 4(D) (1), which basically include the new amendment are supposed to give peace. We must ask ourselves, are we creating something simple for just a few people to sit around and basically give advise when maybe taken or not by the Governor? As it is right now, the banking sector in this country is very worried. The ones that I have talked to are saying very clearly that they are losing confidence as far as the Governor of the Central Bank of Kenya (CBK) is concerned; they have no confidence in him! That is a fact! Now, if we had a



monetary policy committee that has got teeth in it, at least we would not just be blaming the Governor. We would be asking what is happening to the Committee. However, the way the Minister has put it here, and without the amendments that we are suggesting, what we are saying is that a group of people will be sitting around, but for all intents and purposes, they will not be effective. Their decisions are not the only ones. The reason why there is need to determine the interest rates is because this is what carries all the issues that the Minister talked about. When we talk about intervening in the financial markets, this includes exchange rates and all other aspects that the Minister also referred to. So, all we are trying to do with the amendment is to give it some teeth. We are actually supporting the Minister in what he is trying to do. So, there are issues that the Minister has said here that, indeed, we can withdraw; for example, if we feel strongly about the two or six months, we can withdraw that. However, I am of the view that given the fact that in Clause 4(B)(1), we are not removing what he has put here--- So, he has covered everything that he has put here but, in addition, we are simply giving tips to the committee that we are proposing.

**The Temporary Deputy Chairman** (Mr. Khamasi): I saw somebody standing. Was it you Mr. Syongo? What do you have to say?

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, with your indulgence, if you could give me one minute to check on something---

**The Temporary Deputy Chairman** (Mr. Khamasi): Order, Mr. Syongo! You caught my eye, I gave you the opportunity!

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, I have looked at the proposed amendments and while I appreciate the Front Bench, as a Member of Parliament, I believe that the requirement that meetings are held at least once every month is a genuine one. Currently, the economic environment is very dynamic. There are many variables at play---

**The Temporary Deputy Chairman** (Mr. Khamasi): Order, Mr. Syongo! Are you talking at variance with the Minister? The Minister has stated the Government position and you are in the Government!

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, I am told that I am bound by collective responsibility so, I shall decline.

**The Temporary Deputy Chairman** (Mr. Khamasi): You are right!

Yes, Mr. Mwiraria!

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, let me just react very briefly to the last comment by Mr. Kagwe.

The Bill is very clear. It is appointing a Monetary Policy Advisory Committee (MPAC). It is not appointing a Monetary Policy Committee (MPC). There is a difference between these two committees. One is advisory, while the other one executes issues. Now, I do not share the views expressed by the hon. Member about what banks think or may not think about the Governor. The Government has full confidence in the Governor of the CBK. We know, given the right advice, he will be able to do the right thing. However, let me move a step further and say that we have also given the Governor an instrument which he will be using to assist him in influencing; I do not want to use the word "control" because it stinks, in influencing interest rates. When I talk to the big boys from the World Bank and the International Monetary Fund (IMF), they hate control, but they say: "Mr. Greenspan, Chancellor Brown and people in the UK and America influence interest rates." So, we will give our Governor powers to establish a Central Bank of Kenya (CBK) rate, which should be able to influence the movement of interest rates in the banking sector.

Having received advice from the Monetary Policy Advisory Committee the Governor will take appropriate action. Of course, when I talk of the Governor, I mean him together with his Board. Let me say that he will not be operating in isolation. He is part and parcel of the Ministry of Finance, although he is independent. So, I feel that we should not put too many details in the law, because by so doing, we will be limiting the freedom of the MPAC members to operate and run a proper monetary

policy.

**The Temporary Deputy Chairman** (Mr. Khamasi): The Committee has heard all your arguments, for and against!

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

Mr. Angwenyi, why are you belatedly standing?

**Mr. Angwenyi:** Mr. Temporary Deputy Chairman, Sir, you know that I like contributing to matters pertaining to finance.

**The Temporary Deputy Chairman** (Mr. Khamasi): Order, Mr. Angwenyi! You know you should contribute at the right time. Anyway, proceed!

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I plead with my colleague, hon. Kagwe, to drop his proposed amendments to this Bill. I do not wish to oppose him because he is well versed in matters of finance and trade, and that is why we made him Chairman of the Departmental Committee on Finance, Planning and Trade. However, as the Minister has said, let us not limit the powers of the MPAC. When The "Donde Bill" was being debated in this House, I had the opportunity to visit the United States of America (USA), the United Kingdom (UK), and South Africa. Whatever our Finance Minister has incorporated in this Bill is what happens in those countries.

One cannot say that if this country adopts his amendments, its banking operations will perform better than those in the countries I have mentioned. I, therefore, want to plead with my colleague to withdraw his amendments. We should commend the Minister for the way he has managed our interest rates. Let us give him the leeway to manage our finances.

With those few remarks, I oppose the amendments.

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

*(Clause 2 agreed to)*

*(Clauses 3, 4 and 5 agreed to)*

*(Clause 1 agreed to)*

*Title*

**The Minister for Finance** (Mr. Mwiraria): Mr. Chairman, Sir, I have just noted that the Title has a word which is missing in the last but one sentence. It reads in part, "other matters relating banking." The word "to" is missing between the words "relating" and "banking." I think it would not be good if we passed the Bill without that word in the title.

**The Temporary Deputy Chairman** (Mr. Khamasi): That is basically a typing error. It is, therefore, not an amendment as it were. So, we know that we have the word "to" between the words "relating" and "banking."

*(Title agreed to)*

**The Minister for Finance** (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Central Bank of Kenya (Amendment) Bill and its approval thereof, without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

## REPORT AND THIRD READING

### THE CENTRAL BANK (AMENDMENT) BILL

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

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

**The Assistant Minister for Finance** (Mr. Obwocha) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Finance** (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I beg to move that The Central Bank of Kenya (Amendment) Bill be now read the Third Time.

**The Minister for Health** (Mrs. Ngilu) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

**Mr. Deputy Speaker:** Hon. Members, that concludes that matter. As I said earlier, there were technicalities which could not allow us to proceed to the Committee of the Whole House in relation to The Investment Promotion Bill. Therefore, I order that we move to Order No.10.

## BILLS

### *Second Readings*

### THE HIV AND AIDS PREVENTION AND CONTROL BILL

**Mr. Deputy Speaker:** Is the Minister for Health present? She is not here. Therefore, I will move to the next Order. Mr. N. Nyagah, what did you want to say?

**Mr. N. Nyagah:** Mr. Deputy Speaker, Sir, hon. Ngilu has another engagement with the

Minister for Local Government and it will be difficult if she is called upon to move this Bill although I am not quite sure if this Bill had been moved by her before. Since it has not been moved before, I request that, with your permission, it be skipped and then be moved when we come back from recess.

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

*(Bill deferred)*

THE WILDLIFE (CONSERVATION  
AND MANAGEMENT) AMENDMENT BILL

*(Mr. G.G. Kariuki on 24.11.2004)*

*(Resumption of Debate  
interrupted on 30.11.2004)*

**Mr. Deputy Speaker:** Who was on the Floor of the House? Capt. Nakitare you were on the Floor and you have 30 minutes!

**Capt. Nakitare:** Thank you, Mr. Deputy Speaker, Sir. As I said before, this Bill is a very important one notwithstanding the involvement of wildlife conservation which attracts tourism in this country. The strategies that we look for when we are trying to make modalities for an effective wildlife management and tourism industry in our country would include policy and legal reforms, partnership and collaboration amongst stakeholders, active involvement of local communities, sensitisation and awareness of the economic value of wildlife and natural resources.

Mr. Deputy Speaker, Sir, NGOs must be made to contribute in educating communities which are in the neighbourhood of wildlife boundaries, that is those who live among the wildlife; the Maasai of the Rift Valley and those on the slopes of Mount Kenya and Mount Elgon. I have an example of an NGO which is very effective and whose offices are not within the precincts of the cities and towns. It is called IDRNC. This NGO has encouraged conservation within the communities bordering national parks and I am coming to speak a little more on that. We had IUCN and USI. These NGOs were meant to educate the communities surrounding wildlife areas to understand the economic values of natural resources which include wildlife but little was done.

Mr. Deputy Speaker, Sir, if I say that a lot of money from IUCN was used in the neighbouring country of Uganda, on the other side of Mount Elgon, little was used on the Kenyan side. So, this question of wildlife/human conflict is something that can easily be resolved.

Mr. Deputy Speaker, Sir, we have had observations devolved within the producer communities and local centres of authorities within the communities which tell us that the communities once sensitised can be the best scouting agents for wildlife management. Of course, they have the local knowledge in terms of repelling the poachers who may have intentions of poaching our wildlife. They also have to have economic values. If we have given them the powers to control wildlife that is outside the national parks and we establish a quota system of cropping and not necessarily hunting--- An old elephant would die, anyway, but what would you do with that trophy? If it is allowed that we are not promoting the sale of trophies or hunting by gun as before Kenya was known to hunt by camera but the world is changing---

Mr. Deputy Speaker, Sir, for the better part of it, the communities can best respect the wild animals if they have autonomy over them and we also look like we should say that the Kenya Wildlife Service (KWS) should be autonomous. We should give autonomy to the KWS so that the trophies which they are holding which run into thousands of tonnes worth millions of shillings can be sold then obviously the amount of money that would be realised from the sale of those trophies would be able to close the gap in financial matters relating to this institution. It would also save Treasury from dishing

out money to run the functions of the KWS.

Mr. Deputy Speaker, Sir, I am reluctant to speak about this institution because the events of the recent times when the Minister for Tourism and Wildlife dissolved the Board of Trustees of KWS, suspends its Director coupled with lack of a training institution, then this amounts to abuse of power. It is like leaving school children without teachers. I think the morale of game rangers and wardens is so low in the KWS. It also gives a bad impression of our country when we magnify a small mistake to the extent that it looks ugly and monstrous. This is going to affect the KWS in terms of donor funding.

Mr. Deputy Speaker, Sir, as for compensation which is the main part of this Bill, Mr. G.G. Kariuki was right to introduce it. It is a revision of the colonial Act that only gave Kshs30,000 as compensation in 1930. Then it was a lot of money. What is it at the present moment? It cannot meet the cost of medication let alone compensation for destruction from wildlife. Compensation, needs to be dealt with in threefold. We need to give a community autonomy to use and control wildlife within a particular corridor. When the animals are within or inside national parks, they belong to the Government and are under the Kenya Wildlife Service (KWS). However, when they stray and come to the community, which is the conservancy, they belong to that community. We have a situation where people have created campfire which is a communal area management programme for indigenous resources. This becomes a forerunner within the community and it controls, not only wildlife but also plants. When an animal has killed a member of the community and a trophy is realised from that particular animal, it will take care of compensation. However, if we ask the Government to compensate victims, it will become a long journey for the people who claim damages as a result of wildlife destruction. It also means that the KWS will need an independent insurance company that will take care of the liability that occurs from wildlife claims.

We need to look at the structure and benefits within game reserves and consider the communities who live within them like the Maasai. They do not depend on wildlife for food but they treasure them. It is not fair to suggest that farmers or communities living among wildlife should fence off their homes. This is impossible because it is capital-intensive and our communities are poor. For example, the Ingwesi community is a conservancy group that is benefiting and reaping from natural resources. It is also helped by a non-Governmental organisation (NGO), the Lewa Wildlife Conservation Trust which is owned by a group of ranchers. The community benefits from the wildlife through construction of schools, hospitals and water supply. I also have examples from Namibia, Zimbabwe and Botswana; where communities have been given autonomy and empowered to look after wildlife and they are benefiting.

When we look at wildlife, we forget something else. We forget our indigenous trees which are our natural resources, notwithstanding, the medicines that come from them. We have allowed ourselves to destroy the natural resources. In Namibia, there is a plant that is now on the international market which is being harvested and controlled by communities. It is a plant that produces medicine for hypertension and obesity. Once obese people use it, they are reduced to the size of the Bushmen and Hottentots who live within the Kalahari Desert.

**Mr. Muchiri:** That is a lie!

**Capt. Nakitare:** It is not a lie, Mr. Deputy Speaker, Sir! It is a fact! We were there and we were shown what is happening and I have literature on that. This is an area where our Kenyan people have not been exposed to.

We have trans-territorial movement of wildlife like the wildebeest from the Serengeti National Park into Kenya. We also have elephants moving from Kenya into Tanzania. If we create conservancies within these areas and give them autonomy, poaching will be a thing of the past. This is because for the people across, once an animal has gone to the other side, they will have user rights and *vice-versa*. Therefore, they will treat our inheritance with respect.

We have heard a lot of cries from the Maasai and the Samburus in the north who have said that unless the Government takes care of the animals--- This is because they believe that all wildlife belongs to the Government. We say that this is a national heritage that communities have a hand to

protect and benefit from. It is a requirement for us now to look ahead.

I have spoken about NGOs and I ask those people whose job is to monitor and find fault with Kenyans to go back to the rural areas and educate our people on how to live and benefit from natural resources.

Mr. Deputy Speaker, Sir, I have not talked about mining which is also a natural resource. People from overseas bring their equipment and say that they have invested. They have not! They come to take our riches to their countries and this does not create employment. If we embrace this idea of campfires and empower our people and tell them that communal area management programmes of indigenous resources are the forerunner for all community-based natural resources management, they will accept it. They will say that it is a good programme. We look at an elephant as a big animal with tusks but we do not know otherwise. It was not until recently that I knew that the skin of an elephant is much more valuable and expensive than the tusks. Our people kill the animal, take the tusks and leave the entire riches to decompose just because we do not have the user rights. We are afraid and we do not even know its value. However, we know the value through education that we gain from cross-reference from other countries.

Mr. Deputy Speaker, Sir, I am opposed to the provision of Kshs10 million compensation for death occasioned by wildlife. Life has changed. Conservation by private entrepreneurs within communities has come up. People are forming community groups to run wildlife sanctuaries, and there is no insurance body that will give Kshs10 million to a rancher or the community for the purpose of compensation. Even the Government will not have that kind of money. The claims will just be too many. I am, therefore, asking that the Government relaxes its policies and gives autonomy to the communities to own the wildlife that is outside the national parks. The Government should give communities freedom to crop.

There are two terminologies relating to exploitation of wildlife, namely, consumptive and non-consumptive. Consumptive is by way of selling trophies, while non-consumptive is about filming and photography. Professional hunters do not kill wildlife at random. They select the animals to kill. They are also monitored and given instructions by the Kenya Wildlife Service (KWS) through a community. The KWS has monitoring units within communities. An animal that is going to be killed must be an old one. It must not be killed while within water ponds or a herd. Regarding the non-consumptive aspect, when people come to make films or want to take pictures of our animals, they have to pay. If film makers pay, say US\$6,000, for shooting a movie, the money will go to the community. That way, the community will have benefited.

*(Mr. Deputy Speaker left the Chair)*

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

Mr. Temporary Deputy Speaker, Sir, I came to learn from other countries that the government does not tax the benefits that communities, which have wildlife sanctuaries reap from natural resources, because those communities also render services to wildlife and natural resources by protecting them. Within communities are scouts, who are also trained by wildlife services. In our case, the KWS would recruit scouts from within the communities to manage and monitor the animals. The KWS also has the right to monitor or count the animals to establish their numbers outside the national parks, so that there can be checks and balances. That is the only way in which we can protect our wildlife from poachers. We will encourage our communities. We will give power, energy and education to our young generation. When they grow up, they will value their inheritance. Gone are the days when dinosaurs were on this earth.

**Mr. Karaba:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Going by the mood in the House, we seem to have exhausted this area. So, I beg to move that the Mover be called upon

to reply.

**The Temporary Deputy Speaker** (Mr. Khamasi): Capt. Nakitare, I will allow you a few minutes to wind up before I call upon the Mover to reply.

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, I was about to conclude when the hon. Member interrupted me.

I was going to say that creating economic awareness amongst communities by empowering them to reap benefits from the natural resources is the only way of enhancing wildlife/human relationship. So, I would like the Mover to look beyond compensation only.

Thank you.

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Members, it is now time for the Mover to reply. Mr. G.G. Kariuki!

**Mr. G.G. Kariuki:** Mr. Temporary Deputy Speaker, Sir, I beg to respond to some of the points that have been raised by my colleagues. I would like to thank all the hon. Members who contributed to this Bill, especially the Seconder. I would, particularly, like to thank the last speaker. He was specific on certain issues, while on some areas he spoke on general terms. He did a good job.

Let me come to the point I want hon. Members to bear in mind. This Bill has generated a lot of interest in this country, not because it is so important, but because the issues of wildlife and the tourism industry have been left to drive themselves. No Minister, or any other hon. Member or official of the Government, can tell you specifically how much this country earns from tourism. That can be said in many words but the truth is that no one has the correct statistics. We feel that we get enough money from tourism because we gave high class hotels with workers. Hotels also use a lot of our agricultural produce. That is the only way we can say that tourism has really benefitted this country.

Also, nobody from the Government can tell us that he manages wildlife, but the Government will say that it receives money from wildlife. I wonder whether you can have a business which only enables you to benefit from it, but not to spend on it. If we want to have our wildlife the way it should be, the Government should spend money from the Consolidated Fund to maintain wildlife in the areas it is supposed to be in. Currently, wild animals occupy about 18 per cent of our landmass. They are mainly available on private property. So, I would like to ask a very simple question: After the animals destroy crops and kill people, do those people not need to be compensated?

Mr. Temporary Deputy Speaker, Sir, it is too bad that 40 years have lapsed since Independence without this House, or the Government, resolving this perpetual problem. That is why we have suggested, in this Bill, that communities must be involved in the management and maintenance of wildlife. That way, they can claim ownership of wildlife. As of now, none of us can claim ownership of wildlife. For instance, if a wild animal, such as an elephant, dies in a certain area, at least, three helicopters will ferry all kinds of wildlife specialists to the scene to establish the cause of its death. When an animal is killed, the people within that area are beaten up by the same rangers until they say who killed the animal. But when a person is killed, not even a sub-chief goes to see what has happened. The only thing that the Government does is to produce death certificates. I think we are doing disservice to our people and they expect us to do something for them.

Mr. Temporary Deputy Speaker, Sir, without spending a lot of time, I would like to stress that Section 21 of this Bill, which deals with compensation is something I would like this House to think about very seriously. I am demanding an exorbitant price of Kshs10 million per person killed by wildlife. The whole idea was to have something in place as a deterrent measure to those who conserve privately or nationally. They should be discouraged from letting wildlife run around and kill people without anybody being responsible for it.

I have looked at the amendments which have been proposed and which are going to come on the Floor of the House. I do not have major disagreements with those who think that, that money is too much, but we have to put something in the law, like we have Kshs30,000. We have to increase this money. If it is not Kshs10 million then it should be Kshs5 million. Now we are being frightened or misled when we are told that the Government or any person who conserves the animals will not be

able to pay this kind of money we are talking about. I have to fence my *boma* because if my cattle come out of the *boma* and graze on somebody's *shamba*, that person demands compensation from me. Equally, if the wildlife destroys crops on a person's farm, he or she has to be compensated. That is all we want. There has been talk that this Bill is going to support the White settlers or the people with big ranches, but that is not the case. This Bill requires a private conservatoire to make sure that animals in his or her land do not trespass on other people's property. If they do, he is required to compensate for the damage. These are the issues we are talking about. The private conservators are not supposed to kill those animals unless they get licensed by the community or a local advisory council. Therefore, we are trying to make sure that even private conservators will not have the authority to kill animals at will. They will have to apply for licences or permits to do so, from local conservators with the support of the Ministry of Tourism and Wildlife which deals with the animals.

Mr. Temporary Deputy Speaker, Sir, here we are even being very harsh to those private conservators. I would like hon. Members to appreciate that. We are not to be dictated by anyone. What dictated me was the concern of my constituents and my mother's land in case it is destroyed by the animals. I would like to plead with the hon. Members that, when we get to the Committee Stage, we should make sure that Section 21 of this Bill is thought-out very carefully.

Mr. Temporary Deputy Speaker, Sir, before I finish, I would like to allow my friend two minutes to contribute to the Bill.

**The Temporary Deputy Speaker** (Mr. Khamasi): That is out of order!

**Mr. G.G. Kariuki:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. It is good you have ruled it out of order so that I have peace with my friend. If you had not made that ruling, I would have been in trouble.

I beg to move the Bill.

Thank you.

*(Question put and agreed to)*

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

#### THE STANDARDS (AMENDMENT) BILL

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Standards (Amendment) Bill be now read a Second Time.

Due to global challenges and global competition for market access, we have found it necessary to update our Standards Act so that we are able to satisfy the demands of the international community. As you know, in these days every other nation is competing to sell its produce; goods and services to every other nation. Unless the quality of goods and services is good enough to compete with other goods originating from other countries, it is very difficult to access that market.

Mr. Temporary Deputy Speaker, Sir, without a method of obtaining foreign currency, it is very difficult for a nation to be stable economically. It is for this reason that we have found it necessary to amend certain parts of the Standards Act. The principal object of the Bill is to amend the Standards Act to provide for the Standards Tribunal, the meeting of orders to destroy goods in certain cases and certain other matters. The amendment to Section 2 adds a definition of "Tribunal" which refers to the Standards Tribunal being established under the new Section 16(a). We found it necessary to include a tribunal so that it can work in support of the Minister in certain areas where the hon. Minister acted. The amendment to Section 10(b) gives a person the right to appeal in acts or decisions under the standards levy order to the tribunal.

There before it was very difficult, if one was not satisfied with the decision of the Minister, to apply.



The changes made in the new Section 11 provide for appeals under the section to give to the tribunal instead of, to the Minister.

Mr. Temporary Deputy Speaker, Sir, the existing Act, for example, Section 11(2) has provisions that any person who is aggrieved by any decision of the Minister under this section may, in writing, require the Minister to give the reasons for his decision, and the Minister shall give his reasons in writing accordingly. If a Minister rejected something, he had to give reasons for doing so. But the affected person had no avenue to appeal. The Minister simply put his reasons for rejecting and they were forwarded to the aggrieved parties. That is why we found it very necessary to bring in a tribunal to take care of such complaints.

Mr. Temporary Deputy Speaker, Sir, the amendment to Section 14 deals with the powers of inspectors. It defines premises to include aircraft, vehicles and vessels. Those facilities had not been catered for in the current Act. We feel that it is important for inspectors to have access to such facilities like aircraft, vessels and vehicles. We know they carry various goods which might be for dumping, illegal or substandard. We have witnessed imports in such vessels and it has been very difficult for our officers to access such vehicles for inspection.

Mr. Temporary Deputy Speaker, Sir, the new Section 14(a) provides for orders to destroy goods detained under Section 14(1), if the goods do not meet the relevant standards. It is reasonably necessary to destroy such goods because they are injurious to our people, animals or plants. The limitation ensures that, that is consistent with Section 79(6)(a)(v) of the Constitution of Kenya, which relates to the protection from deprivation of property. Destruction orders may be appealed to the Tribunal. That is necessary because we have seen that, even after some goods have been confiscated, they find their way to the market and sold through some dubious means. So, it is necessary that, when such goods are confiscated, they are destroyed. There is no reason for injurious and substandard goods to find their way into the market. If we allowed that, then inspectors will have no work to do.

Mr. Temporary Deputy Speaker, Sir, the amendment to Section 15 increases the maximum fine generally applicable to offences under the Act. We found it necessary to increase penalties, so that they act as a deterrent to those who infringe those regulations. When such fines are low, and considering that people in some businesses make fortunes, they deliberately infringe the laws, knowing that the penalties or fines are low.

Mr. Temporary Deputy Speaker, Sir, the new Part 4(a) consists of Sections 16(a) and (h). They provide for a new Standards Tribunal. Section 16(a) provides for the composition of the Tribunal, whose members are appointed by the Minister. Section 16(b) provides for the Minister to pay and determine the remunerations and allowances of the members. Section 16(c) gives the Tribunal the power, on an appeal, to confirm, set aside or vary the decision or act appealed from. The Tribunal will also have the power to make other orders, including orders for costs.

Mr. Temporary Deputy Speaker, Sir, Section 16(d) also provides for the director to refer matters to the Tribunal for directions. That is necessary because we cannot allow a director to take action alone. Section 16(e) provides for the Tribunal to have the power to make certain procedural orders. Section 16(f) provides for the appointment of expert advisers to assist the Tribunal in the determination of a matter before it. Section 16(g) provides for an appeal from a decision of the Tribunal to the High Court, while Section 16(h) allows the Minister to make rules for regulating the practice and procedure of the Tribunal. It also allows the Tribunal, subject to those rules, to regulate its own procedure.

Mr. Temporary Deputy Speaker, Sir, several hon. Members have gone through the Bill. They have raised several suggestions and amendments. We have taken stock of all the opinions that have been raised. They have been brought to the Minister. All those will be included in the Bill during the Committee of the whole House.

This is a very important Bill because without it, our standards body might not be recognised internationally. I plead with hon. Members to support the amendments, so that we can fit in the global atmosphere.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Mr. Khamasi): Who is seconding you?

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Kiraitu Murungi, the Minister for Justice and Constitutional Affairs!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to second this important Bill.

As the Assistant Minister has explained, the principal objective of this Bill is to amend the Standards Act, so as to provide for a Standards Tribunal to make orders to destroy goods in certain cases. The orders for destroying goods are provided for in Section 14(1) of the Act, which is also being amended by this Bill. The orders of destruction may be mainly in cases where, after testing, it is indicated that goods do not meet the relevant Kenyan standards. It is also where it is reasonably necessary to destroy the goods because they are dangerous to the State or injurious to the health of human beings, animals or plants.

Since this Government came to power, it has been on record that its principal object is poverty reduction and economic recovery. For many years, Kenya has been a huge dumping ground for goods which have been rejected elsewhere. I was in this Parliament when we passed what I thought was a good law relating to *mitumba* cars. Those cars are removed from dumps in Japan and imported to this country. They are a major source of accidents in this country. We have had cases where expired medicine has found its way into our pharmacies. I remember sometimes back when there was the "mad cow disease" in the United Kingdom. Meat which had been rejected in the United Kingdom was found being sold in supermarkets in Kenya. There was noise here and there, but eventually, that meat was consumed by Kenyans. It is necessary that we give the Government teeth. We should strengthen the hand of the Government in protecting the lives of Kenyans by destroying goods which are found to be in a dangerous state or are injurious to the health of our people.

Mr. Temporary Deputy Speaker, Sir, with liberalisation, our market has been flooded even with foodstuffs from other countries. With the removal of the trade barriers within the East African Community and the COMESA region, we expect many more of these goods to find their way here. In this respect, it is important that the standards are strictly enforced. We have to make a final declaration that Kenya will no longer be used as a dumping ground. I would like to second this important Bill so that this tribunal can be set up. This will ensure that in case there are goods which are not really dangerous which have been condemned for destruction, then those Kenyans who have imported them could have a chance to go to a tribunal where the rules of natural justice will be observed, so that it can verify whether the goods being destroyed are actually dangerous or whether the orders are being made maliciously or for other reasons which are contrary to the law.

This is a very good Bill and I am urging Members from both sides of the House to protect the interests of Kenyans by supporting this Bill.

With those few remarks, I beg to second.

*(Question proposed)*

**The Assistant Minister, Office of the President** (Dr. Machage): Thank you, Mr. Temporary Deputy Speaker, Sir. The Standards (Amendment) Bill that aims at amending the Standards Act in our country could not have come at a better time. Kenya is in a competitive world where standards must be maintained not only for imported goods, but also for locally produced goods. For a long time it has been the practice, even from fellow Kenyans, to always look for imported goods just because we have been lax in making sure that whatever we produce meets the required standard to compete well with the international market. This Bill will make sure that we are able to sell proper goods at a proper price to earn us a better remuneration.

The creation of the Standards Tribunal in Section 16(a) is very important and more so, in regulating the powers of the Minister when making decisions on rejection of some goods that have

come to his court. Fairness will be seen to have been practised when every person is given a right to present himself in this court. The right to appeal is a constitutional right for every Kenyan. Ministers have been known to be very excessive in some instances for non-private gains. This Bill will reduce corruption that was rife towards this end by controlling the powers of the Minister. This Bill intends to protect the producers, both internally and externally.

By giving powers of inspection, we are indeed protecting the rights of the consumer. Fellow legislators have talked about drugs being brought into this country that do not really meet the standards and cannot even cure what they portend to be used for. With the HIV pandemic in this country, we have lots of drugs coming in, in the name of anti-retroviral drugs. These need to be checked, especially when we are trying to look for a way of patenting our own produce on this line, or accepting generic drugs from other countries. We need to have powers that can be feared in trying to regulate this industry; hence, Section 14(1), which gives the tribunal the powers to order for destruction, is very important. This will regulate this market properly.

Kenyans should support this Bill because it is for our own good. For that reason, I beg to support.

**Mr. Rotino:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this very important Bill. On the onset, it is very important that this Bill has come at the right time. This Bill purports to do three things. One, is creation of a tribunal. Two, is giving powers to the Minister and the tribunal on the destruction and inspection of various premises. It also entails to create quality products. This country has been a dumping ground for various items. As one hon. Member said here, second-hand cars and clothes end up in this country and we do not know their quality. Those who are supposed to inspect these goods are not doing a good job. By amending this law we are trying to give powers to the tribunal so that it can make decisions to be able to give Kenyans good quality products.

Kenyans go abroad to buy clothes, but the same clothes they are buying are being produced in this country. This is because we are producing low-quality goods. There is something wrong with those who are supposed to inspect goods that we deliver to our people. Before goods are released from a factory, they are placed in different categories. Some of the goods that are rejected find their way into the market and yet they are supposed to be inspected. This shows that there is lack of honesty among our Kenyan people.

I am happy because Section 15 of the Bill ensures that there is a strong penalty imposed on those who do not follow this rule. It is good to pass this Bill and impose some penalties so that those people who break it are punished. The Ministry should have teeth to bite or take action against those who violate the law. Mr. Temporary Deputy Speaker, Sir, we should protect our people by checking the goods we sell to them. This Bill will help our people. It is one thing to pass it, and it is another thing to ensure that it is implemented. If you go to the Port of Mombasa, you will see so many sub-standard goods, which are not supposed to be released to the market. However, many of those goods find their way into the market because of corruption within the Ministry officials who are supposed to implement the law. I am really happy that the proposed Tribunal will be given a lot of powers so that the Minister does not act alone. Sometimes mistakes are made by the Minister and it is good that there is a provision for one to appeal. Anybody who feels aggrieved by the decision of the Minister can appeal against it and the appeal can be heard. There are many items which we need to check. We need to amend the law and support this Bill.

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

**Eng. Okundi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute on this very important Bill. Before I came to Parliament, I was the Managing Director of the Kenya Bureau of Standards (KEBS). When I was in that corporation, we tried for many years to amend the Standards Act. We wanted to introduce a number of provisions which are now in the Bill before us.

Mr. Temporary Deputy Speaker, Sir, the KEBS checks the quality of goods consumed and the

services offered in our country. No country can develop its industries and assure its citizens with quality goods and services they receive unless it has a law enforcing the standards. If you do not have set standards, other powerful countries merely use you as an export destination for all kind of goods, and you can do nothing about it.

When I was at the KEBS, I used some sections of the Standards Act to ban the importation of some *mitumba* clothes which were impossible to control. In fact, it is still impossible to control them today. However, the clothes which we banned using the Standards Act were the underwear. This is because we found out that a large number of Kenyans, particularly the female, developed diseases which could not be treated in this country. Some of those diseases were fungi-related infections. When we carried out tests at the KEBS laboratories, we found out that the diseases were caused by imported *mitumba* clothes, particularly the underwear. I had to explain to the international Press at length, for example, the British Broadcasting Corporation (BBC), why we had to ban those clothes. This is because banning them *per se* did not conform with the World Trade Organisation (WTO) rules. We also found a clause in the WTO rules which said that a country is at liberty to control and check imports if they adversely affect the health of its people, the trade of its goods and the manufacturing of its goods. The country could even demand compensation from the exporting country where these damages are occurring. We used that clause and developed our own standards in this particular area. I am happy to note that, that clause has worked very well.

Mr. Temporary Deputy Speaker, Sir, the *mitumba*, whether they are cars, refrigerators, or shoes which cause fungi infection to our feet, have ruined our industries. The *mitumba* clothes also cause diseases which cannot be treated in our hospitals. So, these clothes have ruined the textile industry in this country. We have talked about this for a long time, but the laws are not stringent enough to enable Kenya control the importation of the *mitumba* clothes. Although we say that these clothes are cheap and make our people look decent and, therefore, we should allow their importation, they are rejects from factories. They are new but, basically, they do not meet certain standards set by the exporting countries. This Bill will enable our economy to thrive. It will enable the proposed Standards Authority, the Minister and the Tribunal, to specifically check the goods which are imported into this country, however, cheap they are.

Even the genetically modified food and seeds whose Motion was discussed today should be controlled by the Government. The powerful countries, which have come up and introduced these genetically modified food and seeds, are able to modify our seeds. For example, the sweet potatoes grown in the rural areas today are fairly modified. You would find orange-fresh sweet potatoes, which they say have very high content of Vitamin A compared to our traditional sweet potatoes, being grown in the rural areas. However, the guy who introduced the genetically modified seeds now holds the patent for them. He earns his country income as a result of the scientific discovery, no matter where you grow those seeds. This is the case and yet the Kenya Agricultural Research Institute (KARI) has the capacity to modify our seeds and maintain the patent for the benefit of this country. These seeds will meet the KEBS standards and Ministry regulations. These are some of the areas that the Act will check.

Mr. Temporary Deputy Speaker, Sir, we grow cotton in my constituency but the farmers cannot sell it because the world price has gone haywire and yet we encourage them to grow the crop. Our textile industry has collapsed as a result of imported textile commodities. There are some clauses in the WTO which the Minister, using this Act, will look at very carefully in order to protect our industries.

Mr. Temporary Deputy Speaker, Sir, the question of branded versus generic drugs has come into focus because of the HIV/AIDS infection in the country. It is cheaper to treat our people using these drugs. The pharmaceutical industries are insisting that we should use the branded drugs. The branded drugs are extremely expensive, but they assure you of good quality. You can sue for quality if it is not met in the branded drugs. The generic drugs can also maintain the same quality. The only way you can tell the difference between the generic and the branded drugs is that the generic drugs are the

cheapest, which most countries can now afford to buy. Unless you have a Standards Act, which helps you to build your standards bureau like we have in Kenya, you cannot test and actualise the assurance on the quality of these drugs, which anybody comes up with. This is a very crucial Bill. It is very important for our country to come up with industries that can produce products which can sell anywhere in the world, and we are allowed slots according to the World Trade Organisation (WTO) rules.

When Raymond Textiles in Eldoret was producing excellent jackets and suits, many of the Kenyan people bought very good suits in London and other capital cities, not knowing that they had actually come from Kenya. I met quite a number of people because, at the Kenya Bureau of Standards, we used to inspect goods in any place at random. We found it written somewhere that those were products from Eldoret. You can see how, without protection of this nature, arising from the Standards Act, which is well informed, supervised and managed, a country can lose all its talents, and all it has just tumbling before the powerful industries of the world.

Mr. Temporary Deputy Speaker, Sir, I want to end by saying that the Tribunal which is entrenched in this Act needs to have very strong teeth. This is where people will run to plead for their goods not to be destroyed. We might find that we will weaken the Act by not making the Tribunal strong enough to ensure that the actual standards are met. Many countries tend to lose when you enforce the Standards Act because they will tell you: "I will give you these goods on a grant basis". The moment that is allowed, your industries will just have to bend down because they will not meet the powerful tactics of the people who are giving this assistance.

With those few remarks, I beg to support.

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Bill.

One very important thing that we must give to our consumers is predictability in the performance of a product. There is no way a consumer can make choices while buying a product unless they can predict with confidence, the satisfaction or the performance of the products that they are going to buy. This is only possible if we have set standards. So, the issue of setting standards and providing for institutional and legal frameworks to ensure compliance with the set standards is extremely important. The second point is safety. Consumers handle, consume and use products. Even those in the factories, they produce these products and touch them. The only way we can protect them and ensure their safety while consuming or handling various products, is by setting standards and ensuring that compliance is guaranteed.

Importantly, my colleagues have mentioned the issue of environmental safety. We, as a nation, cannot allow our country to be a dumping ground for sub-standard products. We must agree that in the past, and even now, in many ways, Kenya is a dustbin of cheap products from the Far East. These are products that cannot perform even one-tenth of the expectations of their buyers, even after being imported from all the way from the manufacturing countries in the Far East into this country. Then we are left with the problem of waste management and solid waste disposal at our own expense, even when our consumers have not been satisfied.

Mr. Temporary Deputy Speaker, Sir, there is a shortage of raw materials everywhere. If you look around, you will find that there is a shortage of raw materials and natural resources everywhere. The only way in which we can ensure that there is efficiency in the usage of these products, so that the price is, at the end of the day, affordable to the users and reduce waste during production and usage, is only through setting standards. It is extremely important that we take our standards seriously and provide a framework for ensuring compliance.

My colleagues have mentioned the issue of the market access. One of the most important non-tariff barrier to the exportation of our products to markets abroad is standards. Virtually every single export market today, for example, the European Union and the United States of America and, in fact, inherent in the WTO rules, is that if you are producing and selling a product, in order for that product to be given access to another market, you must adhere to standards of that market. So, by having our

standards and providing guidelines and a framework for ensuring compliance, we shall, in fact, be helping our producers to gain market access because we shall be complying with the standards that have been set in those markets.

Mr. Temporary Deputy Speaker, Sir, with globalisation, for us to solve the problem of competing against importers or imports from other countries, some of them much more sophisticated than ours in terms of technology and production processes, we should ensure that our producers also adhere to standards. We now no longer have control over the importation of products because under the WTO rules, there is a clear non-discrimination rule which we must respect if we are going to also sell our products outside. The only way we can protect our producers from competitive products from abroad is just to ensure that we use our standards institutions to nurture them and help them. We should use gentle force, so to speak, in a legal manner, to ensure that they adhere to the standards, and to ensure that we propel them to producing products that can compete with products manufactured anywhere in the world. This is extremely important.

This Bill provides for the setting up of a Tribunal, and this is very important. As we talk about democracy, democratic space and improving governance, we should not just talk about them in terms of the justice delivery system, or even the political system. We must also translate it into the economic system. So, by setting up a Tribunal to make decisions to evaluate products which should be destroyed or not, approved for sale in the country or not, from the Minister to the Tribunal, we shall be creating more democratic space in the decision-making process. This is commendable. At the end of the day, I would like to urge the hon. Members to realise that the standards that we are setting up, the Tribunal and the legal framework that we are talking about is not to be seen as purely punitive. Let it be facilitative. It is not punitive in the sense that we are going to ensure that it is used to help producers in order to comply with standards that ensure consumer satisfaction and competitiveness, both domestically and in the global market. We shall also be protecting our own producers and consumers from poor quality products from outside the country.

With those few remarks, I beg to support.

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to contribute to this Bill. I think the amendment in the Standards Act, Cap.496, is necessary in the spirit of consumer protection. There is a clause that requires the inspector to destroy goods that do not meet the Kenyan standards or those that are injurious to human beings, plants and animals. That is a good thought. But the Ministry must ensure that this inspector does not act unilaterally; otherwise, it can be dangerous if it is a one-person decision. So, I am suggesting that the management of the Kenya Bureau of Standards should set up a management committee, so that the inspector can also be advised. I think the inspector, later on, can be vulnerable to corruption. But this is for the Director of the Kenya Bureau of Standards to guard on.

Mr. Temporary Deputy Speaker, Sir, it is fine to enhance the penalties under the Act, although, really, I think they have been too far stretched. The fine of Kshs500,000 to Kshs1 million may sound okay as a punitive measure, but it is rather a little bit stretched. The most important part of the amendment is the establishment of the Standards Tribunal under Section 16A(1). The Tribunal is to be appointed by the Minister and it will have the chairman and four other members, plus the Attorney-General providing the secretary. My only comment here is that, all the powers to appoint the chairman and other members of the tribunal are vested in the Minister. I think it is necessary that the Minister must be able to appoint people of high repute, because, as we know, the Ministers of today are very "powerful." Therefore, I think it is only fair to say that they must exercise this authority judiciously and very fairly. We would not like to see Ministers who will go out of their way to appoint their kinsmen and tribesmen. I think this is in keeping with the NARC standards of management.

There is a provision that the Tribunal can appoint an expert advisor. I must say that most of the tribunals that have been set up have had the problem of a situation where the chairman sits alone. We must guard the chairman, and he must sit with four other members, and not alone. We have the experience of the Business Premises Rent Tribunal which is under this Ministry. I am a valuer. For us

to appear before it, we find that the chairman appears alone. You wonder how a tribunal can be a one-person tribunal. I think the Ministry should check on that because it is not in keeping with the jurisprudence of a tribunal, that a chairman should sit alone. So, we must insist that the chairman sits with four other members, and not alone, as in the case in the Business Rent Tribunal where that often happens.

Mr. Temporary Deputy Speaker, Sir, I am not happy when we say that the decision of the Tribunal will be subject to an appeal in the High Court. This is because, again, we are lengthening the problem. If the Tribunal has the powers of the High Court, as it is in the Act, then, perhaps, although it may be necessary for the appeal; I thought the order made by the inspector is the one which is being challenged in the Tribunal. Therefore, if we keep on challenging these things then they will go on and on. If I were drafting the Bill, I would have thought that where the Tribunal is satisfied that there is reason to destroy those routes, then that matter rests there. But as it were, they say that justice must not only be done, but must be also be seen to be done. That is why, perhaps, they had to include the issue of the appeal in the High Court.

The existence of an expert advisor to the Tribunal is something that I am reading with a lot of caution. I would have been happier where the Tribunal is satisfied that it does not have the capacity to decide on a certain matter, then a professional report is given to them. If it happens that every other time the Tribunal is sitting it has to appoint an expert advisor, that would be good, but I would rather that a professional report be done on the tribunal to influence or make it decide the subject matter which is being appealed for.

Mr. Temporary Deputy Speaker, Sir, the amendments are good and we have no reason not to support them. It is important that the Kenya Bureau of Standards develops Kenyan standards. We are tired of being referred to the British Standards (BS). They keep on talking about the British Standards, particularly in the building industry. So, the Kenya Bureau of Standards should be able to even establish more pragmatic standards that will match the British Standards, so that we do not seem to be under our colonial masters when we have become independent. This is a short Bill. So, I would like to rest my case there and say that this House should be united to support this amendment.

With those few remarks, I beg to support.

**Maj-Gen. Nkaiserry:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to also contribute to this Bill. From the outset, I support the amendment to this Bill. I think the Bill is very valid for our country. We, as a nation, must take care of the interest of this country, especially in the areas of security and the economy. When you look at the things which are being imported into this country, they are substandard. Unless we have an effective Standards Tribunal which will be able to vet and verify the quality of goods which are being imported and exported, the citizens of this country will not be satisfied.

Mr. Temporary Deputy Speaker, Sir, the Tribunal will be in a position to support or safeguard the products, for example, clothing, when they are produced. It will also be in a position to support the position of our country with regard to AGOA. It will be able to get an international market for our goods because of their quality. So, this Tribunal is of paramount importance to this country. Creating quality will curb corruption because, as you realise, at the moment, there is quite a lot of *mitumba* which is being imported to this country without passing through inspection. This is because there is no standard applied, and this is a real route for corruption to thrive in this country. It is unfortunate that it has taken the NARC Government more than two years to introduce a Bill of this importance. Because they have done so today, I just hope that it will sail through, so that the standards are applied as soon as possible for all the goods that are coming to this country.

Mr. Temporary Deputy Speaker, Sir, in my constituency, for example, we have an attire which is of international standards, but it has not been patented, so that the community can benefit. The Government has not patented that Maasai attire, so that the community can benefit. The same is the case with the Kamba carvings. We should patent those things, so that our people can benefit when we sell them in the international market.

I am so glad that my colleague, Philip, who was the Director of Kenya Bureau of Standards (KBS)--- We used to have textile companies like KICOMI, Raymond and Rivatex. But those companies closed down because of the importation of *mitumba*. The country did not have any standards with regard to clothing. If we enact this Bill, I am sure our people will benefit.

Mr. Temporary Deputy Speaker, Sir, there are many *mitumba* cars being imported into this country. We had the Nyayo Car Project, which is now over 20 years old. We should have put standards for that particular Kenyan project. It would have given the country the opportunity to manufacture its own vehicles.

*(Applause)*

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to refer to a "Nyayo Car" which none of us has ever seen on the roads of Kenya?

**Maj-Gen. Nkaiserry:** Mr. Temporary Deputy Speaker, Sir, if the hon. Member did not see or read about the launching of the "Nyayo Car", I am very sorry for him!

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, we have been complaining about substandard drugs being imported into this country. If we put that Tribunal in place, such substandard drugs will be a thing of the past. I would also like to mention one or two things. We should not apply standards to goods only. We should also apply standards for human beings too. We should have standards for members of the Cabinet. We should not have Ministers serving in the Kenya Government behaving like those in the British Government. Kenyan Ministers should behave like Kenyan Ministers! We should have standards that apply to them. For example, when they come to this House, they should put on a suit like the one I am wearing, or what the hon. Minister is wearing. They should not wear *mitumba* clothes that are collected from River Road. Therefore, we should create standards for goods and people of this country.

*(Laughter)*

With those few remarks, I beg to support.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wetangula! I would like to bring to the attention of hon. Members, Standing Order No.87. Please, once a material has been used, let us not repeat! Let us be innovative. This is a very good Motion. Let us proceed without, necessarily repeating what has already been said on the Floor.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I hope that is not directed at me. I am not about to repeat anything.

**The Temporary Deputy Speaker** (Mr. Khamasi): No! Not at all.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, as has been said, this Bill is very important. I just want to make a few general comments and remarks on the Bill itself. From the outset, I would like to say that I support the Bill.

Mr. Temporary Deputy Speaker, Sir, standards are very critical for any economy. With the advent of the World Trade Organisation (WTO), the only non-tariff barrier we can have in controlling the influx of goods to our market is through standards. I do not want to belabour what my colleagues, Mr. Philip Okundi, Mr. Syongo and others have said. I agree with them. But I want to point out that *mitumba*, especially in clothes, should be looked at very critically. In our neighbouring country, Tanzania while they allow *mitumba* into their economy, there is a specific law that does not allow inner garments like underwear and bras to be imported second-hand into the country. That is because



they bring all manner of diseases, as Mr. Okundi mentioned.

I think those who enforce those standards must make sure that, while we do not mind wearing *mitumba* suits, we certainly mind our women wearing *mitumba* knickers and bras, while we, ourselves, wear *mitumba* panties. Those are the standards that we hope this Bill, once enacted, can enforce.

Mr. Temporary Deputy Speaker, Sir, we also have a nightmare in the alcohol industry. There is absolutely no control of standards in the alcohol industry in this country. You have heard of *kumi kumi*. The other day, people consumed alcohol in Makueni District and died. You have heard of cases in Mai Mahiu. You have heard of the cries about Keroche Industries. You have heard cases of *chang'aa* in Western Province and everywhere. We need those who manage standards in this country to pay attention to the standards, content and hygienic levels of alcohol, so that those who consume alcohol can consume alcohol of better standards.

Equally, we have the case of *mitumba* cars. I agree with my colleagues that we need to look at those particular cars. A *mtumba* car is not necessarily a car that is imported into this country. We need some standards on what age of cars should be found on our roads! It defeats logic to bar an eight-year old car from being imported into this economy, when we have cars that were bought in 1950 still ploughing our roads. They are very dangerous, unserviceable and compromise the safety of other road users. When we talk about standards, they must apply to both local and imported goods.

I would also like to touch on the issue of Genetically Modified Organisms? (GMOs). If Europe has spiritedly banned the entry of GMOs into their economy and lifestyles, I do not see why this country should embrace GMOs. Those GMOs have not been proved to be fit for human consumption, or not to have any side effects. We should wait for the scientific research that is going on to tell us beyond doubt that they have no side effects. Go to the United States of America (USA)! Every one in three people suffers from obesity. One of the reasons for that is because of the GMOs. We do not want to bring those problems to our country.

The Bill sets out to introduce a Standards Tribunal. However, at the Committee Stage, I would like the Minister to pay attention to Clause 8. He is trying to amend Section 16 by introducing Section 16(a), where the Tribunal is defined. Then, he says that the person to be appointed as the Chairman should be a person who is an advocate of, at least, seven years' standing. That is all right. Then he adds: "That the person must have been a judge of the High Court!"

You and I know that, under our Constitution, judges of the High Court serve up to the age of 74 years. Anyone who has been a High Court judge and has left before the age of 74 years could be those who were dismissed for reasons that bar them from holding public offices. Why should we provide for a former High Court Judge to be the chairperson of this Tribunal when we know that judges retire at the age of 74? At that age, we do not expect anybody to be given a job to sit on a Tribunal of this nature. This should be changed.

Mr. Temporary Deputy Speaker, Sir, equally, the Bill provides that the Minister shall appoint a legal officer from the Attorney-General's Chambers to be the secretary to the Tribunal. That is wrong. With the growth of the economy and competition with regard to standards, this is going to be a very busy Tribunal. It should be given the legal authority to hire a secretary who shall be accountable to it. The Tribunal should also have powers to dismiss the secretary under specific rules. That way, the secretary will be accountable to the Tribunal, rather than being appointed by the Minister and imposed on the Tribunal; something that will erode the impartiality and independence of the Tribunal.

Mr. Temporary Deputy Speaker, Sir, Clause 16(b) states---

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I do not need any information on that issue.

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Miriti, your colleague has refused your information.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, Clause 16(b) states:

"The Minister shall pay the members of the Tribunal such remuneration and allowances as the Minister determines."

**[The Assistant Minister for Foreign Affairs]**

Again, that is wrong. If you set up a Tribunal, there must be some criteria other than the Minister's discretion to determine their remunerations. The regulations that they are supposed to set up should also determine the manner in which the remunerations for members of the Tribunal will be effected. It should not be left at the whim of the Minister. We have seen cases where such discretion ends up in abuse of power and office.

Finally, I support the Clause that stipulates that decisions by the Tribunal are appealable to the High Court. Since the Tribunal is a quasi-judicial Tribunal, and in the event it violates the rules of natural justice, or acts *ultra vires* the law, then the High Court must be there to correct its decisions.

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

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Thank you very much, Mr. Temporary Deputy Speaker, Sir.

I support everything that has been said this afternoon regarding this Bill and I beg to move that the Mover be now called upon to reply.

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

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir.

## QUORUM

**Mr. Kimeto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is there a quorum in the House?

**The Temporary Deputy Speaker** (Mr. Khamasi): There is no quorum in the House. Ring the Division Bell!

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Members! We now have a quorum. Proceed, Mr. Miriti!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

First and foremost, I would like to thank all the hon. Members who have contributed to this very important Bill and raised valid points. So many points have been raised which will be included in the Bill during the Committee of the whole House. Notable is the point relating to curbing of corruption. We know that we cannot do anything in our country to improve on our goods without setting standards. It has come out very clearly that most of the imported goods are dumped here as second-hand or sub standard goods. The Bill is meant to address that issue so that Kenyans can enjoy quality goods imported from all over the world.

Let me assure all the hon. Members that all their views will be taken into consideration. With those few remarks, I beg to move.

*(Question put and agreed to)*

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

THE WITNESS PROTECTION BILL

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, we understand that the Attorney-General is attending a seminar in Mombasa. He is not here today.

**An hon. Member:** What about the Minister for Justice and Constitutional Affairs?

**The Temporary Deputy Speaker**

(Mr. Khamasi): Order!

*(Bill deferred)*

Next Order!

THE NATIONAL SOCIAL HEALTH  
INSURANCE FUND BILL

**The Minister for Health** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the National Social Health Insurance Fund Bill be now read a Second Time.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, the Kenya Government's commitment to improving health care of our citizens is well articulated in the Economic Recovery Strategy Paper (2003/2007). The express objective in the strategy and, therefore, that of the Ministry of Health is stated as:

"Ensuring the provision of basic health package to all Kenyans and increasing coverage of quality care for the poor".

Mr. Temporary Deputy Speaker, Sir, the four broad actions that are being formulated to support our pursuit for these objectives are:-

- (i) The establishment of the National Social Health Insurance Scheme which will mobilize more resources for the health sector.
- (ii) Setting up special health care programmes to target vulnerable groups.
- (iii) Renovation of existing health care facilities and equipment; and,
- (iv) Overhauling of the systems of procurement and distribution of drugs.

Mr. Temporary Deputy Speaker, Sir, this strategy, objectives and proposed actions have been evolved over time, and partly result from experience and partly from wide consultations and analyses that the Government has undertaken in developing the Economic Recovery Strategy.

Mr. Temporary Deputy Speaker, Sir, despite all the development efforts in Kenya, more than half of the Kenyan population live below the poverty line.

**Mr. Rotino:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you see Mr. Wanjala and hon. Nkaissery combing their hair in the Chamber?

**The Temporary Deputy Speaker** (Mr. Khamasi): Did you do that, hon. Wanjala?

**Mr. Wanjala:** I did not do that, Mr. Temporary Deputy Speaker, Sir.

*(Loud consultations)*

**An hon. Member:** *Wanaendelea!*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order!

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, I was only trying to rub my hair like this--

--

*(Mr. Wanjala passes his  
hand over his head)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Order, hon. Members! Let us be serious; we cannot do such a thing in the Chamber! If it is true that, that actually happened, I mean, you better be ashamed of yourself!

Proceed, hon. Ngilu!

**The Minister for Health** (Mrs. Ngilu): He does not even have too much hair, Mr. Temporary Deputy Speaker, Sir!

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, despite all the developments and efforts in Kenya, more than half of the population in this country live below the poverty line and, therefore, cannot afford health care. When they become sick, most of them simply stay away from our health facilities because they cannot afford treatment. Therefore, some of them end up dying, even when our health care facilities are a hundred metres away.

Mr. Temporary Deputy Speaker, Sir, the National Social Health Insurance Scheme aims at ensuring that access to quality health care for all Kenyans would be made available. This will ensure that every Kenyan pays affordable regular contribution to the National Social Health Insurance Fund. Therefore, when illness occurs, there will not be a time when a person cannot afford to go to our health facilities to be treated. The Ministry of Health will utilize the resources that will be available and will ensure that we can intensify our preventive activities, improve our health facilities and also give quality health care as a result of ensuring that we have proper equipment. We will also use the funds that we will be getting in the Ministry to ensure that we will build health centres, dispensaries and hospitals.

As I said before, the National Social Health Insurance Fund Bill process has not just begun. This process began way back in 2001, when health providers from the health sector and other stakeholders met at Mbagathi and decided that this is the way to go. We are all aware that from Independence in 1963, the Kenya Government was able to provide free health care to all Kenyans. However, as time went by, cost sharing was introduced in our health facilities in 1989. This has been found to be untenable as most people are too poor to afford it.

Mr. Temporary Deputy Speaker, Sir, therefore, this is the only option that we have, and we do believe that once this scheme is in place, we shall be able to mobilize more resources. The resources that will be mobilized will enable us, as a country, reduce maternal and infant mortality. We will---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! We cannot follow what the Minister is saying!

**The Minister for Health** (Mrs. Ngilu): We will reduce maternal and infant mortality; we will be able to get all HIV/AIDS patients Anti-Retrovirals (ARVs). We shall also be able to increase the number of Voluntary Counselling and Testing (VCTs) centres, thereby being helping many pregnant

mothers gain access to prevention of mother to child transmissions. That will ensure that infants born of HIV/AIDS-positive mothers will be HIV/AIDS negative.

Therefore, Mr. Temporary Deputy Speaker, Sir, I believe that this is a noble idea the Government has come up with, and as I said earlier, it is as a result of Economic Recovery Strategy Paper (2003/2007), which is a Government policy to ensure that all Kenyans can get access to quality health care. The NARC Manifesto also clearly stipulates that we are going to ensure that we will give health care to all Kenyans.

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

*(Applause)*

I would like to request hon. Prof. Anyang'-Nyong'o to second the Bill.

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to second this Bill. First of all, I would really like to thank the House for having been so tenacious to ensure that this Bill comes to the House, and to ensure that they give the Kenyans a very good Christmas present.

*(Applause)*

I would also like to thank the House for being patient to sit long hours as we should, in service to our people. I want to apologize to the House because for the last two months, I have not been in a position to be in the House as frequently as I should, having been assigned several duties outside the country, which I hope will bear fruit to the interest of the Kenyan nation.

This is really a great day for us because we are just about to pass a Bill which will really touch the poorest of the poor in this nation. In my Ministry, we have conducted some surveys and investigations, which really make me feel very humbled. Some people in this nation continue to live and send their children to school and buy clothes. Unfortunately, when they are sick and get to dispensaries and health centres, they cannot even afford Kshs30 to access drugs.

The Kenyan Government is really fortunate in that the Global Fund (GF) gave us some resources to buy anti-Retrovirals, malaria and tuberculosis drugs to dispense to our people freely. However, recently, when I took the Executive Board of the GF to the new Nyanza General Hospital in Kisumu, we found out that for somebody to be diagnosed at the hospital, he needs, first of all, to pay Kshs2,000 before he has access to medicine. So, in the final analysis, it is people who can afford to pay this money who then have access to free medicine. The really poor who should have first access to this medicine do not. The people from the GF looked at me and said: "Let your Parliament enact that Bill expeditiously, so that these people can have access to this medicine."

Mr. Temporary Deputy Speaker, Sir, we know that if those who are suffering from HIV/AIDS scourge have access to ARVs, they can prolong their lives and, therefore, be able to look after their children, so that we are not burdened by many orphans in this country. If we do not do that, we shall still ourselves in this Parliament, organise *Harambees* to send orphans to school and to buy them food. So, it is in the interest of this House and of our own survival that, indeed, we support this Bill.

Mr. Temporary Deputy Speaker, Sir, the other thing which is really painful in our nation is that the distance that a Kenyan has to go to the nearest dispensary or health centre is insupportable. I had the experience of having a mother who was just about to deliver. I took her into a car to take her to a health centre at night and she started delivering in the car. By the time we arrived at the health centre, the baby had been starved of air. The baby died and the mother was saved in the nick of time. Now, what we need to do is, since the House has gone far to start the Constituency Development Fund (CDF), we shall be able, as indeed we are doing, to find resources to supplement the CDF, so that

over time, we can create more infrastructure that is needed. I know that there have been some fears regarding costs, coverage and sustainability. All these fears have been addressed by the Minister in the amendment that she will bring to this House, because a technical committee of the Ministries of Health, Planning and National Development and Finance has gone through this Bill very carefully. We are really grateful because the Departmental Committee on Health, Housing, Labour and Social Welfare did a wonderful job in proposing amendments.

The work that has been done by this Committee and by the technical committee in the three Ministries has now brought forth amendments that the Minister will be able to bring at the Committee Stage of this House, so that these fears are addressed, and so that the NSHIS becomes a membership fund, the coverage will be sustainable and, indeed, the Kenyan Government will be in a position to support this.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to give the House certain assurances, that the Minister for Health and I have done our best to discuss with our development partners, to ensure that as soon as this Bill is passed by this House, resources will be flowing to this nation.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to second and support this Bill.

*(Question proposed)*

**Dr. Godana:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me the Floor. I rise to support this Bill. As I do so, I have fresh memories of the Government's reaction, two weeks ago, to the Bill. The idea about a compulsory national social health insurance scheme for the whole nation is an old one. In the year 2002, the former Parliament passed unanimously a Sessional Paper, which paved way for the preparation of this Bill. Therefore, this is a continued policy. At that time, donors were also supporting the idea. That is how the former Government ended up contracting the German Government development agency (GTZ) to carry out an expert feasibility study. It was, therefore, disturbing to learn that, recently, after the Bill had been prepared, sections of the Government felt that it should not go through this House. The fact that this Bill has been moved today by the Minister means that the Government has put its act in order and now fully supports the Bill.

Mr. Temporary Deputy Speaker, Sir, I think we wasted a lot of time before initiating this Bill. We should have brought it here five years ago. There is no question about the inevitability of citizens assuming responsibility by way of contribution for their own health care.

I was once an Assistant Minister for Health. The then Minister for Health in 1988, now the current President, defended cost-sharing when it was introduced. I, therefore, believe that is why his Government has brought here this Bill, which will take us a step forward in health cares matters.

There are serious concerns about the applicability of the Bill as it is. We have to make major changes to it. Obviously, we cannot ignore the cost implications involved. We cannot also ignore the applicability of the suggested contributions. I was with a civil servant a few days ago, who said that the passing of this Bill would take Kshs30,000 from his salary every month. That, definitely, underlines the need to have the Bill amended. Therefore, we look forward to the amendments which the Minister will bring at the Committee stage, so as to make the Bill acceptable. So, mine is not just a blanket support. We will look at the Bill at the Committee Stage.

I beg to support.

**Mr. J.M. Mutiso:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the NSHIF Bill. The passing of this Bill is long overdue. In this country, 56 per cent of the population lives below the poverty line. Most of our people cannot afford basic health care.

I agree with the Minister that considering the framework within the Bill, the scheme is workable. The opponents of this scheme, who ask us to first mobilise funds to boost the viability of the scheme, are playing the devil's advocate. Many Kenyans are suffering. Some of them cannot even

access medical services. Therefore, without wasting time, I will support this Bill to the hilt. I urge my colleagues to also support this Bill with the urgency it deserves.

I support.

**Mr. Wanjala:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Judging the mood of both sides of the House, and considering that Kenyans out there have been waiting anxiously for this Bill to be passed, may I move that the Mover be now called upon to make an official reply to this Bill?

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! The Chair will not do that. The Chair is here to listen to views of hon. Members about this very important Bill. So, we will continue.

**Mr. Ojaamong:** Thank you, Mr. Temporary Deputy Speaker, Sir. From the outset, I also wish to support the Bill in totality despite the few amendments we shall make during the Committee Stage.

I also wish to thank the Minister for Health for the efforts she has made to ensure that this Bill succeeds, despite intimidations from certain quarters and even from her own boss and from the other arm of the National Alliance Rainbow Coalition, the National Alliance Party of Kenya (NAK). She has relentlessly fought and ensured that all Kenyans should get quality medi-care.

People who are opposed to this Bill might have not gone to neighbouring countries. In a country like Uganda which came out of war just recently, all the medical facilities had collapsed but today the medical staff go to villages looking for people to ensure that they are healthy. They provide drugs and advise on health care. Despite the problems this scheme might have in the initial stages, I believe that they will be countered because the Minister herself has gone a long way and mobilised resources from the donor countries, local individual people and the Government. So, I am very much sure that when this Bill comes into place, the infant and adult mortality rates will come down as opposed to what is the case right now.

In my own constituency, we do not even have an ambulance. In fact, when I go home over weekends, I am forced to carry patients, including pregnant women, in my car, in order to take them to hospital, but I am very sure that if this scheme is well implemented, medical services will be provided to our people in a timely manner.

With those few remarks, I wish to support the Bill.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me a chance to contribute to this very important Motion.

First, I want to congratulate the Minister concerned for relentlessly working to have this Bill brought to the Floor of the House. Two, I am glad that hon. Members of Parliament have the same feeling I have to support this Bill, because our people are suffering. We have a population of 31 million people in this country, 56 per cent of whom live below the poverty line. They cannot afford food, and yet we expect them to afford even Kshs100 to go to a health centre.

From 1963 up to 1989, we were getting basic health care in this country. It is Goldenberg which took the money and we were forced into cost-sharing. Now that the Goldenberg scam has been stopped; in fact, we are spending money to stop it, why can we not restore basic health care to our people? I have gone through our Budget and we have allocated the Ministry of Health only Kshs7 billion, compared to Kshs5.8 billion that we have allocated the National Bank of Kenya to ensure that it does not go under. I wonder how many Kenyans are served by National Bank of Kenya. At least, it is not in my area, but I know this health care is up to the village level.

We have got the Millennium Challenge Goals. In order for us to qualify for the funds under the above scheme, we need to spend 4 per cent of our Budget on health. However, what are we spending on our health? It is less than 1 per cent. No! It is 2.3 per cent. We have 1.7 per cent to meet that challenge. We are spending almost 40 per cent of our Budget on education, but which is more important to us? Is it health or education? Will we achieve in education if we are unhealthy? Will we live in this country if we are unhealthy and dying? Will we use the roads in this country if we are dying

and unhealthy? Will we use the mobile phones that we have been dishing out to companies? We cannot do all these unless we are healthy. We need to be healthy first, before we can use any of these services or goods.

There is one time that a Minister questioned what our priorities are. They are to save lives; to breathe and live. They are also health, education and employment. I can quote examples upon examples. We do not have to implement this project all at once. We are not fools! We can implement it in stages.

*(Applause)*

With those few remarks, I beg to support.

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I beg to beseech you that in view of the fact that we have discussed this Bill over and over again, and people out there are waiting, would I call upon you---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Sungu! I already know what you want to say and I have made a ruling on this. I will hear different views about this Motion. We will not scuttle it! Mr. Kimathi!

**Hon. Members:** Not him!

**Mr. Kimathi:** Mr. Temporary Deputy Speaker, Sir, this Bill is wonderful.

*(Applause)*

However, as I say this, I wish that this House was full because I like things going well. I am so patriotic; I will never go away from this country. I am over 50 years and I do not need a green card. I am here and I want Kenya to grow. I want good health services, good roads and a good Parliament for our people. However, while I do say that, I would also like the entire accounts of the National Hospital Insurance Fund (NHIF) which exceed Kshs50 billion, tabled in this House as we approve the new scheme. This is because when we do that, the other one becomes obsolete.

I would also like to draw your attention to the fact that I do not think we have enough numbers to pass this very important Bill. If we are, let us count ourselves and proceed to pass it. That is why we are here until 8.00 p.m. I would also like to know the status of the National Hospital Insurance Fund (NHIF) because some people borrowed money from the NHIF over the years and they owe it over Kshs20 billion. When we pass the new NSHIF Bill, the NHIF will become obsolete, and Kenyans will lose money. We would like the entire NHIF and the NSHIF to be inter-linked, so that we have protection for those people who stole money from the NHIF. The new scheme can then follow.

Mr. Temporary Deputy Speaker, Sir, we do not have quorum!

**Hon. Members:** Wacha!

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

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members! Simple rules of the House: You cannot have two hon. Members on the Floor talking. Who had a point of order?

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Kimathi to say that we need protection for people who stole money from the NHIF?

**The Temporary Deputy Speaker** (Mr. Khamasi): Did he say that?



**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Kimathi, did you say that you wanted protection for people who stole?

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

Order! Listen first!

**Hon. Members:** Out!

**The Temporary Deputy Speaker** (Mr. Khamasi): The Chair is asking: Did you say that you wanted protection for members who stole from the NHIF?

**Mr. Kimathi:** No, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Khamasi): If you did not say that, let it rest there.

**Mr. Rai:** Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii. Kwanza, ningependa kumshukuru Waziri kwa kuuleta Mswada huu, ambao tumekuwa tukiusubiri kwa muda mrefu. Pia, ningependa kumshukuru Rais wa nchi hii kwa kusikia--

**Mr. Waithaka:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you heard Mr. Kimathi well, he raised the issue of quorum.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Order! If you want to raise the issue of quorum, just do so. Do not ask me whether I heard somebody else raise it or not. You were not clear about what you wanted to say.

**Mr. Rai:** Ningependa kumshukuru Waziri kwa kuuleta Mswada huu Bungeni, hasa baada ya Wabunge kuwa watulivu baada ya Mswada huu--

*(Mr. Miriti withdrew from the Chamber)*

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

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Order! Hon. Members, why not give this Bill a chance for it to be discussed in a sober manner. Let us not be hyper-sensitive.

What is itching you, Mr. Osundwa?

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, I wanted to draw your attention to the fact that Mr. Miriti walked out of the Chamber without bowing to the Chair.

**The Temporary Deputy Speaker** (Mr. Khamasi): If it is true that Mr. Miriti did that, he has breached our Standing Orders. The Chair will ensure that when he comes to the House tomorrow, he corrects the position.

Proceed, Mr. Rai!

**Mr. Rai:** Bw. Naibu Spika wa Muda, tunapoujadili Mswada huu, ningependa kumwomba Waziri--

*(Mr. Miriti walked back into the Chamber)*

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Order, Mr. Rai. I will compensate you for your lost time.

Mr. Miriti, you cannot just walk in when the Chair is on its feet. That is problem number one. Secondly, you walked out without bowing to the Chair at the Bar. I now order you to go back to the

Bar, bow to the Chair and then come back to your seat.

*(Mr. Miriti went to the Bar  
and bowed to the Chair)*

Very well. Could you proceed, Mr. Rai?

**Mr. Rai:** Bw. Naibu Spika wa Muda, Mswada huu ulipokumbwa na matatizo katika Bunge hili, Wakenya maskini walifunga macho na kumwomba Mwenyezi Mungu ili Rais wa nchi hii apate kuelewa shida inayowakumba, ili aweze kutoa kauli yake ndipo Mswada huu urudi Bungeni. Kwa sababu hatimaye Mswada huu umerudi Bungeni, ningependa kumwomba Waziri ajaribu kuyatembelea yale maeneo ya uwakilishi ambayo hajayatembelea, ili aone hali ilivyo katika zahanati zetu. Akijionea mwenyewe hali ilivyo, ataweza kufahamu mahitaji ya wananchi. Maskini wana shida. Inasikitisha kwamba wananchi hawapati huduma bora katika zahanati zetu. Tumekuwa tukiomba kwa muda mrefu jambo kama hili liweze kufanyika.

Bw. Naibu Spika wa Muda, kutoka mwaka 1963, tulikata shauri, kama taifa, kupambana na kutojua kusoma na kuandika, umaskini na maradhi. Kufikia sasa, tumemalizana na maswala ya elimu na tumeingilia swala la maradhi. Baada ya kumalizana na swala hili, tutaingilia swala la umaskini. Kwa hivyo, ningependa Waziri atembelee zahanati zote nchini ili aone jinsi atakavyozihami.

Kwa hayo machache, ninauafiki Mswada huu.

**Ms. Mbarire:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to beseech you now to call upon the Mover to reply, because you can see the support that the Bill has received.

**The Temporary Deputy Speaker** (Mr. Khamasi): Truly I can see that the debate is skewed in one direction.

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

**The Minister for Health** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I would like to, first, thank all hon. Members of Parliament who have contributed and supported this Bill.

Mr. Temporary Deputy Speaker, Sir, I also want to thank all hon. Members of Parliament who have done numerous surveys and research. They have travelled far and wide in many countries, and from their reports, we were able to come up with the Sessional Paper that was debated in this Parliament and passed. Therefore, I would like to thank all hon. Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, the proposed amendments to the Bill will provide good governance and an independent board of trustees to manage the Fund. The Board will be dominated by representatives of contributors including the Government and the Board as mandated, to appoint the chief executive officer. We are also going to decentralise the Fund's management to every district. This means that we are going to contract---

*(Mr. Ndolo walked to the  
Dispatch Box)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Ndolo! First of all, you are walking when I am standing. You should bow to the Chair and go back to your seat. I order you to apologise, first of all, before you do what you want to do.

**Mr. Ndolo:** Mr. Temporary Deputy Speaker, Sir, I apologise.

**The Minister for Health** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, the measures we

have taken are geared to fighting corruption.

Mr. Temporary Deputy Speaker, Sir, I would like to assure hon. Members that we have taken note of what they have said about what has been happening in the National Hospital Insurance Fund, and surely, all the resources that have been used--

*(Mr. Ndolo walked to the Dispatch  
Box and served Mrs. Ngilu  
with a glass of water)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Ndolo! You know it is against the Standing Orders for you to be in-between the person speaking and the Chair.

*(Mr. Ndolo walked back  
to his place)*

**The Minister for Health** (Mrs. Ngilu): Thank you, Mr. Ndolo. Mr. Temporary Deputy Speaker, Sir, I would like to assure hon. Members of Parliament that this Fund is going to be run professionally. The chief executive officer will be hired in accordance with the rules set out in the Bill, and will not be appointed by the Minister or the President as has been the case in the past. Therefore, I want to assure hon. Members of Parliament that this will be done well.

Mr. Temporary Deputy Speaker, Sir, I also want to say that we are now going to be able to meet the millennium development goals that were set. Out of the eight millennium development goals, three of them are on health. There is the maternal mortality, infant mortality and HIV/AIDS. This is going to be catered for in this Bill.

With those few remarks, I beg to move.

*(Question put and agreed to)*

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

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Members, since there is no more business on the Order Paper, the House is, therefore, adjourned until tomorrow, Thursday, 9th December, at 2.30 p.m.

The House adjourned at 7.55 p.m.