

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th December, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the Commonwealth Parliamentary Association (CPA) Kenya branch delegation to the 35th CPA (Africa Region) conference held in Lobamba, Swaziland from 7th August, 2004 to 15th August, 2004.

The Report of the 45th Session of the Executive Committee and the 27th Conference of the African Parliamentary Union held in Algiers, Algeria on 27th November, 2004, to 1st December, 2004.

(By Mr. Khamasi)

The Report of the first and second sessions of the Pan-African Parliament of the African Union.

*(By the Assistant Minister
for Finance (Mr. Obwocha)*

The Annual Report and Accounts of Moi Teaching and Referral Hospital for the year ended 30th June, 2001 and the Certificate thereof by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Obwocha) on behalf
of the Minister for Health)*

The Report of the Departmental Committee on Health, Housing, Labour and Social Welfare on the HIV/AIDS Prevention and Control Bill, 2004, which was referred to this Committee on Thursday, 28th October, 2004.

*(By the Chairman of the Departmental
Committee on Health, Housing, Labour
and Social Welfare (Dr. Galgallo))*

The Report of the Select Committee on Review of the Constitution on Consensus Building and the way forward in the Constitution Review Process.

*(By the Chairman of the Select
Committee on the Review of the
Constitution of Kenya (Mr. Samoei))*

The Report of the visit of the Departmental Committee on Agriculture, Lands and Natural Resources to the Pyrethrum Board of Kenya in Nakuru on 9th September, 2004.

The Report of the visit of the Departmental Committee on Agriculture Lands and Natural Resources to the Kenya Seed Company in Kitale, Ahero and West Kano irrigation schemes in Nyando and Chemelil, Muhoroni and Miwani sugar companies in Nyando from 14th September, 2004, to 18th September, 2004.

(By Mr. Bett)

NOTICES OF MOTIONS

ADOPTION OF 35TH CPA
(AFRICA REGION) REPORT

Mr. Khamasi: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:-

THAT, this House adopts the Report of the Commonwealth Parliamentary Association (CPA), Kenya Branch delegation to the 35th CPA Africa Region Conference held in Lobamba, Swaziland from 7th August, 2004 to 15th August, 2004 laid on the Table of the House on Thursday, 9th December, 2004.

ADOPTION OF 45TH SESSION OF
EXECUTIVE COMMITTEE AND 27TH
APU CONFERENCE REPORTS

THAT, this House adopts the Report of the 45th Session of the Executive Committee and the 27th Conference of the African Parliamentary Union (APU) held in Algiers, Algeria, on 27th November, 2004 to 1st December, 2004, laid on the Table of the House on Thursday, 9th December, 2004.

ADOPTION OF REPORT OF FIRST
AND SECOND SESSIONS OF
PAN AFRICAN PARLIAMENT

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the first and second sessions of the Pan African Parliament of the African Union laid on the Table of this House on Thursday, 9th December, 2004.

ADOPTION OF PSC REPORT
ON CONSENSUS BUILDING

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

THAT, this House adopts the Report of the Select Committee on the Review of the

Constitution of Kenya on Consensus Building and the way forward in the Constitution Review process laid on the Table of the House this Thursday, 9th December, 2004.

Mr. Deputy Speaker: Mr. Bett, you have no Notice of Motion. Next Order!

ORAL ANSWERS TO QUESTIONS

Question No.787

CLAIMS OF RAPE BY BRITISH ARMY PERSONNEL IN LAIKIPIA

Ms. Mwau asked the Minister of State, Office of the President what steps he has taken to address claims of rape by the British Army in Laikipia.

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

An inquiry file has been opened at Nyanyuki Police Station. The rape victim have been encouraged to record their statements to facilitate investigations into the alleged rapes. The investigations are being conducted jointly by the British authorities and the Kenya Government. At this point, it is not prudent to prejudice the likely outcome of the investigations.

Ms. Mwau: Mr. Deputy Speaker, Sir, I am not very satisfied with the answer given by the Assistant Minister. The Kenya Government has removed itself from this matter and has said that the British Government should handle it. These women are going through pain; they are psychologically being tortured again and again and nobody is giving them emotional or psychological support. What is the Ministry doing to ensure that these women are supported emotionally and psychologically from the pain they go through as survivors of rape?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I would like to acknowledge the point that has been raised by the hon. Member that, in fact, we have not addressed that dimension of the problem. However, now that it has been brought to our attention, we shall surely pick up the issue with the Ministry of Health to see how they could come in to assist us in giving the emotional and psychological help that is required in this case.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, the issue of rape has become very common in this area. Could the Assistant Minister consider relocating the National Security Intelligence Service (NSIS) from that area? A few days ago a woman was gang-raped by British army men after which she died. She was then buried secretly. Could he consider relocating these soldiers to another area?

Mr. Mungatana: Mr. Deputy Speaker, Sir, when the Kenyan and the British Governments were looking for a suitable location for the British army soldiers, they thought that Laikipia District was a good area. However, in view of the issues which have been raised, we will consider other options which are available to us.

Mr. Munya: Mr. Deputy Speaker, Sir, there has been a tendency to handle lightly criminal offences committed by soldiers who come to this country. In fact, most of the soldiers who commit crimes are deported to their countries. Could the Assistant Minister assure this House that soldiers who have been accused of rape will be treated like other criminals?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I will communicate that to the Attorney-General.

Mr. Leshore: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in

order to tell us that he will refer this case to the Attorney-General, while it is obvious that it is the Office of the President which signed a memorandum of understanding with the British Government?

Mr. Mungatana: Mr. Deputy Speaker, Sir, maybe the hon. Member did not follow the issue that Mr. Munya raised. The point Mr. Munya raised was that British soldiers and any other soldiers get very light sentences when they are charged in court. I was explaining to the House that this concern has been raised, and we will ensure that it is communicated to the Attorney-General so that the soldiers get heavy sentences just like any other criminal offenders.

Ms. Mwau: Thank you Mr. Deputy Speaker, Sir. The British soldiers should not continue training in Laikipia. Women in Laikipia and Samburu Districts live in perpetual fear of being raped by the British soldiers. We know the Government is safeguarding diplomatic ties with Britain, as opposed to protecting its people. What will the Ministry do to ensure that women are protected from these soldiers?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the hon. Member has asked what we will do to ensure that women are protected from the British soldiers. When criminal offences are committed, we will take necessary action in accordance with the law. That is as far as the protection of law can be given. I can give that assurance today.

Dr. Godana: Thank you, very much Mr. Speaker. The subject we are discussing is a very grave one. Of late, we have been reading in the local newspapers about the newly formed anti-rapists squad, which has been shooting suspected rapists. For instance, there is a story appearing in one of our dailies today which says that ladies who belong to this group lured suspected rapists and shot them. I think this is a very worrying trend. What assurance do we have that innocent people are not being executed or that contract murders are not being committed.

Mr. Mungatana: Mr. Deputy Speaker, Sir, indeed, this is a serious matter. However, I want to assure the Deputy Leader of the Official Opposition that the Police Department set up this squad so as to send a special message to would be rapists and planners of the rape crime in this country. This squad will conduct its activities within the ambit of the law. So, the story you read about in the Press regarding shooting of people is probably exaggerated. There is no order that I have given, as an Assistant Minister, to police officers to shoot suspected criminals on sight.

Question No.641

TRANSFER OF MR. THOMAS MUTANGILI
TO COAST PROVINCE

Mr. J.M. Mutiso asked the Minister for Education, Science and Technology:-

(a) whether he is aware that Mr. Thomas Mutangili, the immediate former District Education Officer (DEO), Makueni, was transferred to Coast Province to perform unspecified duties in the PDE'S office; and,

(b) the rationale behind transferring a senior aged staff member to a distant locality when he is about to retire.

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

(a) I am aware that Mr. Thomas Mutangili, the immediate former DEO, Makueni, was transferred to Coast Province to perform duties within the PDE's office.

(b) Mr. Mutangili's transfer was in line with normal staff deployment at the district, province or headquarters to fill existing vacancy, where his services could be best utilised.

Mr. J.M. Mutiso: Thank you, Mr. Deputy Speaker, Sir. I thank the Assistant Minister for

that answer. However, I would like to know from him the specific duties Mr. Mutangili was transferred to perform at the PDE's office.

Dr. Mwiria: Mr. Deputy Speaker, Sir, I know that the hon. Member claimed that Mr. Mutangili was transferred to the PDE's office to walk along the corridors. But, I called the PDE's office and I was told that he is in charge of primary school education and the co-ordination of municipal education.

Mr. Ndile: Bw. Naibu Spika, kwa muda mrefu sasa, Wilaya ya Makueni imekuwa ikiongoza katika matokeo ya mitihani ya kitaifa, hasa ule wa darasa la nane. Bw. Mutangili alikuwa amestawisha hali ya elimu katika Wilaya ya Makueni. Si vizuri kumwuondoa kutoka Makueni kwa sababu hali ya elimu itazoroteka. Afisa ambaye alichukua nafasi yake anazitumia pesa za ofisi hiyo vibaya. Je, Waziri Msaidizi anaweza kumrudisha Bw. Mutangili huko Makueni?

Dr. Mwiria: Mr. Deputy Speaker, Sir, Mr. Mutangili was transferred in accordance with several changes in the Ministry. One of them is the need to delocalise staffing. He has been working in Makueni and Machakos Districts for the last 10 years. He also does not have a university degree, which is now a requirement for one to be a DEO. Thirdly, we took him there on account of the fact that he would not be very far from his home district. I do not see why he should be returned to Makueni. If he is such a good DEO, then other districts in Kenya should also benefit from his services. We have to assume that the current Makueni DEO will perform his duties well, unless proven otherwise.

Mr. J.M. Mutiso: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that Mr. Mutangili is in charge of primary education. Could he consider posting Mr. Mutangili to the municipal education office, where he can perform specific duties as he is a competent officer?

Dr. Mwiria: Mr. Deputy Speaker, Sir, as you know, we cannot determine matters of deployment of officers in Parliament. However, I would like to say that, of course, we shall consider this case and if there is merit, a vacancy existing at the municipal education office and no problem with transferring him, of course, we shall be happy to do that.

Mr. Deputy Speaker: Next Question by Mr. Kagwe!

Question No.814

COMPENSATION FOR LAND GIVEN TO
MUKURWEINI SUB-DISTRICT HOSPITAL

Mr. Kagwe asked the Minister for Lands and Housing:-

(a) whether he could inform the House why four people, Messrs Kinyua, Ngunjiri Waigi, Grace Kagure and Kuniya Wambote, who gave out their land to facilitate expansion of Mukurweini Sub-District Hospital in 1983 have not been compensated for their land to date; and,

(b) what he is doing to ensure that these people are compensated.

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

(a) The four people in question were actually compensated by being offered alternative plot numbers 2572, 2573, 2574 and 2575 in Oljoro Orok Salient Settlement Scheme in Nyandarua District in 1985. However, they failed to occupy the plots allocated to them for a number of years. Consequently, the plots were repossessed by the Settlement Fund Trustee in 1992 and subsequently allocated to other persons.

(b) Since the people affected surrendered their land for a public institution, they can still be

considered for compensation.

Mr. Kagwe: Mr. Deputy Speaker, Sir, these people did not refuse to occupy the areas that they were given. What transpired is that the people concerned gave out their land for the building of Mukurweini Sub-District Hospital for free. They were not given any money whatsoever. When they were allocated the plots, they were then asked to pay all sorts of monies to the Government and their simple explanation was that since they had not gotten any money from the hospital, they had no money to give the Government. That is the reason why they were unable to occupy the plots allocated to them. Given that background which the Assistant Minister now knows, could he confirm today that he is going to allocate land to these people and not charge them any money regarding the resettlement?

Mr. Ojode: Mr. Deputy Speaker, Sir, I sympathise with the Questioner because this case has taken a long time. This happened because it was being handled by the Provincial Administration. However, I want to assure the Questioner that let the claimants apply for compensation and I will compensate them immediately.

Mr. ole Metito: Mr. Deputy Speaker, Sir, the issue of land injustice is only going to be addressed by having a national land policy based on the Ndung'u Report. When is this Ndung'u Report going to be opened for public scrutiny?

Mr. Ojode: Mr. Deputy Speaker, Sir, I had assured this House that the national land formulation policy is an ongoing process and the Ndung'u Report has been demanded for a very long time. I want to assure the House today that as from tomorrow, we are going to make the Ndung'u Report public and all the cases which were in it will be implemented.

Mr. Kagwe: Mr. Deputy Speaker, Sir, could the Assistant Minister agree that given that these people had already applied for compensation, they are known and the case is clear, do they really need to re-apply? Could the Assistant Minister simply not say that they are going to take them from one phase to the other? Where and when is the Assistant Minister going to do this?

Mr. Ojode: Mr. Deputy Speaker, Sir, the reason why I am requesting the hon. Member to ask the claimants to re-apply is because going through the files might delay the compensation process. So, if they could apply immediately, I will act straightaway.

Mr. Deputy Speaker: Next Question by Mr. Oparanya!

Question No.339

ALLOCATION OF LATF FUNDS TO
BUTERE/MUMIAS COUNTY COUNCIL

Mr. Oparanya asked the Minister for Local Government:-

- (a) how much money has been remitted to Butere/Mumias County Council from LATF since the fund's inception; and,
- (b) what projects benefitted from LATF funds in Butere Constituency and how much was spent on each project.

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

- (a) To date Butere/Mumias has received Kshs137,909,571 from LATF.
- (b) The following amounts have been spent on projects in Butere County Council---

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

Mr. Deputy Speaker: Let the Assistant Minister finish! You will have an opportunity to raise your point of order!

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, the list is very long and I wish to lay it on the Table.

*(Mr. Tarus laid the document
on the Table)*

Mr. Oparanya: Mr. Deputy Speaker, Sir, the answer I have is different from what the Assistant Minister is reading. So, that is why I wanted to get the correct written answer. I will not be able to ask a supplementary question unless part "b" of my Question is answered.

Mr. Deputy Speaker: Mr. Assistant Minister, what do you have to say about what Mr. Oparanya is saying; that it is a different answer?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I am not so sure what happened that Mr. Oparanya does not have part "b" of the answer, but I have laid on the Table the details concerning that particular answer.

Mr. Deputy Speaker: Mr. Oparanya, there is a list which has been laid on the Table of the House to answer part "b" of your Question. This is the list of the projects which have benefitted from LATF funds in Butere Constituency and how much was spent on each of them.

Mr. Oparanya: Mr. Deputy Speaker, Sir, I have just been given an answer now. Part "a" of the answer is different from what the Assistant Minister has just read. I cannot ask any supplementary question unless I know what is contained in part "b" of the answer.

Mr. Deputy Speaker: Okay, Mr. Oparanya. I will skip the Question for a few minutes so that you and the Assistant Minister can consult.

Mr. Oparanya: Okay, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question by Mr. ole Metito!

Question No.562

REFUND OF FARMERS' MONEY BY
ZONE HOLDING CREDIT COMPANY

Mr. ole Metito asked the Attorney-General:-

(a) whether he is aware that between June and July 1999, Zone Holding and Credit Investment Company Limited, collected Kshs3,216,225 from farmers in Oltiasika and Namelok sub-locations of Mbirikani Location as deposit for loans which were never given;

(b) if he inform the House the legal status of this company and its physical address; and,

(c) what steps he will take to ensure that the money is refunded to the farmers and the company penalised for its action.

Mr. Deputy Speaker: The Attorney is not here? Is there somebody here to answer this Question on behalf of the Attorney-General? It seems there is none. So, as hon. Members are aware, the hon. Attorney-General has been out on East African Community duties and, therefore, he has no deputy and I can only defer the Question generally.

(Question deferred)

Mr. ole Metito: On a point of order, Mr. Deputy Speaker, Sir. I have been pursuing this

Question since August and today I received a letter from the Attorney-General dated 3rd August this year. We have had very many Questions for the Attorney-General and he is always absent. In fact, one wonders whether he is still a Member of this House. What are we generally going to do with all these Questions which are meant for him?

Mr. Deputy Speaker: Mr. ole Metito, you know I am not in charge of Government Business and also allocation of responsibilities to Ministers. My duty here is to read the Question and the relevant Minister stands to answer. If he is not there, there is nothing I can do and I just go to the next Question. In this case and in the other cases of the two past weeks, the hon. Attorney-General has been absent. Of course, the Chair is aware that he is somewhere on official duty. Therefore, there is nothing I can do even if you raise one hundred points of order. The hon. Attorney-General is not here and the Question will not be answered.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. There is the issue of collective responsibility where some Ministers answer Questions on behalf of others. I appreciate that the Attorney-General may be busy elsewhere, but what happens to us who are busy in this Parliament and who require his services?

(Applause)

Mr. Deputy Speaker: Do I have a Minister who can respond to that? The Leader of Government Business is not here!

(Loud consultations)

We will move on to Questions by Private Notice!

QUESTIONS BY PRIVATE NOTICE

MEASURES TO ENSURE TRANSPARENCY IN POLICE RECRUITMENT

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

Could the Minister inform the House what measures he has taken to ensure that the recently announced police recruitment exercise is fairly and transparently conducted to avoid problems associated with past recruitment?

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

A substantial part of this Question was answered and the part that remained was for the House to be given a breakdown of police recruitment for the year 2004.

From all police stations in Kenya, the list is long because we have 78 police stations. I will only say that there was a total of 43 constables and General Service Unit officers (GSUs) in Trans-Nzoia. That is the highest that was taken at the Trans-Nzoia Police Station while the lowest was in Elwak Police Station in North Eastern Province. Otherwise, I will table the list before the House for inspection and confirmation.

*(Mr. Mungatana laid the document
on the Table)*

The total number of recruits was 2,000; 620 GSUs and 1,380 police officers.

Thank you.

Mr. Mwanzia: Thank you, Mr. Deputy Speaker, Sir, for that answer. I wanted to know that because the exercise has been marred by corruption and tribalism. I understand that for Machakos, we were supposed to have recruited 28 constables but on the ground, it is only 20 who have been recruited. Could the Assistant Minister confirm that the recruits for Machakos were actually recruited on Tuesday?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I can confirm to the hon. Member that for Machakos, we recruited a total of 27 recruits and that is what happened. There was no corruption.

Mr. Salat: Mr. Deputy Speaker, Sir, the recruitment exercise in Bomet Constituency was done up to past 3.00 a.m. in the morning. I would like to know if those who came to recruit in Bomet were in order to do so even in bars? In fact, there was a lot of bribery.

Mr. Deputy Speaker, Sir, could the Assistant Minister confirm if recruitment is also done in bars?

Mr. Mungatana: Mr. Deputy, Sir, I can confirm that recruitment is not done in bars. The exercise was free and fair. However, if the hon. Member has evidence that we can use to order a fresh exercise, I will do that.

Mr. Gitau: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm or deny that this exercise that is being done in districts is not transparent? There are "B" numbers being issued here in Nairobi. What are "B" numbers?

(Applause)

Mr. Deputy Speaker: Mr. Assistant Minister, did you get that?

Mr. Mungatana: Mr. Deputy Speaker, Sir, we had an allocation for 2,000 new constables. I have given the breakdown for the rest of the country. If there are others who are going to be recruited, that is not within our knowledge.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Hon. Members, we must proceed. Mr. Mwanzia!

(Mr. Gitau stood up in his place)

Mr. Gitau, I have already given you a chance!

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for confirming that 27 people were recruited in Machakos although I am not sure. He has also said that the allocation was between 43 for the highest and 9 for the lowest. Could he tell the House what criteria they used to do the allocation per district?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the police force considers various things when it is recruiting and allocating the numbers to various districts. One of the most important considerations is the population of the area from where the recruitment is taking place. If we compare Elwak in North Eastern and Trans-Nzoia, the number of people who live there is very small. We try to balance the population amongst many other factors that are considered.

Mr. Deputy Speaker: Hon. Members, I will encourage you to look at the list that has been laid on the table by the Assistant Minister to see the allocation of your district.

Next Question by Maj-Gen. Nkaisserry!

RETIREMENT OF PERSONAL ASSISTANT
TO EDUCATION MINISTER

Maj-Gen. Nkaiserry: 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 the Personal Assistant to the Minister for Education, Science and Technology has long attained the mandatory retirement age of a public officer?

(b) Is he further aware that the said officer is breaching the Civil Service regulations by indulging in the politics of Kajiado District?

(c) What measures is the Minister taking to retire the civil servant and stop further breach of the regulations?

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

(a) I am aware that the Personal Assistant (PA) to the Minister for Education, Science and Technology attained compulsory retirement age with effect from 1st July, 2000. However, the PA was retained on local agreement terms with the authority of the Public Service Commission (PSC).

(b) I am not aware that the officer is breaching the Civil Service regulations since no complaint has ever been lodged against him.

(c) The officer is still on local agreement terms of service which will expire on 30th June, 2005.

Maj-Gen. Nkaiserry: Mr Deputy Speaker, Sir, you heard the Assistant Minister mentioning the officer but not his name. Part "b" of the Question is whether he is aware that Mr. Tanju is politicking in Kajiado District on behalf of Prof. Saitoti to undermine other political leaders.

(Applause)

That is the specific question and the Assistant Minister is by-passing it. The reason I brought this Question is because we do not want interference in political constituencies in this country. Prof. Saitoti has had a habit of using that man to undermine---

Mr. Deputy Speaker: Order, Maj-Gen. Nkaiserry! We are not discussing Prof. Saitoti here! Your Question is about an officer and if you wish to discuss those details of Prof. Saitoti, bring a substantive Motion.

(Applause)

For now, deal with the officer.

Maj-Gen. Nkaiserry: Okay, Mr. Deputy Speaker, Sir. We cannot run away from responsibility. This man is a Personal Assistant to a particular person, Prof. Saitoti. How can I get away from that? That is the complaint I have. The question I want to ask is this: What special duties or skills does this man have to be retained in the service other than for political expediency?

Mr. Shitanda: Mr. Deputy Speaker, Sir, first and foremost, I answered the hon. Member on part "b" that the PSC has no information to the effect that this particular civil servant is engaging in politics. Unless it is informed and, there are channels for doing that, we would not know and no action would be taken until a formal complaint is lodged. It could be lodged by either the hon. Member or those people who have witnessed him engaging in politics.

Mr. Deputy Speaker, Sir, the choice of a personal assistant (PA) is normally the responsibility of the Minister. Normally, Ministers pick their PAs from civil servants. So, Mr. Tanju was picked by Prof. Saitoti as his PA, and his contract has normally been renewed at the

request of the Minister, which is in accordance with the Public Service Commission Act.

Mr. Midiwo: Mr. Deputy Speaker, Sir, the Assistant Minister has said that this person was re-employed on 1st July, 2002, and he was the PA to Prof. Saitoti. At some point, in the year 2002, Prof. Saitoti was dropped from the Government. Was this man retained in service? Who was he working for? Could the Assistant Minister tell us the criteria used to retain in service people who are past retirement age?

Mr. Shitanda: Mr. Deputy Speaker, Sir, admittedly, the law provides that an officer's service can only be extended beyond his retirement date in public interest. In this particular case, it would appear that the contract of this officer was renewed almost five times for personal reasons. Maybe, the Government should explore ways of amending this law. It would appear that we want people to retire at the age of 55 years, but the Public Service Commission Act has been abused in this particular case by having the contract of this officer renewed more than five times.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, Prof. Saitoti and many of the Ministers are rich enough to pay their own confidants. Could the Assistant Minister save the money that is going to this particular officer and ask Prof. Saitoti to pay the officer from his own pocket?

Mr. Shitanda: Mr. Deputy Speaker, Sir, this particular officer is performing Government duties. So, we cannot ask the Minister to pay him from his own resources.

Maj.-Gen. Nkaiserry: Mr. Deputy Speaker, Sir, the Assistant Minister has not answered my question on what special skills this officer has to warrant his being retained in Government service. If this officer does not have any special skills, why can his contract not be terminated today?

Mr. Shitanda: Mr. Deputy Speaker, Sir, the particular officer is an Under Secretary, and does not have special skills. So, I would like to give the undertaking that when his contract expires in June, 2005, we will not renew it any further.

Mr. Deputy Speaker: Very well! Next Question, Mr. Kamama!

LOSS OF KENYA ARMY WEAPONS
IN RIVER NGINYANG

Mr. Kamama: 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 two Kenya Army lorries, which were carrying lethal weapons, were swept downstream by floods of River Nginyang on 4th May, 2004?

(b) How many of these weapons have been recovered so far and how many are still missing?

(c) Could the Minister declare that River Nyinyang is now safe and that people and livestock can use its water?

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

(a) I am aware that on 3rd May, 2004, a military vehicle convoy was headed for Kapendo for a military exercise. On reaching River Nginyang, the flood waters were assessed to be fairly low, and a decision to cross was reached. In the process, two vehicles got stuck in the middle of the sandy river. It was while making efforts to recover the stuck vehicles that heavy flush floods occurred and swept away the two motor vehicles. One of the vehicles was carrying foodstuffs, while the other was carrying an assortment of weaponry.

(b) The army launched a search, rescue and salvage operation on the same day to recover the swept away lorries and the weaponry. As of today, 90 per cent of the assortment of weaponry has been recovered. The search is still in progress in an effort to recover the remaining 10 per cent.

(c) It is important to emphasise that River Nginyang has never been restricted from use by the local community and their livestock as the missing weapons are not harmful. The river has

always been safe and the inhabitants of the area have continued to use water from it for their domestic and livestock purposes.

Mr. Kamama: Mr. Deputy Speaker, Sir, first of all, I do not have the written answer. I hope I will get it from my pigeon hole.

You have heard the Assistant Minister say that only 90 per cent of the armourment has been recovered. The situation on the ground is not good. People cannot access the river. I am talking about the 2,000 people of Nginyang Township. On that day, the army lost about 87 firearms, including grenades, general purpose machine guns (GPMGs) and light machine guns (LMGs). As I speak, the army officers on the ground are restricting people from accessing certain areas of the river. When will this river be declared safe for people and livestock to use its water?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the information I have from the ground does not support the hon. Member's allegations. I am informed that we have not restricted the use of this river. If the contrary is the case on the ground, I will ensure that the river is opened immediately for use by the community.

Mr. Kamama: Mr. Deputy Speaker, Sir, I hope that officers at Nginyang Military Patrol Base will implement the Assistant Minister's directive.

Mr. Mungatana: Mr. Deputy Speaker, Sir, we will do so.

Mr. Deputy Speaker: Hon. Members, I have noted that the Attorney-General has come. Next Question, Mr. Angwenyi!

IRREGULAR RECRUITMENT OF TEACHERS BY KISII DEO

Mr. Angwenyi: 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 on 27th August, 2004 the Kisii Central District Education Board (DEB) rejected the list of selected candidates for recruitment of primary school teachers and referred the matter to the Teachers Service Commission (TSC)?

(b) Is he further aware that the DEO went ahead and recruited candidates from the rejected list before the matter was resolved by the TSC and the DEB?

(c) Could the Minister nullify this irregular recruitment of teachers by the DEO?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I beg the indulgence of the House. I got an answer from the TSC only this afternoon, and it does not seem to be an accurate reflection of the situation on the ground. So, I would like to do a little research and bring the answer to this Question as soon as possible.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I agree substantially with the Assistant Minister that the answer he has been given is insufficient. In fact, it is misleading. Could he consider suspending the recruitment exercise until he has conducted his full investigation and brought a report to this House?

Dr. Mwiria: Mr. Deputy Speaker, Sir, as I said, I do not know the status of the recruitment, but since there is a question mark on it, we shall look into it and ensure that if it has not been finalised we keep it on hold until we respond accordingly to the hon. Member of Parliament.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, this is a very serious matter where an officer of Government usurped the mandate of the DEB in the recruitment process of primary teachers. The Ministry condoned that corrupt exercise of recruitment where allegations have been made of people paying up to Kshs70,000 to get a job. I would have thought since the Ministry wants to endeavour to be transparent and accountable, it should suspend the exercise until they have finished their investigations, then they can either employ those teachers through the DEB or order a fresh recruitment exercise.

Dr. Mwiria: Mr. Deputy Speaker, Sir, I am not aware that there was bribery, but we are going to look into the allegations, and if, indeed, it is true that there was corruption, then we are going to nullify it and take appropriate action against all the officers who were bribed.

DEATH OF MRS. LILY CHELANGAT

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

(a) Is the Minister aware that Mrs. Lily Chelangat Kirui of Tabarit village in Gelegele Location died on 1st November, 2004 in Kapkatet District Hospital?

(b) Is she further aware that the deceased was forced by the nurse in charge of the maternity to walk around the hospital compound as a means of inducing labour from 6.50 a.m., when she collapsed and died?

(c) What action is the Minister taking to stamp out this form of negligence by the medical personnel in the hospitals?

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

(a) I am aware that Mrs. Lily Chelangat Kirui of Tabarit Village died on 1st November, 2004 in Kapkatet District Hospital.

(b) It is not true that the patient was forced by the nurse in charge of the maternity wing to walk around the hospital compound as a means of inducing labour from 6.50 a.m., to 11.00 a.m., when she collapsed and died.

(c) There was no negligence because the health personnel at the hospital did the much they could to save a life. The patient arrived at the hospital at 6.30 a.m., after being referred from Ndanai Health Centre on that day. On admission, the medical officer was called to attend to her and arrived at 7.00 a.m. On examination, she was found to be in the second phase of labour, dehydrated and in distress. There was cord prolapse and hence, intra-uterine foetus death. The medical officers tried to resuscitate her---

Mr. Deputy Speaker: Order, Mr. Konchella! Could you, please answer the Question in a brief manner but not in a form of a statement so that we can save time?

The Assistant Minister for Health (Mr. Konchella): Mr. Deputy Speaker, Sir, the medical officer of health tried to resuscitate her but the condition worsened due to eclapsya high blood pressure. It was, therefore, not possible to undertake any further relieving life-saving action as the attempt to stabilise and resuscitate her failed. She was pronounced dead by a doctor at 8.00 a.m.

Mr. Kimeto: Mr. Deputy Speaker, Sir, as you can see the Question refers to a very sad occurrence. I asked this Question as an hon. Member of Parliament because no explanation to this whole saga had been given. What do we do in this country when we are misled by the people on the ground? This lady cried as she moved around the compound in order to induce the labour until she died. What can we do?

Mr. Konchella: Mr. Deputy Speaker, Sir, that is not true. The patient was carried from the health centre accompanied by a nurse, in a public transport vehicle. By the time she got to the hospital, the head of the baby was already out and there was no way she could even stand. She was dehydrated and not able to walk around the compound.

Mr. Kimeto: Mr. Deputy Speaker, Sir,---

Mr. Deputy Speaker: Order, Mr. Kimeto! I gave you the last chance and it is gone. Therefore, I now want to revisit the Question by---

Mr. Kimeto: On a point of order, Mr. Deputy Speaker, Sir. You never gave me a second

chance. Could you save us in this House?

Mr. Deputy Speaker: Order, Mr. Kimeto! Take it easy! I gave you a chance to ask the first supplementary question and then another chance. Is that not correct?

Mr. Kimeto: No, you have only given me one chance.

Mr. Deputy Speaker: Then I am sorry! Proceed!

Mr. Kimeto: Thank you, Mr. Deputy Speaker, Sir, for being sorry for your action. We should make this House noble and supreme by letting people know the truth. Could the Assistant Minister send his officers to the home of the deceased to prove if, indeed, the lady was not told to move around the compound in order to induce labour? Could he send somebody to that home and come back to inform the House?

Mr. Konchella: Mr. Deputy Speaker, Sir, herewith me is the report of the Medical Officer of Health. He has written and said exactly the cause of the death. I believe what the hon. Member is pushing for is maybe to blame the hospital for the sake of compensation. Otherwise, records in the hospital bear what is the truth.

Mr. Deputy Speaker: Could we revisit the Question by Mr. Oparanya?

ORAL ANSWERS TO QUESTIONS

Question No.339

ALLOCATION OF LATF FUNDS TO BUTERE/MUMIAS COUNTY COUNCIL

Mr. Oparanya asked the Minister for Local Government:-

(a) how much money has been remitted to Butere/Mumias County Council from LATF since the Fund's inception; and,

(b) what projects have benefitted from LATF funds in Butere Constituency and how much was spent on each project.

Mr. Deputy Speaker: You should not have asked the Question again, because you had already asked it. I had only asked that you consult with the Assistant Minister over the different answers. What is the position Mr. Tarus?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I consulted with the hon. Member and, indeed, found out that he had the wrong answer which had initially been prepared for the Question he had asked much earlier and which we had rejected. We have agreed that he goes by the answer that I have given in the House today.

Mr. Deputy Speaker: Mr. Oparanya, what do you say?

Mr. Oparanya: Mr. Deputy Speaker, Sir, as you can see, my Question was with regard to all the projects that benefitted from the LATF money. I have an answer which was signed by the late Minister for Local Government, Mr. Maitha and another answer signed by Mr. Kombo. Now the two answers are totally different. We have had projects since 1999. I am not just asking about the current projects. I will request that you defer this Question, and immediately after the recess you give it a chance so that I am able to study the answer given by the Assistant Minister.

Mr. Deputy Speaker: Alright! Mr. Oparanya you will have to re-ask the Question anyhow. So it is deferred.

(Question deferred)

Now, hon. Members I had deferred the Question by Mr. Ole Metito on the account that the Attorney-General was not there. Since he has now come, you may proceed, Mr. Ole Metito.

Question No.562

REFUND OF FARMERS' MONEY
BY ZONE HOLDING CREDIT COMPANY

Mr. ole Metito asked the Attorney-General:-

- (a) if he is aware that between June and July 1990, Zone Holding and Credit Investment Company Limited collected Kshs3,216,225 from farmers in Oltiasika and Namelok sub-locations of Mbirikani Location as deposit for loans which were never given;
- (b) if he could inform the House the legal status of this company and its physical address; and,
- (c) what steps he will take to ensure that the money is refunded to the farmers and the company penalized for its action.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I first wish to apologise to the House for not being present at the time the Question was asked.

I beg to reply.

- (a) I am not aware.
- (b) The company was dissolved vide Gazette Notice No.8099 of 8th December, 2000.
- (c) The Attorney-General has constitutional and legal powers in criminal cases. While the Attorney-General was aware of complaints of this nature which showed that criminal offences were reasonably suspected to have been committed, the Attorney-General ordered criminal investigations and, indeed, criminal prosecutions were undertaken before courts in Mwingi, Kitale, Kericho among others.

The affected members in Oltiasika and Namelok sub-locations should do likewise and report to the police.

Mr. ole Metito: Mr. Deputy Speaker, Sir, that is a serious matter that has costed peasant farmers not less than Kshs3.2 million. It is now over five years since the company swindled money from those peasant farmers; that was in 1995. It was dissolved in 2000, according to the Attorney-General. Could he consider referring this matter to the Kenya Anti-Corruption Authority (KACA), so that those farmers could get back their money?

Mr. Wako: Mr. Deputy Speaker, Sir, what I can assure the House is that, if the affected members reported to the police, investigations will be carried out. I will ensure that they are carried out expeditiously.

Mr. Sirma: Mr. Deputy Speaker, Sir, Zonal Holdings and Credit Investment Company Limited is not new in many parts of this country. It is a terrible organisation that has fleeced Kenyans millions of shillings, including my constituents. Could the Attorney-General consider arresting the directors and surcharging them for amounts that are known, so that the other people could come up with their claims? Right now, we do not know where to take our complaints! The police cannot even trace those people.

Mr. Wako: Mr. Deputy Speaker, Sir, I do agree that Zonal Holdings and Credit Investment Company Limited is a notorious company. In fact, this is the fourth Question that has been asked in this House over the matter. I can assure you that prosecutions are continuing in various courts against the directors and employees of that company. Unfortunately, one of them passed away. If

the hon. Member who asked this Question is not satisfied with the local police being able to investigate, he can come to me. I will take him to the Director of Criminal Investigations Department (CID), for the investigations to be done at that level. In fact, the Director of CID is co-ordinating the investigations because that is a nationwide issue and investigations must be carried out.

Mr. Deputy Speaker: Well, Mr. ole Metito, you must be satisfied. Hon. Members, that is the end of Question Time!

We have a few Ministerial Statements. Let me call upon the Assistant Minister, Office of the President to issue his Ministerial Statement!

MINISTERIAL STATEMENTS

INVASION OF MOYALE BY ETHIOPIAN MILITARY

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Deputy Speaker, Sir, on 22nd November, 2004, a group of Ethiopian militiamen numbering 58 crossed the border into Kenya, allegedly to flush out the Ethiopian insurgents in the areas of Kate and Mbori. I regret to inform the august House that, in the process, they killed a Mr. Boru Jilo, a Kenyan police reservist and abducted the Assistant Chief of Kate Sub-location, Mr. Kala Galgallo. Three other Kenyans named Wario Bonaya, Golicha Dari and Galgallo Jilo were also abducted. The raiders are believed to have taken off with three G3 rifles and 300 rounds of 7.6 millimetres ammunition from the Kenyan Police Reserve. Those four persons are still being held captive by the Ethiopian militiamen.

Mr. Deputy Speaker, Sir, may I also add that a simultaneous raid was also carried out at Bori by a group of 35 Ethiopian militia with similar intentions of flushing out perceived insurgents. During the raid, an Ethiopian militia, Ayelo Wankeba Walano, surrendered to the residents after he had lost direction. He handed over one AK47 rifle, two hand grenades and 30 rounds of 5.56 millimetre ammunition. The Ethiopian militia was arraigned in the court of law in Moyale on 30th November, 2004, and was charged with the following offenses: Being in Kenya illegally, being in possession of a firearm without a firearm certificate and being in possession of a firearm with the intention of committing a felony.

Mr. Deputy Speaker, Sir, I beg to inform hon. Members that the above case is scheduled for hearing on 15th December, 2004, while the militia remains remanded at the Moyale GK prison. At this juncture, I beg to assure the House that numerous efforts are being made to ensure that peace prevails in the area. These include intensifying patrols in the area of Kate, Bori, and Sololo. Secondly, cordoning and searching the area. That has born fruit as three Ethiopian nationals; namely, Godana Okota, Nura Guyo and Jaos Odida Golicha were apprehended. Those Ethiopian nationals have so far been charged for being in Kenya illegally. Two of them were sentenced to six months imprisonment or a fine of Kshs10,000. They are both serving the sentences at the Moyale GK prison. The remaining one denied the charges and is still held in remand at the Moyale GK prison.

Mr. Deputy Speaker, Sir, I wish to assure this august House that the Provincial Security Intelligence Committee (PSIC) has taken charge to consult with our Ethiopian counterparts with a view to curbing those acts of intrusion into our country. I also want to add that other security operators are also on the ground, beefing up security in the area. I hope what happened will not be repeated again.

Mr. Deputy Speaker: I am going to allow only Dr. Galgallo to seek a clarification.

Dr. Galgallo: Mr. Deputy Speaker, Sir, that is a very serious matter!

Mr. Deputy Speaker: Order, Dr. Galgallo! You requested for a Ministerial Statement! Therefore, I am asking you to seek clarification! But you cannot tell me whether it is serious or not.

Mr. Bahari: Mr. Deputy Speaker, Sir, please, give me a chance to seek clarification!

Mr. Deputy Speaker: Order! Sit down!

Dr. Galgallo: Mr. Deputy Speaker, Sir, I beg to seek your indulgence. That is a very serious matter. That is not the first time that the Ethiopian military has invaded my constituency, and this Government is unable to stop them. You have heard the Assistant Minister say that the assistant chief and three other elders are being held captive by the Ethiopian Government. The Ethiopian Government is supposed to be sisterly to us, and we should enjoy cordial relationships. What steps is the Assistant Minister taking to ensure that the assistant chief and the three elders that are being held captive, are brought back home? They are suffering and languishing in Ethiopian jails and yet, they have not committed any crimes. They were abducted from their homes. What steps are you taking to ensure that they come home immediately?

Mr. Deputy Speaker: Mr. Mungatana, I will give one more chance to Mr. Bahari and then you will respond.

Mr. Bahari: Mr. Deputy Speaker, Sir, I am surprised that the charges that have been preferred against the Ethiopian captives are so light, when Kenyans have been killed and others abducted. Arms and ammunition have been used against innocent Kenyans. Why would the Assistant Minister prefer such lighter charges against those persons?

An hon. Member: Mr. Deputy Speaker, the last one!

Mr. Deputy Speaker: No! We have quite a number of Ministerial Statements.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Deputy Speaker, Sir, I share the concerns of Dr. Galgallo about Kenyans who are being held captive in Ethiopia. The Ministry has initiated dialogue and on 23rd November, 2004, a cross-border meeting was held between the security officials from both sides of the border at Moyale Town and the district headquarters. The discussions were based on the release of the abducted people from Kenya. The Ethiopian militia were demanding the release of other captured Ethiopians on our side and 240 rounds of 5.56 millimetres bullets that we allegedly took.

Mr. Deputy Speaker: Be brief, Mr. Assistant Minister.

The Assistant Minister, Office of the President (Mr. Mungatana): Yes, Mr. Deputy Speaker, Sir. The discussions are ongoing. Once a reasonable agreement has been reached, we will be able to exchange the captives, but on terms that are agreeable between both parties.

RATIFICATION OF EAST AFRICAN CUSTOMS UNION PROTOCOL

The Minister for East African and Regional Co-operation (Mr. Koech): Mr. Deputy Speaker, Sir, my Ministerial Statement is on the ratification of the Customs Union Protocol. I brought this Statement because there has been contradictory information from the newspapers which has forced me to clear the air by coming up with this Statement on the ratification of the customs union.

The protocol for the establishment of the East African Customs Union was negotiated by the three East African partner states; that is Kenya, Uganda and Tanzania, over a period of four years running from January, 2000, to February, 2004. The protocol was signed by the three East African Community Heads of State on 2nd March this year. The protocol enhanced benefits to the people of East Africa through creation of an attractive investment basin. Promotion of efficiency in the

manufacturing industry has come to a lower cost as a result of economics of scale.

Other benefits include provision of training ground for domestic firms as they are prepared to penetrate international competition, attraction of local as well as foreign investors and enhancement of global influence of the three partner States in international negotiation. Under the East African integration arrangement, Kenya's trade balance has continued to register huge surpluses in favour of Kenyan industrial base. Kenya's exports to the two East African partner States rose from US\$24,125,000; that is Kshs1.9 billion in 1990. By 2003, exports to Uganda had increased to Kshs30 billion while those to Tanzania had increased to Kshs14 billion. Imports from Uganda and Tanzania stood at Kshs1 billion and Kshs1.4 billion respectively, in 2003.

The Customs Union enhanced Kenya's trade with our two partner states. According to the provision of the protocol, it will come into force upon ratification by the three States. The three partner states have agreed that the protocol comes into force on 1st January, next year. Throughout the negotiation and in the spirit of a people-driven centre, East African integration process, all the stakeholders in public and the private sectors were involved in the process. The Kenyan delegation to the negotiation brought on board the participation of the private sector, especially relevant private sector institutions and individual industrial entities who actively participated in the actual negotiation.

Upon the completion of the negotiations the protocol was submitted to the Cabinet for consideration and approval for signing under the sponsorship of the Ministry of Foreign Affairs, which was co-ordinating community affairs at that time, the Ministry of Finance and the Ministry of Trade and Industry. That was in accordance with the procedure for the ratification of such protocol. The Cabinet gave authority for the signing and ratification of the protocol before the protocol was signed by the three partner States in March, this year. Following this authority, the Ministry of Foreign Affairs is now in the process of preparing the necessary ratification instruments which will be deposited with the East African Secretariat with a view to completing the ratification process.

The next step, upon completion of the ratification process is that the necessary Bill will be prepared by the Minister for Finance, Minister for Trade and Industry and Minister for East African and Regional Co-operation together with the Attorney-General's Chambers and tabled before the National Assembly early next year. The process will facilitate the domestication of the Customs Union Protocol into the national laws of Kenya.

IMPLEMENTATION OF THE NDUNG'U REPORT ON IRREGULAR LAND ALLOCATIONS

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to make the following Ministerial Statement. The Cabinet finalised its discussions on the Ndung'u Report this morning and has directed as follows: That all the recommendations contained in the report of the Commission of Inquiry Into the Illegal and Irregular Allocation of Public and be implemented in full in order to facilitate the speedy implementation of these recommendations that:

1. The Government Lands Act Cap.280 be amended to enable the establishment of a Land Titles Tribunal to execute the recommendations.

2. As an interim measure, an advisory task force be established in the Ministry of Lands and Housing to deal with urgent revocation, and advise on the implementation of the Commission's Report.

3. It is also directed that the Report be made public.

4. The Cabinet has also tasked specific Ministers to take the necessary action.

In terms of the way forward, the Ministry of Lands and Housing intends to proceed as

follows: We promised that we would give Parliament copies of the report and this distribution will be done through the office of the Clerk in liaison with the Permanent Secretary. Arrangements are being made as we sit here to get the printing through the Government Printer. If they are ready by tomorrow, they will be here; if not, they should be here within the course of next week.

Mr. Deputy Speaker, Sir, members of the public can access the Report through the Government Printer. We will have a detailed Press conference tomorrow at 10.00 o'clock to brief the members of the Press. I only need to ask Members of this House, being the opinion leaders and the leaders of this country to treat the contents of the Report with the caution and sensitivity that it deserves. It is a sample of the properties that were identified by the Commission. It is not an all-inclusive list. Not everyone who got a piece of land is in the report and not everyone who is in the report necessarily got that land irregularly. Let us read it with caution and let the task force that we are appointing be able to interpret it in the legal way.

The other issue I need to emphasise on is the Government's commitment that the exercise must be carried out within the law and upholding the rule of law. There will be communities that are likely to be affected negatively through statements that might be made by leaders, people who are in settlement schemes that may be mentioned in the report. Nobody needs to panic and the Government will take all necessary action as we implement the recommendations of that report. I would like to ask that as leaders, we set the pace in reassuring our people that there is a Government in place that will ensure that nobody is displaced or unfairly treated as a result of the release of the report.

Thank you, very much.

Mr. Deputy Speaker: Mr. Muite, you can only seek one clarification!

Mr. Muite: Thank you, Mr. Deputy Speaker, Sir. While I congratulate the Minister and the Government for releasing this Report at long last, could we have a clarification from the Minister regarding the setting up of the Advisory Task Force and the Land Titles Tribunal?

Could he assure us that this House will be involved in the process so that the matter is not entirely left in his hands to pick, perhaps, people who will be rejected by this House?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Deputy Speaker, Sir, the law has to be changed in order to establish the Land Titles Tribunal, and this will be done in this House. We hope to bring a Bill before this House immediately Parliament reconvenes next year. The Advisory Task Force will be established within the Ministry of Lands under Section 23 of the Constitution. The Tribunal has nominated some people it believes need to be incorporated, and we believe that they will be as fair as possible in the setting up of the commission.

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

Mr. Deputy Speaker: Hon. Members, I had already said that one clarification would be sought! Could you sit down?

(Mr. Sirma stood up in his place)

Order! Sit down! Mr. Sirma, I am standing and you are also standing! It is not right for you to stand when I am on my feet! Hon. Members, I want to draw your attention to the Supplementary Order Paper which has been circulated.

Hon. Members: We have not seen one!

Mr. Deputy Speaker: Has the Supplementary Order Paper been circulated?

Hon. Members: No!

Mr. Deputy Speaker: But the Clerk-at-the-Table says that it has been circulated!

Hon. Members: The Supplementary Order Paper has not been circulated!

Mr. Deputy Speaker: I am sorry! Dr. Mwiria had a Ministerial Statement to make.

Mr. Sirma: On a point of order, Mr. Deputy Speaker, Sir. I want to seek clarification---

Mr. Deputy Speaker: Order! Mr. Sirma, do not force me to take an action I would not like to take.

RAISING OF UNIVERSITY ADMISSION
CUT-OFF POINTS

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I rise to issue a Ministerial Statement on the university cut-off points, which was requested by Mr. Angwenyi on 7th December, 2004.

I would like to start by saying that, as a Ministry, we are very concerned that out of the 49,870 students---

*(An orderly distributed copies of
the Supplementary Order Paper
to hon. Members)*

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Could you get more people to distribute the Supplementary Order Paper? We cannot wait for one orderly to distribute it to hon. Members the way he is doing.

Mr. Assistant Minister, could you continue?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, we are very concerned that approximately 20,232 students will make it to our public universities next year out of a total of 49,870 qualified candidates. I would like to say, unfortunately, that the 39,638 candidates who were left out mainly come from disadvantaged schools and regions. We are, therefore, concerned that university education, in this case, will only serve to intensify inequality, both regional and social. We have always said before that the minimum qualification or eligibility points for university is a mean grade of C+ (Plus), but that does not mean that all those who attain this grade are admitted to public universities. That is why we have different cut-off points depending on the actual number of places available and on the qualifications of candidates for that particular year.

The declared capacity in the universities for the coming academic year is 10,170. Based on that, a cut-off point of 66 points was arrived at. This gives us a total of 10,232 students. Because we are concerned with the problem, we would also like to address the long-term solution. One of the measures we hope to take, as a Ministry, is to see if we could expand the level of the resources available to public universities and find out whether we can support more students to be admitted as day scholars, support distant education programmes, complete stalled projects in the universities to create more room, upgrade some colleges to university status as long as they have the required facilities and act on the Arid and Semi-Arid Areas (ASAL) as well as other disadvantaged schools in pockets of poverty in this country Report. We appreciate the autonomy of the universities and all we can do is to negotiate with them on some of these measures we have proposed. I would like to say that as Parliament, we have to take the matter very seriously and find out what we can do as a long-term measure. We should support the allocation of more resources to public universities and

also come up with actual admission measures which give priority to students from both disadvantaged schools and communities.

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir. This is a serious matter. The Ministry should address this issue right from its roots. Why can the Ministry not give a practical solution to the problem by, for example, upgrading Kisii and Kabianga colleges into constituent colleges? Why can the Ministry not complete Kibabii College and upgrade it? The colleges are lying idle in this country. All we need to do is to give them manpower so that they can absorb all those students.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I have already said that we are considering the possibility of upgrading more institutions, but this should be done with care. I do not think we should upgrade an institution to a university college simply because it has the resources to provide university education. Secondly, we need middle-level colleges. As they say, for every one engineer, for example, you need eight technicians. So, as much as we expand and take middle-level colleges, we must understand that there is a need for that category of colleges. However, I entirely agree that in the long term, we need to expand opportunity for potential university students.

Mr. Ndile: Jambo la nidhamu, Bw. Naibu Spika. Leo ni siku ya tatu tangu nilipomuuliza Waziri wa Haki na Maswala ya Katiba atoe Taarifa kuhusu uamuzi wa korti juu ya Tume inayochunguza kashfa ya Goldenberg. Jambo hili ni muhimu na Waziri yuko hapa---

Mr. Deputy Speaker: Order, Mr. Ndile! Your purpose, today, is to remind the Minister that you are expecting a Ministerial Statement from him because you requested it. Mr. Minister, what do you have to say?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. I know this matter is of great public interest, but we have legal constraints and we are unable to make a Statement in this House. As the hon. Member knows, this matter is now pending before the Court of Appeal.

Mr. Deputy Speaker: Mr. Ndile, have you heard that? What is it that you want to say?

Mr. Ndile: Bw. Naibu Spika, nimeelezwa kwamba kesi hiyo ingemalizika leo. Ninaogopa kwamba Mawaziri hawa kesho watanyakua mali na waseme kwamba ni Rais aliwaamuru wanyakue mali ya Umma, na mambo haya yataendelea.

(Applause)

Mr. Deputy Speaker: Order, Mr. Ndile! You have got to be procedural here. This one is not a public rally!

(Laughter)

The Minister has given a valid point. He has said that the matter is before the Court of Appeal and, therefore, he cannot discuss it here. So far there is no Statement from the Minister and you have nothing to seek clarification on. So, the matter ends there because the Minister has said that he cannot issue the Ministerial Statement because the matter is before the Court of Appeal. Mr. Ndile, what are you seeking clarification on?

Mr. Ndile: Bw. Naibu Spika, tulikuwa tumeambiwa kwamba uamuzi utafanywa leo. Mimi ninajua kwamba hii ni Bunge na sio baraza, lakini Waziri ana uwezo wa kujua hii kesi imefika wapi.

Mr. Deputy Speaker: Bw. Waziri, sitaki kusema kitu kwa niaba yake. Unataka kusema

kitu cho chote?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that we will have to wait until the matter, which is pending before the Court of Appeal, is disposed of. It is only at that point, that we can discuss that matter.

COMMUNICATION FROM THE CHAIR

EXTENSION OF SITTING HOURS

Mr. Deputy Speaker: Hon. Members, I believe that by now, you have received the Supplementary Order Paper that I was talking about.

Hon. Members: We have not!

Mr. Deputy Speaker: Order! I have seen copies of the Supplementary Order Paper being circulated. Nevertheless, let me say what I wanted to say. If you look at Order No.7, you will find that it relates to the Committee of the whole House. There are four Bills which are listed to be handled in the Committee this afternoon. Therefore, when we go to Order No.7, we will proceed to the Committee of the whole House, and the Committee will consider the four Bills in the order in which they are listed. If you look at your Order Paper, you will find that there is a Motion of adjournment, not later than 5.00 p.m. I want to seek the leave of the House that the Committee will continue until the Bills are finished, before the Motion of adjournment is started, notwithstanding the time. The Motion of adjournment will continue until it is finished. Do I have any objection?

Hon. Members: No!

Mr. Deputy Speaker: Therefore, the leave of the House is granted!

Mr. Arungah: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek guidance from the Chair. I am a new hon. Member of this House. As you have seen, we have just received the Supplementary Order Paper, in which I notice that so many amendments have been proposed on the Bills which we are about to discuss. These amendments have just been brought. As hon. Members, we need to be given adequate time to look at these amendments, so that we can see what their implications are. We have made pieces of legislation, which have been rejected for the same reason that we did not have adequate time to look at them. I need the guidance of the Chair as to whether we should not be given adequate time to look at these amendments and their implications?

Mr. Deputy Speaker: As hon. Members are aware, normally, whenever we are producing Supplementary Order Papers, we make sure that as you enter the Chamber at 2.30 p.m., you have the copies. That has been the practice. Indeed, the Chair appreciates that hon. Members should have a look at the amendments much earlier. I also want to appreciate the fact that some of these Bills were concluded only yesterday at 8.00 p.m. The office of the Clerk has been working in conjunction with the office of the Attorney-General since last night to produce the amendments that you have seen.

We have done this before. I have seen Supplementary Order Papers being submitted to the House and we proceeded to discuss the Bills in the Committee. Therefore, as much as I appreciate the fact that these amendments have just been brought, I want to urge the hon. Members to sit in the Committee and consider the Bills, as they have done in the past.

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, you know very well that we have been accused, as hon. Members, of not taking our work seriously, rushing Bills and being rubber stamps. We do not want to be accused again of not taking our work seriously. I have looked

at these amendments and they are very bulky. We were not even given a chance to come to the House with the Bills, so that we can compare what we are amending, and now we are being asked to go into serious matters and pass the Bills by saying: "Ayes". Then tomorrow, we will again be accused.

The problem we are having with the Consensus Bill; the 65 per cent, is that we got it at the last moment and it was passed so quickly, that we did not have a chance to look into the issue seriously. If we are to be seen by the citizens of this country as taking our work seriously, I do not see why we should be rushed into dealing with matters that we have had no time to consider.

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I want to thank hon. Members for making contributions regarding the amendments that are before the House; the Bills have been discussed during the Second Reading.

In my experience in this House since the Seventh Parliament, usually amendments come as a result of suggestions of hon. Members during the Second Reading of Bills. It is when the relevant Ministers and their officials go through the HANSARD and the notes that every Minister takes in the House, that they take into account concerns of hon. Members about the Bills being discussed. So, amendments are brought to the House during the Committee Stage after the conclusion of the Second Reading, which can come any time; the first or the second day.

Mr. Deputy Speaker, Sir, in my experience, I know that hon. Members who have been following the discussions of a Bill, will go to the sections of the Bill where they suggested amendments and find out whether their suggestions have been taken into account. What usually happens is that as we sit in the House, every hon. Member has a chance to go through the suggested amendments and confirm whether or not their concerns have been taken into account. So, I do not think that it is in any way out of step with the normal House practice to bring amendments to the House during the Committee Stage. That is when hon. Members discuss those amendments. Amendments never come to the House any earlier than the Committee Stage.

So, I would like to plead with the hon. Members for us to go through this tradition established in this House, and look at the amendments. You can take as long as possible in discussing the proposed amendments, but the fact that they have been brought to the House now, does not prevent you from discussing them. That, indeed, is a tradition of the House that I have known through the Seventh, the Eighth and the Ninth Parliaments.

Mr. Deputy Speaker: I have already persuaded hon. Members that we proceed as we have done in the past. You can take as long as you wish at the Committee Stage, to discuss all the proposed amendments.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE INVESTMENTS PROMOTION BILL

*(Several hon. Members withdrew
from the Chamber)*

The Temporary Deputy Chairman (Mr. Khamasi): Order, hon. Members! We want to start the business of the House. Those withdrawing from the Chamber, please, do so quietly. We are now in the Committee of the whole House to consider the Investments Promotion Bill. That is what we are going to start with.

Clause 2

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, during the deliberations at the various stages, Members of Parliament expressed the view, consistently throughout, that there needs to be a dichotomy of definition between "foreign" and "local" investors. Accordingly, I beg to move:-

THAT, Clause 2 be amended by inserting the following new definitions in proper alphabetical order-

"foreign investor" means-

- (a) a natural person who is not a citizen of Kenya;
- (b) a partnership in which the controlling interest is owned by a person or persons who are not citizens of Kenya; or
- (c) a company or other body corporate incorporated under the laws of a country other than Kenya;

"investment" means the contribution of local or foreign capital by an investor, including the creation or acquisition of business assets by or for a business enterprise and includes the expansion, restructuring, improvement or rehabilitation of a business enterprise;

"local investor" means-

- (a) a natural person who is a citizen of Kenya;
- (b) a partnership in which the partnership controlling interest is owned by a person who is a citizen of Kenya;
- (c) a company incorporated under the laws of Kenya, in which the majority of shares are held by a person who is a citizen of Kenya; or
- (d) a trust or trust corporation established under the laws of Kenya, in which the majority of trustees and beneficiaries are citizens of Kenya.

"Minister" means the Minister responsible for matters relating to investment.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, as a continuation of the dichotomy between local and foreign investors, I beg to move:-

THAT, Clause 3 be amended -

- (a) in Subclause (1) by deleting the expression "person" and substituting therefor the expression "local investor,"
- (b) by inserting the following new subclause immediately after Subclause (1) -
(2) A foreign investor who intends to invest in Kenya shall apply to the Authority for an investment certificate.
- (c) by renumbering Subclauses (2) and (3) as (3) and (4) respectively.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 be amended -

(a) in Subclause (1) -

(i) by deleting paragraph (b) and substituting therefor the following new paragraph -

(b) the amount to be invested by a foreign investor is at least five hundred thousand United States of America dollars or the equivalent in any currency;

(c) the amount to be invested by a local investor is

at least five million shillings or the equivalent in another currency.

(ii) by renumbering paragraph (c) as paragraph (d);

(b) by deleting Subclause (2) and substituting therefor the following new subclause -

(2) in determining whether an investment and the activity related to the investment are beneficial to Kenya for the purposes of subsection (1)(d), the Authority shall consider the extent to which the investment or activity will contribute to the conditions specified in paragraph (a), (b) and (c), and any or all of the conditions specified in paragraphs (d), (e), (f), (g) and (h) -

(a) creation of employment for Kenyans;

(b) acquisition of new skills or technology for Kenyans;

(c) contribution to tax revenues or other Government revenues;

(d) transfer of technology to Kenya;

(e) an increase in foreign exchange, either through exports or import substitution;

(f) utilization of domestic raw materials, supplies and services;

(g) adoption of value addition in the processing of local, natural and agricultural resources;

(h) utilization, promotion, development and implementation of Information and Communication Technology.

(c) by renumbering paragraph (g) as paragraph (i).

Members did express the view that there should be separate thresholds for foreign and local investors. Accordingly, we propose that the threshold for foreign investors be amended from

Kshs10 million to US\$500,000. This amendment has taken into account the thresholds that are being offered within the region, which range between US\$300,000 and US\$500,000 in the case of Tanzania, and Ethiopia respectively.

Under "c" we proposed the amendment that the threshold for a local investor be reduced from Kshs10 million to Kshs5 million in order to accommodate local investors.

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, there is an amendment to Clause 6.

The Temporary Deputy Chairman (Mr. Khamasi): We do not have it on the Order Paper. Now, the Chair has got a problem even with the pagination. That is the problem of rushing with these things!

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, we have the amendment on page 4 of the Order Paper. I beg to move:-

THAT, Clause 6 be amended by inserting the following new subclauses immediately after subclause (2) -

(3) A foreign investor shall not invest in Kenya unless that foreign investor has been issued with an investment certificate.

(4) A local investor who does not hold an investment certificate shall register the investment with the Authority.

This amendment is just to make that section consistent with separation of the investor definition between foreign and local. Therefore, the amendment to Clause 6 is essentially aimed at achieving that consistency.

(Question of the amendment proposed)

Mr. Sungu: On a point of order, Mr. Temporary Deputy Chairman, Sir. The amendment could be well-intended, but we do not have it before us. So, we do not know what it says. As issue has been raised here before that this Parliament has been accused of making laws which it does not understand. Therefore, I think it will be very erroneous, indeed, if we are to be asked to make a law which we cannot see and read. Therefore, that amendment must be considered annulled and the we proceed!

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Sungu! You are revisiting

a subject that has been discussed and agreed upon. There has been definitely a problem with pagination and the way the papers are arranged even with what we have ot. So, all you need to do is to search your papers and get to the right page. If you have not gotten it, please, let the Orderlies give you. Otherwise, we are not revisiting the issue as to whether we are going to continue with this or not.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Chairman, Sir. Page 6 deals with the Standards (Amendment) Bill.

The Temporary Deputy Chairman (Mr. Khamasi): It is not page 6!

Mr. Sungu: Which page is it then?

The Temporary Deputy Chairman (Mr. Khamasi): We are talking about page 4. That is where Clause 6 is. As I said, there is a problem with the way the papers have been bound.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. In view of the fact that we cannot find the numbering right, perhaps, you may seek the indulgence of the Assistant Minister to explain a little bit more on some of these clauses, so that we are able to participate.

The Temporary Deputy Chairman (Mr. Khamasi): Order! I think the Assistant Minister did explain. Mr. Odoyo, I agree that the papers have not been bound together properly.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, let me just say, for the record, that I have now seen it on page 689 of the Order Paper. Therefore, I stand corrected. But since this is Parliament, we must be careful, indeed!

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

(Clause 6 as amended agreed to)

(Clauses 7, 8, 9, 10 and 11 agreed to)

Mr. Sungu: On a point of order, Mr. Temporary Deputy Chairman, Sir. May I beg your indulgence? There is an amendment to Clause 11, unless it is being ignored!

An hon. Member: That is a different Bill!

The Temporary Deputy Chairman (Mr. Khamasi): What is it that you want to say, Mr. Sungu?

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, you have just put the Question for Clauses 10 and 11. But on page nine of the Order Paper, there is an amendment to Clause 11. Is there no amendment? If the Assistant Minister could confirm that there is no amendment to Clause 11, we can proceed! Otherwise, we would be ignoring an amendment that is on the Order Paper.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Sungu, that amendment is for a different Bill!

The Minister for Transport (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I do not know why there is confusion about these amendments; because they are very well serialised. Are you satisfied that Mr. Sungu is not aware of what we are doing?

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

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Sungu! Mr. Michuki has raised an issue with the Chair. You cannot stand to answer him! He was not raising the issue with you. He was asking the Chair. The Chair wants to reply.

I am satisfied that Mr. Sungu is right because there is some confusion in the way the papers have been put. For example, the copy that I have is, probably, not the same as the copies that Mr.

Michuki and the Clerk have. That is the problem we have and I think we shall sort it out as we go on.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Chairman, Sir. In fact, you are damn right. There is a mis-arrangement of the papers, but we are following what is going on. So, we want to inform Mr. Sungu that, if he looks at the parliamentary pages and numerical pages, he will follow the proceedings. That way, we can save time and move on.

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. There appears to be attempts by the Kenya Human Rights Group to disrupt the operations of this House. They are having a demonstration outside Parliament Buildings. Can we be assured that they will not interfere with the operations of Parliament, as we discuss this important Bill?

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Odoyo, you are a Government Assistant Minister! You have been in this House long enough to know that this Chamber has nothing to do with what happens out there! We are here to transact business in this Chamber. I would like to assure you that you are safe. As a member of the Government, you are supposed to know that!

We are now moving to Clause 12, which is on page five. If you are looking at the parliamentary pages, it is on page 690. So, can we move on?

Clause 12

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, the amendments that we have just passed under Clause 6 substantively make the provisions on Clause 12 obsolete and unnecessary. We, therefore, propose that Clause 12 be deleted.

(Question, that the words to be left out be left out, proposed)

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

(Clause 12 deleted)

(Clauses 13, 14 and 15 agreed to)

Clause 16

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16(2) be amended-

(a) in paragraph (a) (ii) by inserting the words "and permits" immediately after the word "licences";

(b) by inserting the following new paragraphs immediately after paragraph (c)-

(d) facilitate and manage investment sites, estates on land together with associated facilities or those sites, estates and land;

(e) appoint agents within the country and in any other country to carry out certain

functions on its behalf, as it may consider necessary.

(c) by renumbering paragraph (d) as paragraph (f).

The purpose of the amendment is to include new paragraphs which reflect the views of hon. Members, in terms of ensuring that the Authority has additional functions of facilitating, managing investment sites, estates or land, together with associated facilities, in order to make Kenya an attractive investment destination.

Secondly, it includes an additional function; which is that, the Authority will have power to appoint agents. The various local and regional authorities are very viable institutions for enhancing the functions of the Investment Authority. That provision will, therefore, give the Authority the power to bring them into play, so that they can assist in promoting investment, especially in the rural areas.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

*(Clauses 17, 18, 19, 20, 21, 22, 23,
24, 25, 26, 27, 28, 29, 30, 31, 33
and 34 agreed to)*

(Clauses 21, 22, 23, 24 and 25 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Investment Promotion Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE STANDARDS (AMENDMENT) BILL

Clause 4

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 4 be amended by deleting section 11 and substituting therefor the following section:

Appeals.

11. Any person who is aggrieved by a decision of the Bureau or the Council may within fourteen days of the notification of the act complained of being received by him, appeal in writing to the Tribunal.

(Question of the amendment proposed)

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Chairman, Sir, I support the amendment because we had sufficient consultations over it.

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

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

(Clause 2 as amended agreed to)

(Clauses 3, 4 and 5 agreed to)

Clause 6

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

THAT, Clause 6 be amended by:

(1) inserting the following new sub-sections immediately after sub-section (9):-

(10) For the purposes of carrying out his duties under the Act, every inspector shall have powers, rights, privileges and protection of a police officer.

(11) An inspector who -

(a) directly or indirectly asks for, or takes in connection with any of his duties, a payment or other reward whatsoever, whether pecuniary or otherwise or a promise or security for any such payment or reward not being a payment or reward which he is lawfully entitled to claim; or

(b) enters into acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act whereby the Bureau is or may be defrauded, or which is contrary to the provisions of this Act or the proper execution of the duty of that officer; or

(c) discloses, except for the purposes of this Act or when required to do so as a witness in a court of law or with the approval of the Director, information acquired by him in the performance of his duties relating to a person, firm or business of any kind; or

(d) uses his position to improperly enrich himself or others, shall be guilty of an offence and liable to imprisonment for a term not exceeding five years or to a fine not exceeding Kshs1 million or both and any money, property or reward obtained fraudulently or any property acquired using money obtained fraudulently shall be

forfeited to the government.

(12) A person who, with a view to defraud the Bureau,-

(a) directly or indirectly offers to give an inspector a payment or reward whatsoever, whether pecuniary or otherwise, or a promise or security for any such payment or reward; or

(b) promises or enters into an agreement with an inspector in order to induce him to do, abstain from doing, permit, conceal or connive at, any act whereby the Bureau may be defrauded, or which is contrary to the provisions of this Act for the proper execution of the duty of that inspector, shall be guilty of an offence and liable to imprisonment prescribed under sub-section (11).

(2) inserting a new section immediately after section 14A:-

Conditional release 14B(1) An inspector may order conditional release of goods to a manufacturer, importer, possessor, dealer or seller or his agent pending the testing of samples of the goods to determine whether they comply with the relevant Kenya Standard.

(2) Where the goods are in the custody and possession of the manufacturer, importer, possessor, dealer or seller, an inspector may require and order such person or agent to hold and retain possession of the goods pending the testing of samples and release of the test results.

(3) Where the goods are released under sub-section (1) or dealt with under sub-section (2), the inspector shall ensure that the samples are tested and the results thereof released to the manufacturer, importer, possessor, dealer or seller within fourteen days after the testing period of such samples.

(4) Where the goods are found to comply with the relevant Kenya Standard, they shall be released to the manufacturer, importer, possessor, dealer or seller forthwith.

(5) Where the goods fail to comply with the relevant Kenya Standard, they shall be with in accordance with Section 14A.

(6) Any person who removes, sells, uses, disposes off, re-exports, damages, wastes, destroys or in any manner deals with under sub-section(2), before the release of the test results shall be guilty of an offence.

(7) Goods of a perishable nature shall not be subjected to conditional release.

Mr. Temporary Deputy Chairman, Sir, the rationale of the amendment is to embolden the inspectors and enhance their efficiency.

Currently, the Kenya Bureau of Standards inspectors have to rely on the Customs officers at the entry points, who are vested with these powers as stipulated in Section V of the Customs and Excise Act.

(Question of the amendment proposed)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, while this amendment is good, I just want to point out that it intends to create an offence on standards that are already set out in another law. The punishment outlined in the Public Officer Ethics Act is harsher than what is proposed here. If we pass this clause, it will then oust the harsher penalty in the other Act and it may be counter-productive. However, I have nothing against the amendment. It is just a caution I am sounding to the House.

The Minister for Transport (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, as far as I am aware of the law, as it exists, for anyone to exercise powers similar to those of a police officer, he must be appointed under the Police Act. I am not sure that we are duplicating this law, and perhaps, making it even more difficult for what we intend to be punished to actually come into

fruition. We are going to bring a conflict here between two arms of the same person. The "officer" as mentioned in the Bill is a Government officer, but with different duties from those of a police officer. This is something that needs to be understood.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I think this amendment, which I know has been discussed by the Committee on Finance, Planning and Trade, and also the Ministry, is well-intended in the sense that the Kenya Bureau of Standards needs to be empowered. They need to work more efficiently; backed up by law. In fact, the only regrettable thing is that the penalties indicated herein are much more lenient as indicated by Mr. Wetangula. However, this law is still necessary. Let me reiterate that even within this Parliament, under the Powers and Privileges Act, any staff of Parliament has powers of a police officer. In our local authorities, the inspectorate officers have powers of a police officer. So, there is nothing really great about the powers of a police officer as stipulated under the Police Standing Orders. It is necessary to empower the Kenya Bureau of Standards officers so that they can do their job much more efficiently than before.

The Minister for Roads and Public Works (Mr. Raila): Thank you, Mr. Temporary Deputy Chairman, Sir. Actually, I could not agree more with the hon. Member who has just spoken, and said that the Standards Act needs to be autonomous so that the officers at the Kenya Bureau of Standards (KEBS) are fully enabled. That way, they will not be treated with contempt by some of the manufacturers and importers of goods which threaten the lives of our people. Therefore, I fully agree that this amendment is proper and in order.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Miriti, the last one!

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Chairman, Sir, hon. Members of the House have often complained of difficulties in implementing Acts of Parliament. Some of them are never implemented because of lack of support in the enforcement of the laws. For this reason, I support the amendment and emphasize that we need to empower the inspectors.

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

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move that Clause 8 be amended in Section 16A by inserting the following new subsections immediately after subsection (5):

(6) The Chairman and members of the Tribunal shall serve for a term of five years and shall be eligible for re-appointment.

(7) (a) One member of the tribunal shall be a person knowledgeable and having experience in activities and functions as provided for under the Customs & Excise Act.

(b) The other members of the tribunal shall be people knowledgeable and having experience in standardization activities.

(8) The Minister may terminate the appointment of the Chairman or any member of the tribunal if a tribunal under this section finds that the chairman or member:-

(a) is unable to perform the functions of his office by reason of a mental or physical infirmity.

(b) has been involved in corruption as defined in the Anti-Corruption and Economic Crimes Act.

(c) has been declared bankrupt.

(9) The Council may request the Minister to appoint a tribunal to be known as the Conduct Tribunal, if the Council is of the view that the Chairman or member:-

(a) may be unable to perform the functions of his office by reason of a mental or physical infirmity; or,

(b) may be involved in corruption as defined by the AntiCorruption and Economic Crimes Act.

(10) Upon receiving the request under subsection (9), the Minister may suspend the Chairman or member pending the final resolution of the matter.

(11) Upon receiving the request under subsection (9), the Minister shall forthwith appoint a Conduct Tribunal of three persons and one of whom the Minister shall designate as chairman.

(12) Each member of the Conduct Tribunal shall be a person qualified to be appointed as a judge of the High Court.

(13) The Conduct Tribunal shall conduct an inquiry in accordance with such procedures as it may determine but consistent with the rules of natural justice.

(14) Within thirty days after concluding its inquiry, the Conduct Tribunal shall publicly announce its findings and reasons, and submit a report to the Minister.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

*(Clauses 9, 10, 11, 12, 13,
14, 15 and 16 agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Standards (Amendment) Bill and its approval thereof with amendments.

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, we will be looking at the other Bill and---

(Loud consultations)

Order, hon. Members! We are proceeding with the Committee of the whole House with regard to Bill No.9.

INSURANCE FUND BILL

Clause 2

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, yesterday when I was moving this Bill, I promised to bring amendments to add quality and value to the Bill. Therefore, I beg to move that this clause be amended by deleting the word "Kenyans" and substituting therefor the word "Persons".

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move that Clause 3 be amended-

(a) in the definition of

"contributor" by inserting the words "contribute to" immediately after the words "liable to";

(b) in the definition of "enforcement officer" by inserting at the end thereof the words "or any other authorised officer of the Fund";

(c) in the definition of "health service provider" by inserting the words "health care professionals, licensed medical personnel" immediately after the word "includes";
and,

(d) by deleting the definition "point of entry".

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

(Clauses 4, 5 and 6 agreed to)

Clause 7

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move that Clause 7 be amended by inserting immediately thereof the following new heading before

Clause 8:-

"Part III - Management of the Fund"

(Question of the amendment proposed)

Mr. Sungu: Thank you, Mr. Temporary Deputy Chairman, Sir. I really do support this amendment because it is supposed to enhance the proper management of this Fund through proper representation by various organizations. However, I wish to point out that, being a very faithful Anglican, I note that the Supreme Council of Kenya Muslims (SUPKEM) has been included, and so is the Kenya Episcopal Conference. But the Kenya National Council of Churches which includes the Anglicans and Protestants has not been included.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Chairman, Sir. I think the hon. Member is ahead, because he is talking about Clause 8 and right now, we are dealing with Clause 7.

The Temporary Deputy Chairman (Mr. Khamasi): I agree with you, Mr. Raila.

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

(Clause 7 as amended agreed to)

Clause 8

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 8 be amended-

(a) in sub-clause (2)-

(i) by deleting paragraph (a) and substitution therefor the following new paragraph-

"(a) a chairman appointed by the President from among the members of the Board appointed under paragraphs (g) and (h);"

(ii) by inserting the following new paragraph immediately after paragraph (a)-

"(bb) a vice-chairman elected by the members of the Board from among the members of the Board appointed under paragraphs (g) and (h);"

(iii) by deleting paragraphs (g), (h) and (o) and substitution therefor the following new paragraphs (g) and (h)-

"(g) one person nominated by each of the following organisations and appointed by the Minister-

- (i) the Federation of Kenya Employers;
- (ii) the Central Organisation of Trade Unions;
- (iii) the Kenya National Union of Teachers;
- (iv) the Association of Kenya Insurers;
- (v) the Christian Health Association of Kenya;
- (vi) the Kenya Medical Association;
- (vii) the Kenya Association of Private Hospitals;
- (viii) the Kenya Civil Servants Union;
- (ix) the Kenya Civil Servants Union;
- (x) the Supreme Council of Kenya Muslims;

Act No. 19
of 1990

- (ix) the Kenya Episcopal Conference;
 - (xii) the Institute of Certified Public Accountants of Kenya;
 - (xiii) the Non-Governmental Organization Council established under the Non-Governmental Organizations Act;
 - (ixv) the Kenya Health Professional Society; and,
 - (xiv) the Kenya National Federation of Co-operatives.
- (h) three persons appointed by the Minister from the informal sector and women's organizations."
- (iv) by renumbering the existing paragraphs (b), (c), (d), (e), (f), (g), and (h) as paragraphs (c), (d), (e), (f), (g), (h) and (i).
- (b) by inserting the following new sub-clause immediately after subclause (2)-
- "(3) In nominating persons to the Board, the nominating bodies and the Minister shall have regard to-
- (a) the honesty and integrity of the persons nominated;
 - (b) the knowledge and experience of the persons nominated; and
 - (c) the importance of representing gender balance in the board.

(Question of the amendment proposed)

Dr. Rutto: Mr. Temporary Deputy Chairman, Sir, I support the amendment as moved, but also beg to move another amendment.

THAT, the Universities Academic Staff Union (UASU) be added in the list of organizations appointed by the Minister as indicated in Clause 8A (iii). The UASU is a professional category, which we no longer ignore. I wish the Minister would give them an opportunity to be represented there.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! For the benefit of the entire House, if you look at page 697, Dr. Rutto would like to add one more organisation, the UASU in the list as indicated in Clause 8A (iii).

*(Question of the amendment to
the amendment proposed)*

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Chairman, Sir, I hope you are not closing that chapter because I need to move a further amendment since I would like to add another organisation to the existing list.

The Temporary Deputy Chairman (Mr. Ethuro): Eng. Toro, we are not closing, we want to finish up with the amendment moved by Dr. Rutto.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Chairman, Sir, there is the issue that was raised by Mr. Sungu. You did not give him the chance to make his point. I would like to know whether you are also---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Eng. Toro! I cannot give every hon. Member a chance to speak at the same time! So, let us dispose of Dr. Rutto's amendment. I will come to other hon. Members later.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I understand and hear the proposal by Dr. Rutto. This is highly negotiated by stakeholders; a number of those people who are in the board. So, this is not supposed to be taken into account.

The Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, I also would like to have in the list of---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Eng. Toro! We are disposing of Dr. Rutto's---

The Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Chairman, Sir, I support Dr. Rutto.

The Temporary Deputy Chairman (Mr. Ethuro): Eng. Toro, it would help if you followed the right procedure!

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I also wish to support Dr. Rutto on this amendment. I remember that they cried during the American Revolution: "No taxation without representation" The UASU is a very significant association and deserves, looking at the list of other organisations, to be in the management.

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

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, the Kenya Pharmacists Association (KPA) and the Catholic Secretariat (KS) be represented because they are major stakeholders in the health care system.

We know that the Catholic Church is the second largest provider---

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of information, Mr. Temporary Deputy Chairman, Sir. I am a practising Catholic. We are represented by the Kenya Episcopal Conference (KEC).

Dr. Gallalo: Mr. Temporary Deputy Chairman, Sir, it was an oversight! Therefore, I would like to move that the Kenya Pharmacists Association be included.

Hon. Members: But they are there!

The Temporary Deputy Chairman (Mr. Ethuro): Order! Hon. Members communicate through the Chair!

(Question of the amendment proposed)

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I thought the amendment was on farmers, but I can now see it is on pharmacists. That is okay.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, the KPA is represented within the Kenya Health Professional Society (KHPS) and the Kenya Medical Association (KMA).

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, the KMA is an association for doctors. The KHPS is for health professionals, for example, nurses, lab technicians and so on. However, pharmacists are the key people in the provision of medical supplies. It is not right to leave them out because medical supply is a major aspect of health care provision.

The Temporary Deputy Chairman (Mr. Ethuro): Dr. Galgalo, I thought pharmacists are also referred to as "Doctor-so-and-so".

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, they are not members of the KMA!

The Temporary Deputy Chairman (Mr. Ethuro): I think that is the point.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, of course, we do not want to have a very unwieldy management board. Clause 8A (xiii) on the Non-Governmental Organizations Council established under the Non-Governmental Organizations Act should be deleted. Already we have various other stakeholders represented here

with regard to the professions and so on. So, I think this is a duplication. I, therefore, beg to move that we delete Clause 8A(xiii) altogether.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Raila! We have an amendment by Dr. Galgalo. We need to dispose of that first then come to any other amendment. The Chair has already promised to be very liberal with all of you.

The Minister for Transport (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I am not sure I am being drawn into debating things which I have not brought here. By this I mean the Minister for Health is here with all the amendments brought by the Government. I think the Chair should note that!

The Temporary Deputy Chairman (Mr. Ethuro): The Chair definitely knows the amendments from the Government through the Minister. However, the Chair also appreciates that every hon. Member of this House has the right to bring an amendment as long as they have followed the proper procedure.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. Did I hear the hon. Member who just spoke threatening the Chair? The Chair should note what he said!

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kajwang, the Chair cannot be threatened by any hon. Member!

Hon. Members: The Chair is *unbwogable!*

(Laughter)

The Minister for Transport (Mr. Michuki): On a point of order, Mr. Temporary Deputy Chairman, Sir. It looks as if Mr. Kajwang wishes to impute intentions which are not mine. Could the Chair, please, turn them back to him?

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Let us maintain order now. The Chair has no intention of transferring whatever motive to any side of the House.

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

Mr. Sungu: Mr. Deputy Chairman, Sir, the organisations to be formed as per Clause 8 are well-thought-out. However, I noticed that Muslims are represented under "x" and the Catholics under "xi". I, therefore, propose that we add some words to "xvii" to read "The National Council of Churches of Kenya (NCKK)", which will represent the Protestants.

(Question of the amendment proposed)

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, that organisation is represented under "v", which reads "the Christian Health Association of Kenya," which represents all other churches.

The Assistant Minister Roads and Public Works (Eng. Toro): Mr. Temporary Deputy Speaker, Sir, with all due respect to the Minister, I do not think that all churches are catered for under this Clause. If they were catered for, then we would have to delete all the church organisations, especially the Kenya Episcopal Conference. I do not think that the Christian Health Association of Kenya and the NCKK are one and the same thing. So, I propose that we include the NCKK to cater for the christian community.

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, my father has been a Canon of the Anglican Church for the last 60 years. I, therefore, have some ecclesiastical authority on this matter. The Christian Health Association of Kenya an organisation which brings together protestant churches to manage their hospitals and clinics. The organisation has its offices along Waiyaki Way, somewhere near Kianda College. I have been a member of its board at one time, and know that Catholics do not subscribe to this organisation. All protestant churches do. So, the best body to represent all protestant Christian churches is the Christian Health Association of Kenya rather than the NCKK. Therefore, the Minister is right in bringing in this body to represent all protestant churches in health matters rather than the NCKK.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, with the information given by the Professor, I wish to withdraw my amendment.

(Amendment withdrawn)

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I was not well prepared the last time you gave me a chance to move my amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Raila! We are governed by some Standing Orders here. We need to have your proposed amendment in writing. It is just a small procedure but the Chair should be aware of what you want to say.

*(The Temporary Deputy Chairman
(Mr. Ethuro) consulted
with the Clerk-at-the Table)*

I am advised that you may proceed. However, make sure that I get it in a written form.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, that will be done.

I wish to move that Clause 8 be amended further by deleting paragraph (xiii) which reads "Non- Governmental Organisations Council established under the non-Governmental Organisations Act." This is a duplication of stakeholders and other professionals who are already represented by other organisations.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 be amended:-

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

(c) -

- "(c) determine the contribution level of members of the Fund in consultation with the Minister and the Minister for the time being responsible for Finance."
 (b) by inserting the following new paragraph immediately after paragraph "(c)"
 "(d) classify the health service providers for purpose of deciding the rebate rates";
 (c) by renumbering the existing paragraphs (d), (e), (g), (h), (i), (j), (k), (l), (m), (n) and (o), as paragraphs (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p).

(Question of the amendment proposed)

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, in the Departmental Committee on Health, Housing, Labour and Social Welfare discussions, we agreed with the Minister, as a safeguard measure, that the board makes recommendations to be approved by this House. As an interested party, the board may find itself low on cash and try to increase members' contributions.

The Temporary Deputy Speaker (Mr. Ethuro): Are you amending the Minister's amendment?

Dr. Galgalo: Yes! I think Clause 9(c) should have the words, "recommend for approval by Parliament the contribution level of the members of the Fund."

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, when there is a provision in a Bill which gives powers to the Executive, it should be left the way it is. I have been in this House for many years and travelled to different countries trying to learn how to differentiate the powers of the Executive from those of Parliament and the Judiciary. Therefore, if we say that we will be reporting to Parliament, we will be taking ourselves behind. There was a time when this House used to be an appendage of the Executive. We are out of this situation. Therefore, we should appreciate separation of powers.

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

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

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 11

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 11 be amended-

- (a) in sub-clause (1) by deleting the words "the Minister in consultation with" appearing immediately before the words "the Board";
 (b) in sub-clause (2) by deleting all the words appearing immediately after the word "Fund";
 (c) in sub-clause (3) by deleting the words "a university degree or" and substituting therefor the words "degree and".

- (d) by inserting immediately after Clause 11 the following new clause-
11A(1) There shall be a secretary to the Board who shall be appointed by the Board.
(2) The Secretary shall be responsible for arranging the business of the Board's meeting, keeping records of the Board's meeting, keeping records of the proceedings of the Board and shall perform such other duties as the Board may, from time to time, assign.
(3) No person shall be appointed as a secretary to the Board unless such person is an Advocate of the High Court of Kenya of not less than three year's standing."

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 be amended by inserting the following new sub-clause immediately after sub-clause (8)-

"(9) Any enforcement officer or an officer authorised thereto in writing by the Chief Executive Officer, may arrest, without a warrant, any person who in his presence, commits any offence and may detain such a person until he can be delivered into the custody of a police officer to be dealt with according to the law:

Provided that no person shall be arrested or detained without a warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he may not be found or made answerable to justice without unreasonable delay, trouble or expense."

(Question of the amendment proposed)

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, I have further amendments and they do not alter the substance of the Bill. However, we want to insert in Clause 13(5)(b) after the word "shall" the words "in addition to" which will make it better. It is right at the end of Clause 13(5)(b). It should read:- "Such person shall, in addition, be required to make good any monies falsely received."

(Question of the further amendment proposed)

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

(Clause 13 as amended agreed to)

Clause 14

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 14 be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

"(1) Every Kenyan shall be eligible for registration as a member of the Fund upon payment of the prescribed contribution".

(b) in sub-clause (3) by deleting the words "one year" appearing immediately after the word "exceeding" and substituting therefor the words "six months";

(c) in sub-clause (4) by inserting the words "in consultation with the Minister and the Minister for the time being responsible for finance" immediately after the words "Board may".

(Question of the amendment proposed)

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. This is a very serious point of order; that an amendment cannot be moved that is likely to negate the spirit of the Bill.

(Applause)

The spirit of this Bill is that this Bill be a social insurance and a social insurance can only work if it is compulsory. You cannot make it a members club. What the Minister is trying to do is now to make this scheme a members club. It is not any different from say African Air Rescue (AAR) or from any other health scheme. In fact, immediately after this Bill is passed with these amendments, it means my payslip will not see that deduction of NHIF. In fact, it will be worse now. We will be killing the NHIF and we cannot allow this!

(Applause)

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, this Bill is intended to offer service to our poor people and we have said that by the estimation of the Government, 56 per cent of the Kenyans live below the poverty line and they cannot afford one shilling more. Therefore, we cannot force one to be a contributor in order to access this health care. I am pleading with the Minister to withdraw this amendment for the sake of our poor Kenyans!

(Applause)

Dr. Godana: Mr. Temporary Deputy Chairman, Sir, I am very surprised that the hon. Minister could stand up and move this amendment. As has been said, it is clearly against the very

purpose of the Bill and all the hullabaloo which has been created in this Bill and in this House about the workability of a compulsory scheme for all Kenyans and that the very first paragraph of Article 14 says:-

"The intention was to give every Kenyan, irrespective of age, economic, health or social status---"

That was the whole purpose of this Bill. If now you say "Every Kenyan shall be eligible for registration as a member of the fund upon payment of the prescribed contribution", obviously the child will not pay. Obviously, the poor will not pay. What was all this hullabaloo that we have created for? I think, indeed, it is better even to withdraw the Bill until we correct it.

(Applause)

The Minister for Planning and National Development (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I can understand the deep concern of the House in trying to ensure that the poorest of the poor are catered for in a system that is workable. However, please, note my words "In a system that is workable" and workability---

Hon. Members: No! It cannot work!

The Minister for Planning and National Development (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I plead for the indulgence of the House to hear my plea, because I think I would like to explain to the Members very carefully that in as much as all of us in this House are very concerned, not to negate the spirit of the Bill, but if you look at Clause 15(d) which follows Clause 14, the concerns of the hon. Members of the House have been taken care of by another amendment that the Minister is proposing which is on page 16 which says that:-

"In case of the poor, through mechanisms to be determined by the Government from time to time---".

Hon. Members: No!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members!

The Minister for Planning and National Development (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Chairman, Sir, it is important that this House is made aware of the fact that any expenditure that the Government is to incur is determined by the wealth of this nation and the extent to which resources can be found to meet those expenses. It would be futile to put into this Bill something that is not workable and in that regard we must put clauses that will indeed make sense in the implementation of the Bill.

Yesterday, hon. Dr. Godana, did warn the House that we would like to see the amendment that will make the implementation, as deemed, feasible. So, as far as covering all Kenyans, whereas we are saying in Clause 14 that "Every Kenyan shall be eligible for registration", where a Kenyan is eligible for registration but cannot register because they cannot afford, the enabling clause comes in Clause 15(b) which---

Hon. Members: No!

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, if people are patient and let Clause 14 as amended be seen in sync with Clause 15 as amended; if we are patient enough to read through them carefully, we will realise that our fears are taken care of.

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, I totally disagree with the good professor. Without making this a compulsory scheme, the whole thing is a sham and it does not serve any purpose. If we are going to mutilate Clause 14 then we can as well forget about the whole Bill. Prof. Anyang'-Nyong'o talks about Clause 15 as amended. Clause 15(b) before amendment

reads:

"In the case of a person certified by the Board to be unable to pay the contributions, by the Government from the funds voted by Parliament for that purpose---"

This is the very foundation of this Bill. This is now going to be altered by the Minister's amendment which says:-

"In the case of the poor person, through mechanisms to be determined by the Government from time to time."

Which mechanism is that? The Bill is clear and there has to be a compulsory scheme for all Kenyans and the Government has to pay a premium for it. That is the spirit of the Bill. If that is thrown out, then we can as well forget about the whole Bill.

The Temporary Deputy Chairman (Mr. Ethuro): Madam Minister!

Hon. Members: Withdraw that amendment!

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, Clause 2 of this Bill says:

"This Act shall apply to all "Kenyans", including those currently enjoying medical insurance cover under other private medical insurance schemes."

This makes it compulsory for everybody!

(Several hon. Members stood up in their places)

Hon. Members: No!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Let us listen to the Minister!

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, Clause 2 makes it compulsory when it says that this Act shall apply to all persons including those currently enjoying medical insurance cover under private medical health schemes.

(Loud consultations)

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, Clause 14 actually supports Clause 2. If we negate Clause 14, then we may as well remove Clause 2. We are enacting this law for the sake of the poor who cannot contribute. Those who can contribute have schemes. I have one so let us remove this amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi, you have made your point. Mr. Maore!

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, I want to oppose the amendment on Clause 14.

(Applause)

This is because those who have been listening to the rhetoric behind the hype about free primary education and following it with free medical care, are expecting the Government to honour this part. If it is a very painful thing for it to swallow, we are ready to force it down its throat by rejecting this amendment.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Minister was responding to my question and she tried to do so by referring us to Clause 2 which merely says this Bill applies to all Kenyans like all other laws apply to all Kenyans. However, what makes the

difference is that it is compulsory for me to contribute if I am employed. If I am not employed, I must contribute if I have resources. That is what makes the difference. If we remove that and leave it to some nebulous words like I heard, that the Government will look at the feasibility of something, then it is useless. We do not have a Bill and we do not have to make law for a private organisation.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kajwang! Do not use the privilege of a point of order to get preferential hearing. Mr. Kimunya!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I would like to draw the attention of the House to the fact that, as we legislate for compulsory membership, just the other day we were here amending a clause that was offending the Constitution. We are legislating for compulsory membership for an association for the benefit of an individual. That offends Section 79 of the Constitution.

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

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Let him make his point. You will have your opportunity!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, we need to be careful as hon. Members. I buy the argument that was brought here that we must be very careful so that we do not just do things that will make us a laughing stock of the public out there. We have a responsibility to the Kenyan people and I would like to support the amendment to the extent that everyone is eligible but nobody is being forced into it contrary to the provisions of the Constitution.

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, the Minister who has just spoken is trying to confuse the issue here. Not amending this clause does not stop the rich like him or anybody else from accessing free or expensive health care from anywhere else. However, there is something that needs to be understood. The moment we delete this clause and this law takes effect, we will have killed the National Hospital Insurance Fund (NHIF) which is, at least, doing something for the poor. The original clause says:-

"Every Kenyan shall be a member of the Fund irrespective of age, economic, health or social status."

The issue here is "social status". What we are trying to do is to give the people of different cadres in our society some health care that is affordable. There is no point in killing what we have now if we are creating something for the rich.

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

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We have been deliberating on this point.

Finally, Dr. Godana!

Dr. Godana: Mr. Temporary Deputy Chairman, Sir, we can continue with the debate in the House up to--- I recall Prof. Anyang'-Nyong'o referring to what I said yesterday and I am glad he did that. All through, we have said that we want to support something that is workable. I want to underline this: We said it when Ministers began to disagree at the meeting in Mombasa and we questioned it. However, let us be very careful. We have been warned that the amendment will be taken care of by a proposed amendment under Clause 15 which in fact makes it even more

dangerous. Therefore, it compels us not to support the Bill. Clause 15(d) provides that for the poor, the Government will pay. That is what the Bill, as it is, states. Now the proposed amendment under Clause 15 which Prof. Anyang'-Nyong'o referred, takes away that responsibility of the Government paying. The net effect of this amendment to Clause 14 and the proposed one to Clause 15 is to say that under Clause 14(1), this thing is not compulsory; it is voluntary. It, therefore, does not apply to all Kenyans irrespective of age or status and the poor will be locked out. The cumulative effect of Clause 15 is that after we have said that it is not compulsory for anyone, we have also removed the obligation on the State to pay for the poor. We will end up with a situation that is far worse than what we have because it will mean that there are people who will still be paying under the NHIF, whatever small contribution. People will end up making contributions similar to those made to the National Hospital Insurance Fund (NHIF). Whatever small contribution, on a compulsory basis, if this amendment is carried, it will be voluntary, and I will be entitled tomorrow to say: "Do not deduct anything from my contribution." So, the net effect is that the country will be worse off. I want to plead with the Minister to either withdraw the amendment or, in fact, we shelve the Bill at this stage until we sort out this matter.

The Minister for Lands and Housing (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Chairman, Sir. I wish to seek a clarification from the Chair whether we will not be in breach of our own rules to continue discussing a clause that offends the Constitution.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, the Minister is telling us that if we pass this Bill and make it compulsory for all Kenyans to make contributions, then we will be breaching the Constitution. Contributing to the NHIF and the National Social Security Fund (NSSF) is compulsory. Are we breaching the Constitution? In effect, what he is saying is that, today, we should repeal the NSSF Act and the NHIF Act. We cannot legislate for an association of friends. Why should we sit here and make law for people to decide that they are merely eligible. Every Kenyan is eligible. So, are we making a law for an association of friends, or are we making a law for the benefit of all Kenyans? This is not a golf club!

Mr. Wanjala: Mr. Temporary Deputy Chairman, Sir, Kenyans have been celebrating in support of the Minister. Kenyans will be very much disappointed with the amendment that she has just brought. Already, Kenyans pay for medical cover by various medical insurance firms. That has not been compulsory. Why should we make a law similar to an existing law? We are making a new law which will compel the Government to help poor Kenyans. That was the spirit of this Bill. Therefore, I urge the Minister to withdraw this amendment. After struggling so hard to have this Bill passed by this House, she should not embarrass herself by introducing an amendment that is against the very spirit of the Bill.

The Temporary Deputy Chairman (Mr. Ethuro): Order! Order, Mr. Wanjala!

Hon. Members, we have heard diverse views from both sides of the House. So, there is no need of continuing with debate on this amendment. I will just put the question of the proposed amendment to Clause 14.

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

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Mr. Ethuro): I can see that you have the numbers, and so I grant you a Division!

DIVISION

(Question put and House divided)

DIVISION

(Question put and the House divided)

(Question defeated by 54 votes to 36)

AYES: Mr. Awori, Mrs. Chelaite, Messrs. Kagwe, Kagwima, Kamama, Kamanda, Karaba, Kariuki G.G., Kariuki M., Ms. Karua, Mrs. Kihara, Messrs. Kimathi, Kimunya, Dr. Kituyi, Messrs. Kones, Ligale, Michuki, Miriti, Muchiri, Mukiri, Mwiraria, Ms. Njoki, Mrs. Ngilu, Nyagah N.G.K., Prof. Anyang-Nyong'o, Messrs. Obwocha, Raila, Prof. Saitoti, Mr. Syongo, Mrs. Tett, Eng. Toro; Messrs. Tuju, Waithaka, Wambora, Were and Wetangula.

Tellers of the Ayes: Ms. Abdalla and Mr. Kagwe.

NOES: Messrs. Angwenyi, Arungah, Dr. Awiti, Messrs. Bahari, Bett, Ethuro, Dr. Galgallo, Dr. Godana, Messrs. Ivuti, Kajwang, ole Metito, Kenyatta, Khamasi, Kingi, Maitha M.M., Dr. Manduku; Messrs. Manoti, Maoka, Masanya; Ms. Mbarire, Messrs. Midiwo, Moi, Muiruri, Munya, Mutiso J.M., Muturi, Mwandawiro, Mwanzia, Ms. Mwau, Messrs. Nderitu, Ndile, Ndolo, Ngoyoni, Maj-Gen. Nkaisserry, Dr. Oburu, Messrs. Ogur, Ojaamong, Dr. Ojiambo; Messrs. Omamba, Omondi, Ondiek, Onyancha, Opore, Owidi, Owino, Poghisiso, Rai, Dr. Rutto, Messrs. Salat, Sambu, Sang, Dr. Shaban, Messrs. Sudi, Sangu and Wanjala.

Tellers of the Noes: Messrs. Nderitu and Sang.

(Clause 14 agreed to)

Clause 15

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended -

(a) in paragraph (a) by deleting the semi-colon at the end thereof and inserting the words "and the employer shall contribute an equal amount";

(b) in paragraph (b) by deleting the words "an annual";

(c) by deleting paragraph (d) and substituting therefor the following new paragraph -
"(d) in case of the poor through mechanisms to be determined by the Government from time to time"

(d) by deleting paragraph (e);

(e) by deleting paragraph (f) and substituting therefor the following new paragraph -
"(f) in case of persons temporarily in Kenya for periods exceeding six months as may be prescribed under this Act".

Mr. Temporary Deputy Chairman, Sir, I beg to propose that this clause be amended as per the Order Paper (a), (b) and (c) and that (d) and (e) remain as they are. They should not be deleted now.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Madam Minister. Can you inform the House about what you have just done?

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the amendments as proposed in Clause 15.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

The Minister for Health (Mrs. Ngilu): I beg your pardon, Mr. Temporary Deputy Chairman, Sir. I meant to have paragraph (a) of Clause 15---

Hon. Members: We have already voted on the clause!

The Temporary Deputy Chairman (Mr. Ethuro): Order! Let us hear the Minister first.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I meant to have Clause 15(a) amended to read as per the Order Paper.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Minister. We have voted on that clause. The Chair was generous to ask you to repeat what your intention was and you said you were withdrawing the amendment.

The Minister for Health (Mrs. Ngilu): I beg your pardon, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): I had moved to Clause 16.

Mr. Mwandawiro: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think what the Minister is trying to propose is very important. If we do not include Clause 15(a), then the whole purpose of the Bill also loses weight. I appeal to this House to allow the amendment to be made. Otherwise, the whole purpose of the Bill is lost.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir. I want to plead with my colleagues here for the poor that we must make the employer pay. I am appealing to you to accept the amendment on (a) for the employer to pay an equal amount. So, please, let us go back on that decision.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Chairman, Sir. Since we have already voted, the only way we can go back is if you put the question and we vote again so that we can go back to that amendment, and then proceed. Otherwise, we have voted and we should proceed.

Dr. Godana: Mr. Temporary Deputy Chairman, Sir, it is purely a matter of procedure. I want to be helpful to the House. To pick up on what Mr. Sungu said, the Committee made a decision. The only way we can do what the Minister is requesting is for somebody to move a Motion to rescind that decision on Clause 15 then we re-open it.

The Temporary Deputy Chairman (Mr. Ethuro): Madam Minister, you are well advised. The decision has been taken. The only way the Chair can get back is through that particular procedure.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move a Motion:-

THAT, we rescind the decision---

Hon. Members: No! Not you. Somebody else should move the Motion!

MOTION

RESCINDING OF RESOLUTION ON CLAUSE 15

Mr. Nderitu: Mr. Temporary Deputy Chairman, Sir, I would like to move a Motion to rescind the decision we have already taken with regard to Clause 15(a) so that it can be reconsidered.

(Question proposed)

*(Question, that the Resolution on
Clause 15 be rescinded, put and agreed)*

(Loud consultations)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Let us give the Minister ample time. This is part of the reason why we are going to and fro.

Clause 15

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I wish to propose that we amend Clause 15(a) and (b). I propose that we leave (c), (d), (e) and (f).

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, in order to clarify, what the Minister is proposing is that Clause 15 be amended as per the Order Paper in respect to "a" and "b" and that she is withdrawing the amendments to "c", "d" and "e" as per the Order Paper. That is what I am referring to because we will be reading from the same script. The Minister is proposing to amend Clause 15(a), (b) and (f). Confirm or deny.

The Minister for Health (Mrs. Ngilu): I wish to confirm that, that is what I would like amended.

Mr. Sungu: The effect of including (f) and not (e) would mean that (f) is not applicable because (e) is to delete paragraph (f). So, we must also amend (e) and (f) together.

The Temporary Deputy Chairman (Mr. Ethuro): In the Order Paper, you only read (a), (b) and (f). Forget what (c), (d) and (e) are saying on the Order Paper. Just read (a), (b) and (f). That is what the amendment is all about.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, we should vote these amendments independently because each one of them has very serious repercussions. If we say that in (b) we remove the word "annual", it means if you pay once in your lifetime, you are already a member. That is not what we want. We want people to pay every year.

The Temporary Deputy Chairman (Mr. Ethuro): We wanted to agree that we are dealing with (a) (b) and (f). We can do that, one at a time. I have no problem with that. Is that what the House would desire?

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, what Mr. Kajwang is saying is, indeed, true and serious because even if we delete Clause 15(f)---

(Loud consultations)

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Midiwo, we are actually dealing with what Mr. Kajwang has proposed. So, you had the opportunity at that particular time to say that.

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

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

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15(b) be amended in paragraph (b) by deleting the words "an annual".

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, the reasons are similar to the ones advanced by Mr. Kajwang. I find it difficult that we will delete the words "an annual" and leave the period under which deductions will be calculated upon open to anything. Deductions for self-employed persons will not be made monthly, annually or quarterly. What are we saying? On what basis will the self-employed persons make their contributions?

I oppose the amendment.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, this will be included in the regulations. **Hon. Members:** How?

The Temporary Deputy Chairman (Mr. Ethuro): Order! She has just said that this will be included in the regulations. If you want to argue your case, you have a chance.

Yes, Prof. Anyang'-Nyong'o!

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I would like to help hon. Members with regard to Clause 15(b), because as Mr. Kajwang has said, it is important. It is said that contributions under this Act shall be paid as follows:-

"In the case of a self-employed person, by an annual contribution in the manner prescribed under this Act."

It is dangerous to let self-employed persons contribute only once annually. This provision is very restrictive. If you say: "In the case of a self-employed person, by a contribution in the manner prescribed under this Act", the Act will then prescribe that the rules on how the payments are made will be established by the proposed Board. So, that Board will be in a position to establish rules which are user-friendly. It is better to annul the word "annual" to make it more open.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, when we say "annual", we do not mean a lump-sum amount. If the amount that is fixed is Kshs1,000, you can pay Kshs100 or Kshs200 until you complete the fixed amount per annum. So, we are not clear when we suggest that the proposed Board will go and make the rules.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, for clarity, I wish that we retain the word "annual".

(Applause)

Hon. Members: There is no amendment now!

The Temporary Deputy Chairman (Mr. Ethuro): What is it, Mr. Poghisio?

Mr. Poghisio: On a point of order, Mr. Temporary Deputy Chairman, Sir. My understanding is that the Minister withdrew that amendment. She can make that clear, so that we can proceed.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Chairman, Sir, I retain the word "annual". Therefore, I withdraw the amendment.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15(f) be amended in case of persons temporarily in Kenya for Periods exceeding six months as may be prescribed under this Act.

(Question of the amendment proposed)

(Loud consultations)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. We have agreed to withdraw the amendment and the hon. Member says that I did not see him. I have seen him now!

Proceed, Mr. Midiwo! There is no harm.

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I want to point out a small issue. Part of the controversy about this Bill relates to affordability when it comes to what the Government will pay. The Government should not pay medical bills for people who just come to our country and stay for six months.

The Assistant Minister for Lands and Housing (Mr. Ojode): It says exceeding six months!

Mr. Midiwo: No, Mr. Temporary Deputy Chairman, Sir. All the refugees in this country live here for more than six months. The Government should not pay for their medical bills because we will bloat the Government bill.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, the Minister must be on the HANSARD to have withdrawn Clause 15(c) before we proceed to the next clause. If it is not on record, it can be assumed that it still exists, and yet hon. Members have objected to it.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! The Minister had actually withdrawn the whole clause inadvertently. She came and clarified that procedure and we agreed that the remaining amendments were to be on Clause 15(a), 15(b) and 15(f). Mr. Sungu, that is on record.

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

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

(Clause 15 as amended agreed to)

Clause 16

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be amended by deleting paragraph (b) and substituting therefor the following new paragraph -

"(b) enters Kenya for a period exceeding six months, shall pay contribution to the Fund at such rate as the Board may from time to time determine."

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

(Clauses 17 and 18 agreed to)

Clause 19

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 19 be amended -

(a) in sub-clause (1) by deleting the words "two times" appearing immediately after the words "equal to" and substituting therefor the words "twenty five per cent of";

(c) In sub-clause (2) by deleting the words "up to five times" and substituting therefor the words "twenty five per cent of".

(Question of the amendment proposed)

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

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

(Clause 19 as amended agreed to)

Clause 20

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 be amended by deleting paragraph (a) and substituting therefor the following new paragraph-
"(a) in the case of annual contributions, on or before the ninth day of July each year; and".

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)
(Clause 21 agreed to)

Clause 22

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 be amended-

(a) In Sub-Clause (2) by deleting the words "shall be valid for the prescribed period from the date of issue, and shall then expire and" appearing immediately after the expression "(1)".

(b) In Sub-Clause (3) by deleting the fullstop at the end thereof and inserting the words "and evidence of up-to-date payment of the prescribed contribution pursuant to Sub-Section (2)".

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

Clause 23

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 be amended-

(a) by deleting Sub-Clause (1) and substituting therefor the following new sub-clause-

(1) The Board shall pay from the Fund, prescribed benefits to contracted health service providers for expenses incurred at those health service providers by any member of the Fund."

(b) In Sub-Clause (3) by inserting the words "include but not" immediately before the words "Fund shall";

(c) by deleting Sub-Clause (4) and substituting therefor the following new Sub-Clause (4)-

"(4) Notwithstanding any provision to the contrary, no claim or benefit shall be payable under this Act in any financial year unless the member produces, at the time of making the claim, a card issued to him and evidence of payment for the period in the year to which it became due and for every preceding period in that year, commencing with the period in respect of which he became liable to contribute to the Fund as a member, or such other evidence of such payments as the Board may prescribe; provided that no benefit shall be paid in respect of any expenses incurred by a member before the period in which he first became liable to pay a contribution."

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

Clause 24

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 24 be amended in Sub-Clause (2)-

(a) In paragraph (a) by deleting the words "to a receipt" and substituting therefor the words "to a statement".

(b) In paragraphs (a) and (b), by deleting the word "his" wherever it appears and substituting therefor the word "the".

(Question of the amendment proposed)

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

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

(Clause 24 as amended agreed to)

Clause 25

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25 be amended in paragraph (d) by deleting the word "dockets" appearing immediately after the word "records".

(Question of the amendment proposed)

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, I support the amendment by the Minister, but I want to make a further amendment. I, therefore, beg to move:-

THAT, Clause 25 be amended by deleting the word "years" and substituting therefor the word "months".

The penalty is Kshs50,000 and in lieu of that, if you state three years, that is punitive. Three years will be more commensurate with the penalty of Kshs50,000.

(Question of the further amendment proposed)

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

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 be amended by inserting the following new sub-clause immediately after Sub-Clause (2)-

"(3) One-half of all fines imposed and recovered by a court in respect of the contravention of any of the provisions of this Act or any regulations made thereunder shall be paid into the revenues of the Fund and the other half shall be paid into the general revenues of the Government."

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

Clause 28

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 be repealed and replaced with the following new clause-
28. All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by any enforcement officer or any other authorised officer of the Fund and, where the proceedings are instituted or brought in a magistrate's court, any such enforcement officer or any other authorised officer may prosecute or conduct the proceedings; provided that in case of criminal proceedings, prior approval of the Attorney-General shall be obtained before such proceedings are commenced."

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

(Clauses 29 and 30 agreed to)

Clause 31

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 31 be amended-

(a) in Sub-Clause (3) by deleting the words "including meeting" and inserting immediately after the word "criteria" the words "set by the Board and".

(d) in Sub-Clause (6) by inserting immediately after the word "Gazette" the words "or in such other form as the Board shall deem appropriate".

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 32 be amended by deleting the words "may from time to time" and substituting therefor the words "shall at least once every year"

(Question of the amendment proposed)

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

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

(Clause 32 as amended agreed to)

Clause 33

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 33 be amended-

(a) in Sub-Clause (1) by deleting the words "not exceeding five hundred thousand" and substituting therefor the words "not exceeding one million";

(b) in Sub-Clause (4) by deleting the words "not exceeding five hundred thousand" and substituting therefor the words "not exceeding one million"; and

(c) in Sub-Clause (6) by deleting the word "two" and substituting therefor the word "three."

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

Clause 34

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 34 be amended-

- (a) in Paragraph (a) by inserting the words "and employers;" immediately after the word "members";
- (b) by deleting Paragraph (c) and substituting therefor the following new paragraph-
"(e) such sums as shall accrue to the Fund from investment and any other source".

(Question of the amendment proposed)

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

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

(Clause 34 as amended agreed to)

(Clauses 35, 36 and 37 agreed to)

Clause 38

Dr. Galgalo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 38 (3) be amended by deleting the word "Board" and substituting therefor the words "Controller and Auditor-General"; and,
Clause 38 (4) be amended by deleting the word "may" and substituting therefor the word "shall."

(Question of the amendment proposed)

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I accept those amendments.

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

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

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 40 be amended by deleting the words "may from time to time determine" appearing at the end thereof and substituting therefor the words "shall in consultation with the Treasury determine."

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

Clause 41

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 41 be amended -

(a) in Sub-Clause (1) paragraph (b) -

(i) by inserting immediately after the words "provision to health service providers" the words "and mission hospitals;"

(ii) in the proviso thereto by deleting the word "Minister" appearing at the end thereof and substituting therefor the words "the Board in consultation with the Minister."

(b) in Subclause (2) by deleting the word "Board" appearing at the end thereof and substituting therefor the word "Fund."

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

(Clause 42 agreed to)

Clause 43

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 43 be amended -

(a) in Sub-Clause (1) paragraph (b) -

(i) by deleting sub-paragraph (v) and substituting therefor the following new sub-paragraph-

"(v) one social health insurance professional;"

(ii) by deleting the proviso thereto and substituting therefor the following new proviso-

"each of whom shall be appointed by the Minister from a panel of three names, one of whom shall be a woman, from each of their prospective professional bodies;

Provided that at least three persons appointed under this paragraph shall be women."

(Question of the amendment proposed)

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

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

(Clause 43 as amended agreed to)

(Clauses 44, 45, 46, 47, 48 and 49 agreed to)

Clause 50

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 50 be amended in Sub-Clause (2)-

(a) by deleting paragraph (c); and,

(b) by renumbering the existing paragraphs (d), (e), (f), (g) and (h) as paragraphs (c), (d), (e), (f) and (g).

(Question of the amendment proposed)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, the proposal there is to delete paragraph (c). Paragraph (c) provides for the procedure of determining who is unable to pay. So, could the Minister tell us why she thinks that this should be deleted?

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kajwang! Which clause are you referring to?

Mr. Kajwang: I am referring to the proposed amendment to Clause 50, Sub-Clause (2)(a).

The Temporary Deputy Chairman (Mr. Ethuro): Correct! Proceed, Mrs. Minister!

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, we do know that there are many people who may not be able to pay. If they are not able to pay, then we will have to decide who and how.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. What the Minister says under paragraph (c) is what is to be provided. She says there will be a procedure of determining who cannot pay. So, could she withdraw her amendment because it is against the earlier

spirit?

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I accept what Mr. Kajwang has said and withdraw the amendment.

(The amendment was withdrawn)

The Temporary Deputy Chairman (Mr. Ethuro): So, Madam Minister, what is your new amendment in light of Mr. Kajwang's contribution?

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. The renumbering, therefore, does not arise if we do not delete paragraph (c).

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kajwang! That should come from the Minister.

(Clause 50 agreed to)

Clause 51

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 51 be amended-

(a) by deleting all the words appearing immediately after the words "provisions of the Act" and substituting therefor the words "the Minister shall appoint a committee to be known as an "inquiry committee" and publish the appointment of the committee in the Gazette to inquire into specific operations of the Board and may after receiving the report of the inquiry take necessary steps to rectify the situation in such manner as may be suitable in the circumstances."

(b) by inserting the following new clause immediately after Clause 51-

Savings

"51A. Except where otherwise provided, the provisions of this Act shall be in addition to, and not in substitution for or in derogation of, the provisions of any other Act."

(Question of the amendment proposed)

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

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

(Clause 51 as amended agreed to)

(Clause 52 agreed to)

First Schedule

Paragraph 1

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, paragraph (1) of the First Schedule be amended-

(a) in sub-paragraph (3) by deleting the full stop at the end thereof and inserting the words "and the secretary to the Board, including at least one member of the Board appointed under paragraph (h)(i)(ii)(iii) and (ix) of Sub-Section (2) of Section 8."

Paragraph 2

THAT, Paragraph (2) be amended-

(a) by inserting immediately after sub-paragraph II(f) the following new sub-paragraph (g)-

"(g) has had his appointment revoked by the Minister in consultation with the nominating body;"

(b) by renumbering the existing sub-paragraph (g) as paragraph (h).

Paragraph 5

THAT, paragraph 5 be amended by deleting the word "Treasury" and substituting therefor the word "Minister."

(Question of the amendment proposed)

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

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

(The First Schedule as amended agreed to)

Second Schedule

Dr. Galgallo: Mr. Temporary Deputy Chairman, Sir, I am proposing an amendment which will require members of the Tribunal to declare their interest while they are sitting. So, I propose that, the words "declare that interest" and "shall" be inserted between the words "shall" and "not---" in the Second Schedule, Regulation No.8 (i) which says:- "A member of the Tribunal who has a direct interest in any matter which is the subject of the proceedings before the Tribunal shall not take part in those proceedings."

We want to insert the words, "shall declare their interests".

The Temporary Deputy Chairman (Mr. Ethuro): For the benefit of hon. Members, the amendment is on the Second Schedule, paragraph 8(ii).

Dr. Galgallo: Mr. Temporary Deputy Chairman, Sir, it is Second Schedule, Regulation No.8(ii).

The Temporary Deputy Chairman (Mr. Ethuro): You are saying, that the words, "declare

such interest and shall be, "be inserted between the words, shall and not".

(Question of the amendment proposed)

Madam Minister, it helps if you agreed or disagreed.

The Minister for Health (Mr Ngilu): Mr. Temporary Deputy Chairman, Sir, I accept the amendment.

(The Second Schedule as amended, agreed to)

Third Schedule

Paragraph 7

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Paragraph 7 of the Third Schedule be deleted and replaced with the following new paragraph-

"7. The officers, inspectors and staff appointed for the administration of the former Fund in office on the appointed day shall be deemed to be officers, enforcement officers and staff appointed by the Board on behalf of the Fund under sections 12 and 13 of the Act."

(Question of the amendment proposed)

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

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

(The Third Schedule as amended agreed to)

New Clause 3

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, a new Clause 3 be introduced under Part I - Preliminary, to read as follows:-

Implementation 3.The scheme will be implemented in phases in order to ensure fiscal sustainability and that it is in line with available resources.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause

be read a Second Time, proposed)

Mr. Mwandawiro: On a point of order, Mr. Temporary Deputy Chairman, Sir. I stand to oppose---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Mwandawiro, you have risen on a point of order only to oppose. That is not a point of order in the first place!

(Laughter)

Mr. Muturi, please, proceed!

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I wish to oppose the proposed new Clause 3. We cannot pass a law which will be implemented in phases, and in line with available resources. Why are we passing a law that is going to be in abeyance until we are told by some strange person that the resources are available? Do we not know that we are going to have resources to implement this law?

(Applause)

Mr. Mwandawiro: Mr. Temporary Deputy Chairman, Sir, I also stand to oppose the introduction of the new Clause 3. It is intended to frustrate this important Bill. We all know---

(Applause)

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Mwandawiro! We are in the Committee Stage! That is enough!

Mr. Poghiso: Mr. Temporary Deputy Chairman, Sir, I also stand to oppose the amendment. I actually recommend that the Minister withdraws the amendment for the sake of the spirit of this Bill.

(Applause)

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I also add my voice to oppose this new Clause 3. It is tantamount to shelving the Bill that we are going to pass today.

Mr. Oloo-Aringo: Mr. Temporary Deputy Chairman, Sir, I have supported the Minister all along, except in this case.

(Laughter)

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Oloo-Aringo! What did you say?

Mr. Oloo-Aringo: Mr. Temporary Deputy Chairman, Sir, I have supported the Minister in the whole Bill, except in the introduction of the new Clause 3. I am asking Parliament to be very careful with this kind of phase. It has been used repeatedly to deny us progress. I want us to oppose this. It will not hurt anything if we oppose it! It is up to the Government to look for the money.

(Applause)

Mr. Salat: Mr. Temporary Deputy Chairman, Sir, I also stand to join my colleagues in opposing the new Clause 3. I think the Minister added all the figures and gone public that there is money. We know it is a sound scheme. She has said that before. Therefore, I stand to oppose the new Clause 3.

Mr. Maore: Mr Temporary Deputy Chairman, Sir, I would like to put my voice to this debate. The new Clause 3 fundamentally alters the entire Bill that was debated in this House. It should be opposed.

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

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and negatived)

(Title agreed to)

Clause 1

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 be amended by inserting the words "in consultation with the Minister for the time being responsible for finance" immediately after the word "Minister".

(Loud consultations)

Order, hon. Members! I did not even hear the Minister!

(Question of the amendment proposed)

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. This clause negates the Constitution---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kajwang! You have really abused points of order! If you want to contribute, I will give you a chance.

Mr. Kajwang: No, Mr. Temporary Deputy Chairman, Sir. Please, hear me. The point of order---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kajwang! That is not a point of order.

Dr. Galgallo: Mr. Temporary Deputy Chairman, Sir, I stand to oppose this amendment by the Minister. The functions of the Ministry of Finance and the Ministry of Health are different and clearly defined. So, the Minister for Finance has no business trying to run the Ministry of Health.

The Minister for Health does not need to consult the Minister for Finance or any other Minister to discharge her duties. I oppose this amendment.

(Applause)

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Chairman, Sir, I would like to plead with my colleagues that this particular clause says in brief: "In consultation with the Minister for Finance---"

Hon. Members: No! No!

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Chairman, Sir, there is nothing wrong for the Minister for Health to consult with the Minister for Finance. In any case, we are a Government.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, we cannot have two Ministers running one Ministry. Furthermore, the Minister for Finance is not a Prime Minister. Therefore, the Minister for Health can consult whoever she wants to. I wish to oppose this particular amendment.

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I wish to oppose the proposed amendment because if there is need for consultations, that can be done at the Cabinet level.

I, therefore, oppose the proposed amendment.

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

(Clause 1 agreed to)

The Minister for Health: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the National Social Health Insurance Fund Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

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

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

THE WILDLIFE (CONSERVATION AND MANAGEMENT)(AMENDMENT) BILL

Clause 2

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 2 be deleted.

Mr. Temporary Deputy Chairman, Sir, Clause 2, basically, has various definitions. The amendment proposes that the definitions are either inappropriate or irrational. If, for example, you look at the definition of "Wildlife", as a term in general use, it is self-explanatory. As defined in the Bill, it implies that the Kenya Wildlife Services (KWS) will be responsible for trees and fish which actually fall under the departments of forestry and fisheries respectively. Such an extension of the roles of the KWS will serve no useful purposes given the difficulties it is faced with in the management of the more restricted roles it is currently playing. So, the amendment does not remove

anything from the Bill only that it clarifies some of the issues that can be confusing as defined in the Bill.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, the rationale of the amendment is quite in order. I, therefore, accept it.

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

(Clause 2 deleted)

Clause 3

Mr. Onyancha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 3 be repealed and replaced with the following new Clause 3-
"3. Section 3B of the principal Act is amended by deleting subsection (1)(i) and substituting therefor the following new subsection-
"(1)(i) nine trustees who shall be jointly elected by the country's wildlife forums and four other trustees nominated as follows -
(a) one advocate of not less than ten years experience nominated by the Law Society of Kenya;
(b) one financial manager knowledgeable in matters relating to commerce and industry nominated by the Institute of Certified Public Accountants of Kenya;
(c) one person nominated by the Kenya Tourist Federation; and,
(d) one biologist with not less than ten years experience nominated by the National Environmental Management Authority."

Mr. Temporary Deputy Chairman, Sir, the reason for this amendment is that as land owners and land-owning communities are the custodians of 70 per cent of Kenya's wild animals, they require adequate representation on the body that regulates the conservation of the wild animals on their land. If there is to be reduction in the number of members to make way for the additional four chosen for their specialised expertise, that should be at the expense of the nine *ex-officio* members.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

Mr. Onyancha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 4 be repealed and replaced with the following new clause-
"4. Section 3C of the principal Act is amended by deleting subsection (2) and

substituting therefor the following new subsection-

"(2) The Director shall be appointed by the Public Service Commission on the recommendation of the Board of Trustees."

Mr. Temporary Deputy Chairman, Sir, the rationale behind this amendment is that it is in keeping with the normal practice and it will ensure the independence of the Director in the course of discharging his duties *vis-a-vis* political interference.

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

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

THAT, Clause 6 be amended in paragraph (b) in the proposed new subsection (2) by inserting the following new paragraph immediately after paragraph (d)-

"(e) in case of a district without a wildlife forum, the Director may request the District Commissioner to nominate four prominent farmers, one of whom shall be a woman, a councillor nominated by the local county council, the district agricultural officer and the area member of parliament, to act in *lieu* of a wildlife forum until a wildlife forum is established."

Mr. Temporary Deputy Chairman, Sir, the reason for this amendment is that the word "constituency" is used in *lieu* of the word "area", possibly, to give politicians power. However, a wildlife forum is supposed to be district-based and not constituency-based.

With regard to the advisory council being part of the policy-making apparatus, it is only logical that they marry with the existing patterns of governance or administrative set-up. Further, the model of the District Agricultural Committees offers a cautionary example worthy following.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Chairman, Sir, I wish to oppose the proposed amendment. The people who suffer the ravages of wildlife are the people who are in the immediate vicinity of that particular park. In this particular context, the appropriate word to use is "constituency". There can be one part of the district where the wildlife are, and another part does not suffer the ravages.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I also stand to oppose the proposed amendment. It is very clear that the person who feels the pinch is the one wearing the shoe. There is no way you can ask somebody who is living--- Some distant districts are very expansive and are very far away. Some of the people have even destroyed birds in those areas, and now you are asking them to benefit from something that is not affecting them. I wish that we would limit this to the constituency level, so that, at least, there can be some impact

from it.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I also wish to oppose the proposed amendment for reasons that have been advanced by those who have spoken before me. But much more importantly, the amendment is proposing a district commissioner, but this is an Act of Parliament which is going to last for many years, and we know that in the proposed new constitutional dispensation, we are going to do away with district commissioners.

(Applause)

I, therefore, agree with the proposal that this should be left to the people who live near to the animals.

The Temporary Deputy Chairman (Mr. Khamasi): Last one, Mr. Ndile!

Mr. Ndile: Asante sana, Bw. Naibu Mwenyekiti wa Muda. Nasimama kupinga mabadiliko yaliyopendekezwa kwa sababu tukisema twende kwa wilaya, utakuta ya kuwa kuna sehemu zingine za uwakilishi Bungeni ambazo hazina hata ndege, na wanataka wafaidike, ilhali walikula ndege wote wakawamaliza. Kwa hivyo nakubaliana na wenzangu katika kupinga hayo mabadiliko yaliyopendekezwa.

Mr. Ethuro: Bw. Naibu Mwenyekiti wa Muda. Ningependa kuunga mkono pendekezo hili kwa sababu, kwa mfano, mamba walioko katika mto Tirikwen wanatoka katika eneo la Turkana Kusini linalowakilishwa na Bw. Ewaton, na wanafika hadi kwangu. Kwa hivyo, naona kuwa wilaya ni bora kuliko eneo la uwakilishi Bungeni.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Khamasi): There is another amendment by hon. Ethuro on the same clause.

Mr. Ethuro: Thank you, Mr. Temporary Deputy Chairman, Sir. I wish to propose an amendment on Clause 6B(ii); where an area is being defined as a constituency, that area should be defined as a district.

(Loud consultations)

These are natural resources that a particular district should partake of! You cannot just limit it to a particular constituency or---

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

(Loud consultations)

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Khamasi): Order! No, Mr. Kiunjuri! You see, Mr. Ethuro is advancing an argument for his amendment. So, let us give him some time to finish! Can you complete your argument, Mr. Ethuro, so that we can put it to vote?

Mr. Ethuro: Thank you, Mr. Temporary Deputy Chairman, Sir. Mr. Kiunjuri wants to argue even before he has heard my case! I am proposing an amendment as follows:-

Instead of the word "constituency", we should insert the word "district" for the following reasons. Wildlife is a natural resource that you cannot just localize to a particular constituency, because all members of that particular district will be responsible for wildlife!

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Chairman, Sir. The same, same amendment that my friend, hon. Ethuro, is trying to sneak in once again, is the same one that has just been defeated. Is he in order to sneak in the amendment?

Mr. Ethuro: Is Mr. Kiunjuri in order to mislead this House that I am sneaking in an amendment that is before you rightly?

The Temporary Deputy Chairman (Mr. Khamasi): Order! There is no sneaking in of any amendment here. Mr. Ethuro is completely in order to bring his amendment and to be considered by the Committee of the whole House, and we will put it to vote!

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Chairman, Sir, I think it will be a major contradiction in terms once you use the word "constituency" in one part of the clause, and then you use the word "district" in the next clause. We have to be consistent, because once the first amendment was defeated, it follows logically that this one too must be defeated for the sake of consistency.

(Applause)

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Chairman, Sir. I must admit that this is one lawyer whom I respect; and he is my lawyer. He is saying that one argument should be defeated because of another one, but the issue was that, an area was being defined as a constituency. That was the argument! Now, I am proposing that we should define the area in terms of the district. It has nothing to do with the previous amendment!

The Temporary Deputy Chairman (Mr. Khamasi): Fine, all sides of the argument have been heard. So, I will put it to vote.

(Question of the amendment proposed)

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

(Laughter)

Order! Order! Is there another amendment on the same clause?

Mr. ole Metito: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Khamasi): Where is it? When did you apply for it? I cannot see it here.

Mr. ole Metito: It is there and you have signed it.

The Temporary Deputy Chairman (Mr. Khamasi): Was it signed by the Speaker?

Mr. ole Metito: No, it was signed by Mr. Omolo.

The Temporary Deputy Chairman (Mr. Khamasi): The Chair is not aware.

(Consultations)

Yes, it is here, Mr. ole Metito. Unfortunately, it had not been brought to the attention of the Chair. However, I will allow you to move that amendment on Clause 6.

Mr. ole Metito: Thank you, Mr. Temporary Deputy Chairman, Sir. I beg to move that Clause 6 be amended by inserting a new Sub-Clause 6A(iii) as follows:-

A constituency, where a Game Reserve or a National Park is situated shall be entitled to 25 per cent of the annual gate fees collected and 30 per cent of staff recruitment for the reasons that have been advanced by my colleagues when supporting the issue of constituency-based wildlife management.

These are the first casualties of the human-wildlife conflicts, and are the ones who pay the price of having the animals on their land.

(Question of the amendment proposed)

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Chairman, Sir, I wish to support the proposed amendment. The management of wildlife today is a partnership between the community and the Kenya Wildlife Service (KWS). This particular amendment seeks to introduce the fact that those who are jointly managing wildlife should benefit, so that the local community should, at least, get 25 per cent of the revenue collected; and in job creation, they should, at least, be able to benefit from 30 per cent of the staff recruitment.

(Applause)

Mr. Mwandawiro: Bw. Naibu Mwenyekiti wa Muda, ninaunga mkono marekebisho hayo kwa dhati. Watu wanaoishi karibu na mbuga za wanyama huwa na matatizo mengi yanayosababishwa na wanyama wa porini. Watalii wengi huja kuzuru mbuga zetu. Kwa hivyo, wanastahili---

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Mwandawiro! You have made your point. Are there any varying views?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I will now go by the facts. The reason all these amendments are coming is because people want to benefit as a constituency in total disregard of the fact that this is a natural resource that is enjoyed by the entire district.

I oppose the amendment!

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

(Clause 6 as amended agreed to)

(Clauses 7, 8 and 9 agreed to)

Clause 10

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

THAT, Clause 10 be amended by deleting the proposed new sub-sections (3), (4), (5), and (6).

Section 10B seeks to give the Director power to determine how the person may or may not utilise his land, thereby greatly restricting rights currently enjoyed under the Agriculture Act,

Cap.318, and reduce the powers of the Minister for Agriculture. It further duplicates and restricts the Director's power already covered under Section 47 (2) C and D of the principal Act, or Clause 17 of the Bill. Under Sub-section (5), the Director is expected to facilitate the sale of game products, yet the sale is purely private business. The Director should, therefore, play no role in this.

(Question of the amendment proposed)

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I concur with the intention of the hon. Member because he is merely changing a few words, which are not affecting the entire clause.

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

(Clause 10 as amended agreed to)

Clause 11

Mr. Onyancha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 11 be deleted.

Section 4 of the Principal Act already gives the Director great latitude to determine what an honorary warden may or may not do. For instance, an honorary warden could be appointed with restricted powers of a single game cell or ranger or the unrestricted powers of a full warden. Applied in combination with Section 21, which makes the issue even clearer, the Director already has all the powers sought in Clause 11. Whether or not a land owner or community wish to pay an honorary warden for his services, this is their prerogative and does not call for the Director's involvement.

(Question of the amendment proposed)

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

(Clause 11 as amended agreed to)

Clause 12

Mr. Onyancha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 12 be deleted.

The purpose of Section 25(1) of the principal Act is to make those with licences to hunt to keep a record of what they have hunted. Clause 12 would relieve them of this obligation and instead transfer it to the honorary game wardens, who may not be involved in hunting. Moreover, not all areas are covered by honorary wardens, and hence this will be impractical.

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, the question of control should remain as it appears in the Order Paper. This is because honorary game wardens can also be compromised at any given time.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I wish to oppose this amendment. We are giving authority to an advisory council, whose members will be game wardens. They will be the same people to issue licences to kill animals and determine how many animals there were before the issuance of the licences.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Kagwe, you have heard the argument. Do you want to clarify that issue?

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, let us understand what the principal Act intends to do. If one goes hunting, there will be a record of what he has done. That is essentially what we will be doing now. It is, therefore, essential that the person with a licence to hunt is obligated to say exactly what he does.

(Clause 12 deleted)

(Clause 13 agreed to)

Clause 14

Mr. Onyancha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 14 be amended in the proposed Sub-section (2) of Section 29 by deleting the word "ten" and substituting therefor the words "one hundred."
The rationale is to factor in the inflation since 1976 to date, provided that this is within the Judiciary's power of determining penalties.

(Question of the amendment proposed)

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I support the idea.

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

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

(Clause 14 as amended agreed to)

Clause 15

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

THAT, Clause 15 be amended-

(1) by retaining the word "Minister" and not substituting it with the words "Board of Trustees" as proposed in the Bill.

The reason is that Section 37 of the Principal Act is very crucial due to the importance of safeguarding and protecting the population of endangered species. Therefore, this power or these powers must remain with the Government, through the Minister, instead of vesting the same on the

Board of Trustees. The Board may easily succumb to external influence more so in areas where the big ranch farmers' interests are concerned.

Mr. G.G. Kariuki: I have no objection, Mr. Temporary Deputy Chairman, Sir.

(Question of the amendment proposed)

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

(Clause 15 deleted)

(Clause 16 agreed to)

Clause 17

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

THAT, Clause 17 be amended by deleting the word "prohibit" and substituting therefor the word "permit".

The intention in the Principal Act was to both allow and disallow, as circumstances dictated, and the wording is in keeping with that intention.

(Question of the amendment proposed)

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

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

(Clause 17 as amended agreed to)

Clause 18

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

THAT, Clause 18 be amended by inserting the following new section immediately after Section 47 -

47A. The Board of Trustees may, with the approval of the Minister -

(a) specify the conditions upon which ranching and game cropping may be undertaken;

(b) by notice in the Gazette, exempt game ranching and game cropping from the provisions of this Act; or

(c) prescribe the fees to be paid in respect of any licence, permit or authorisation issued or given thereunder;

Mr. G.G. Kariuki: On a point of order, Mr. Temporary Deputy Chairman, Sir. We have a problem of getting the proposed amendments. They are not available here.

The Temporary Deputy Chairman (Mr. Khamasi): They are here on your Order Paper

because we are dealing with Clause 18. I will repeat.

(Question of the amendment proposed)

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

(Clause 18 as amended agreed to)

(Clause 19 agreed to)

Clause 20

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

THAT, Clause 20 be deleted and replaced by the following new clause -

"20. The principal Act is amended by repealing section 62 and replacing it with the following new section -

"62(1) Where a competent authority is lawfully benefiting monetarily from the presence of either elephants, buffaloes, hippos, baboons, lions, leopards, cheetahs, hyenas or crocodiles through hunting, game cropping, game viewing, tourism or other forms of income generated from those animals, then, subject to the provisions of this section, the competent authority shall be liable for any death, injury or loss inflicted by any of those animals upon a wildlife community, crops, livestock or property within an area of five kilometres under the control of the competent authority.

2. The extent of liability referred to in Sub-section (1) shall be determined by the appropriate Advisory Council, taking into account any permission the competent authority concerned has under any existing law or any permission granted under this Act allowing it to benefit monetarily from any of the animals specified in sub-section (1).

3. Without prejudice to the generality of Sub-section (1), there shall be no liability for death, injury or loss inflicted by any of the animals specified in sub-section (1) if-

(a) such injury or loss occurred on property whose competent authority was entitled to benefit from the game animals specified in Sub-section (1);

(b) a person or his property's presence was unlawful where the injury or loss occurred;

(c) in the opinion of the Advisory Council, the death, injury or loss occurred through unreasonable behaviour on the part of the victim;

(d) the injury or loss was occasioned by any conduct on the part of the concerned person that would constitute an offence under this Act; and,

(e) the person who suffers such injury or loss is already insured against the consequences of such injury or loss.

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed)

Clause 21

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

THAT, Clause 21 be amended by deleting Section 62(a)(1) and inserting the following new sub-section-

The compensation shall be determined by the District Advisory Council based on commercial rates and be limited to Kshs1 million depending on the level of injury, if that be the case. Any person so dissatisfied can seek legal redress under common law.

The Departmental Committee on Finance, Planning and Trade discussed this issue at length, and this section is basically to allow advisory councils to determine the extent of liability for damage caused by specified animals. At the moment, this amount is Kshs30,000. We raised it to a maximum of Kshs 1 million so that it can be affordable. Based on our calculations, for nearly 500,000 people, there is a limit we can go to. If we go above that, then it becomes superfluous because it is not affordable. We arrived at a figure of Kshs1 million, up from Kshs30,000.

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I stand to oppose that amendment. It is very clear that Kenyans have really suffered because of other people's irresponsibilities and greed. Some people want animals to roam their ranches yet they do not take responsibility for their actions. What we are telling them is to completely fence off their land and ensure that those animals do not affect anybody. If the land belongs to the Government, then it should also be responsible and fence off the animals. There is no way we can equate the life of a human being to Kshs1 million. I, therefore, propose that we amend this section. Those people who love Kenyans at heart oppose this amendment vigorously.

Mr. J.M. Mutiso: Mr. Temporary Deputy Chairman, Sir, I support the amended version by Mr. Kagwe about revising Section 2(a) on the compensation to limit it to Kshs1 million. As has been adduced by the Chairman, an amount of Kshs10 million being compensation for death or any other damage would be an overblow to the Budget. From the experiences we looked at from other countries like Namibia, South Africa and the USA, we found that we can only look for consolation. I, therefore, support the limit of Kshs1 million. If the aggrieved person finds it inappropriate, he can move to court to apply the common law.

I support the amendment.

Mr. ole Metito: Mr. Temporary Deputy Chairman, Sir, the spirit of the amendment as moved by Mr. Kagwe is good. However, when we say, "an amount not exceeding Kshs1 million", we are opening loopholes to retain the current Kshs30,000. This is because the District Advisory Board can as well say that, that Kshs30,000 which is being paid right now is enough. We should say "an amount not less than Kshs1 million".

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, I will have Mr. G.G. Kariuki and then put the question.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I want the House to address this issue very clearly and without---

(Loud consultations)

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order, hon. Members! Let us hear what the Mover of this Bill has to say about this amendment.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, the need for this Bill was dictated by what is happening in the field. People's property is being destroyed and livestock killed by wild animals. Also, the lives of many people have been lost. We are being told that this money cannot be found. Right now, nobody can tell you how many people are killed by wild animals per year. When we say that Kshs10 million is too much, we are assuming that only five people are killed per month. According to information we have, 250 people are killed by wildlife every year. Other sources say that 500 people die each year. So, in that sense, we had better stick to Kshs10 million, so that we can control this menace.

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

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

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Mr. Khamasi): Twenty hon. Members are required to stand up for a division to be granted. You are not yet 20 hon. Members.

(Clause 21 as amended agreed to)

New Clauses

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, on behalf of Mr. Onyancha, I beg to move:-

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 21-

Clause 22

22. THAT, the principal Act be amended in Section 3B(1) by deleting paragraph (a) and substituting therefor the following new paragraph-
(a) a chairman elected by the Trustees from among the members of the Board of Trustees"

Clause 23

23. THAT, the principal Act be amended in Section 38(1) by deleting the word "Minister" and substituting therefor the word "Director"

(Question of the new clauses proposed)

(New Clauses 22 and 23 read the First Time)

*(Question, that the new Clauses 22
and 23 be read a Second Time, proposed)*

*(Question, that the new Clauses
22 and 23 be read the
Second Time, put and agreed to)*

*(The new Clauses 22 and 23
were read a Second Time)*

*(Question, that the new Clauses 22 and 23
be added to the Bill, put and agreed to)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I stand to support that, however, it should be noted that some of the amendments---

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Kiunjuri! First of all, I do not have any notice from you to the effect that you want to make an amendment to the Title. If you did not, what do you want to debate? Just wait to vote!

(Title agreed to)

Clause 1

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

THAT, Clause 1 be amended by deleting the fullstop at the end thereof and inserting the words "but not later than 30 days from the date of assent".

Basically, it means that the Minister cannot let

this thing go on forever after the assent is given.

(Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Wildlife (Conservation and Management) (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

The Temporary Deputy Speaker (Mr. Poghisio): Let us start with the Investment Promotion (Amendment) Bill.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, the order does not matter, in order to expedite the process.

The Temporary Deputy Speaker (Mr. Poghisio): If both of you are ready, let Mr. Khamasi start first, and then you come after him.

THE STANDARDS (AMENDMENT) BILL

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of a whole House has considered the Standards (Amendment) Bill, Bill No.12, and has approved the same with amendments.

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Standards (Amendment) Bill, Bill No.12, be now read the Third time.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker,

Sir, the Kenya Bureau of Standards (KEBS) is a very important institution in this country, particularly now that this country has reached a stage where it is ready for industrial take-off. The amendments that have now been introduced to the Standards Act give the Bureau the teeth to protect the economy and the consumers in this country. Therefore, I support.

(Question put and agreed to)

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

THE WILDLIFE (CONSERVATION AND
MANAGEMENT) (AMENDMENT) BILL

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Wildlife (Conservation and Management) (Amendment) Bill and approved the same with amendments.

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Wildlife (Conservation and Management) (Amendment) Bill be now read a Third Time.

Mr. Muchiri seconded.

(Question proposed)

(Question put and agreed to)

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

THE INVESTMENT PROMOTION BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Investment Promotion Bill and approved the same with amendments.

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Trade and Industry (Mr. Syongo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Investments Promotion Bill be now read the Third Time.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

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

THE NATIONAL SOCIAL HEALTH
INSURANCE FUND BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the National Social Health Insurance Fund Bill and approved the same with amendments.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Roads and Public Works (Mr. Raila) seconded.

(Question proposed)

(Question put and agreed to)

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 the Third Time.

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o) seconded.

(Question proposed)

(Question put and agreed to)

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

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE *SINE DIE*

The Vice-President and Minister for Home Affairs (Mr. Awori): Bw. Naibu Spika wa Muda, ninaomba kupendekeza:-

Kwamba kikao cha Bunge hili kihirishwe bila kutaja tarehe ambayo tutarudi.

Ninapendekeza Hoja hii kwa sababu ninaona waheshimiwa Wabunge wengi wamechoka.

(Applause)

Kwanza kabisa, ninataka kuwashukuru waheshimiwa Wabunge kwa kujadiliana kwa njia ya kisasa. Wamewakilisha watu ambao waliwachagua kikamilifu. Maswali ambayo waliuliza yalikuwa ya kuwasaidia wananchi. Mijadala yetu ilikuwa ya hali ya kuisimua. Michango yao katika Bunge hili ilikuwa ya kusaidia demokrasia. Tukilinganisha na Kikao cha Kwanza, kwa mfano, tutaona kwamba tulipitisha Miswada 12 mwaka huu. Tumekosea kidogo kwa sababu mwaka uliopita, tulipitisha Miswada 15. Mwaka huu, tumepitisha Hoja zaidi ya 30 tukilinganisha na Hoja 28 ambayo tulipitisha mwaka uliopita.

Bw. Naibu Spika wa Muda, tumeonyesha kwamba demokrasia imeanza kuimarika katika Bunge hili. Ninawaomba waheshimiwa Wabunge waende wapumzike wakati huu, wachangamshe bongo zao, wawatembelee wananchi ambao waliwachagua na wawahudumie kikamilifu.

Ningependa kuwaomba waheshimiwa Wabunge watembeleane ili waweze kufahamu kwamba shida ambazo ziko eneo la uwakilishi Bungeni la Bomet zinafanana na zile ambazo zinakumba eneo la uwakilishi Bungeni la Funyula. Tunataka Wabunge wakirudi wawe kweli wazalendo.

Bw. Naibu Spika wa Muda, hii ni wiki ambayo tunaonyesha uzalendo tukielekea wakati wa kusherehekea Jamhuri. Tunataka tujivunie kuwa Wakenya halisi. Tunafaa kusaidiana. Tusiwe tukiangalia tu kwamba tunakuja hapa kutafuta pesa. Tunajua kwamba kibarua cha Wabunge ni kigumu sana, lakini tunataka kwenda nyumbani ili tufundishe wenzetu kwamba tunataka kufufua uchumi wa nchi hii ikiwa wananchi watafanya kazi kwa bidii. Tunataka kuboresha sekta ya Jua Kali na sekta ya kilimo. Tunataka kueleza wananchi kwamba hakuna heshima kuwa maskini au fukara. Tunataka kukataza wananchi wetu kuzoea kuomba. Wabunge wengi wanaogopa kuenda nyumbani kwa sababu wanasumbuliwa sana na wananchi wakiwaomba hivi na vinginevyo.

Bw. Naibu Spika wa Muda, Krisimasi imekaribia na wakati huu ndio tunaonyesha uzalendo na utamaduni wetu. Ningetaka kuwaalika kule Funyula ili mje muone utamaduni wetu uko namna gani huko; jinsi tunavyoendesha mashua, jinsi tunavyomenyana miereka na jinsi tunavyocheza densi za kitamaduni. Wakati umefika wa sisi kujivunia kuwa Wakenya.

Ningetaka kutoa mwito, hasa kwa wale ambao wanatarisha habari za urembo. Kila wakati ambapo kuna mashindano ya urembo, wale ambao wanatafuta mrembo, wanaangalia mwenye rangi ambayo si nyeusi; rangi tofauti. Si kijani kibichi lakini ni "light skinned". Tunataka sasa tujivunie kuwa Wakenya na ikiwa tunatafuta mrembo, awe mweusi kabisa na asiwe ni yule ambaye ni kama bado hajakula chakula; mwembamba kabisa. Tunataka yule ambaye ana nyama kidogo. Kwa kweli, ni lazima sisi tuzoe kuwa Waafrika kamili.

Kwa hayo machache, ninapendekeza Hoja hii.

The Minister for Education, Science and Technology (Prof. Saitoti): Asante sana, Bw. Naibu Spika wa Muda, kwa kunipatia nafasi hii ili na mimi niweze kuunga mkono Hoja hii ambayo imependekwa na Makamu wa Rais na Waziri wa Mambo ya Kinyumbani, kwamba Bunge liende likizo kwa muda usiojulikana.

Ningetaka kuchukua nafasi hii kuwashukuru Wabunge ambao kwa kweli, wamefanya kazi kubwa sana kuhusu mambo ya kusaidia wananchi. Tutakapoenda likizo, tutakutana na wananchi wenzetu ambao walituleta Bungeni na tutawaambia yale ambayo tumewafanyia. Tumekuwa na kazi nyingi sana. Tumefanya mambo mengi sana kama vile kupitisha Bajeti na kupitisha Finance Bill.

Kuna jambo moja ambalo ningetaka kuelezea. Kama mlivyosikia jana, Rais wa Jamhuri hii alipokuwa akizungumzia waalimu, alisema kwamba elimu ya bure ya msingi inaendelea. Ningetaka

kuwaambia Wabunge na wananchi katika pembe zote za taifa hili, kwamba Serikali imejitolea kutoa elimu ya bure ya msingi. Hakuna karo ambayo mzazi atatozwa ili mtoto aende shuleni. Ningetaka kufafanua kwamba tumeondoa karo katika shule za msingi.

Pia, hakuna haja ya wazazi kubabaika kwamba wataambiwa walipe pesa za kununua vitabu. Serikali itapeleka vitabu katika shule ama pesa ambazo zitatumiwa kununua vitabu vya kusoma na pia vya kuandikia. Pia Serikali inawapa wanafunzi wetu kalamu na vifutio. Inafaa ieleweke kwamba tunafaa kusaidiana na wazazi katika ujenzi wa madarasa nchini.

Kila shule ina akaunti mbili. Ya kwanza ni ya pesa za kununua vitabu na vifaa vingine. Ya pili ni akaunti ya pesa ambazo husaidia kurekebisha madarasa ambayo yanahitaji kurekebishwa. Hata hivyo, kuna sehemu zingine katika nchi hii ambapo kuna watu masikini sana. Watu hawa hawawezi kupata pesa za kujenga madarasa kadhaa wa kadhaa. Kwa mfano, Mkoa wa Kaskazini Mashariki una uwezo mdogo ukilinganishwa na mikoa mingine. Kwa wakati huu, Serikali imetoa Kshs150 million ambazo zitatumiwa kurekebisha na kujenga madarasa mapya katika mkoa huo.

Pia kuna pesa zingine ambazo tulipewa na nchi ya Saudi Arabia. Mhe. Makamu wa Rais alifanya kazi nzuri sana ya kuzungumza na viongozi wa nchi hiyo. Wametoa Kshs40 million ambazo zitasaidia kujenga shule katika wilaya za Marsabit, Isiolo na sehemu zingine nyingi. Tumepata Kshs40 million zingine kutoka kwa Benki ya Dunia. Tutatumia pesa hizo kujenga na kurekebisha madarasa katika sehemu zenye umasikini mwingi, kwa mfano, Kibera, Mathare na sehemu zingine nyingi.

Kuna Kshs40 million zingine ambazo zitatumiwa kujenga madarasa katika sehemu kame, yaani, *ASAL areas*. Tunatarajia kwamba hizo pesa zitasaidia kujenga na kurekebisha madarasa katika sehemu mbali mbali hapa nchini. Tunaendelea kutafuta pesa nyingi zaidi ili kuimarisha elimu ya watoto wetu.

Kwa hayo machache, ningependa kuafiki Hoja hii.

(Question proposed)

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Motion of Adjournment on grounds that, as we have seen lately, this House has risen to its duty to the people of Kenya. We want to help the Government to pass all the legislation that is required to unlock funds that have promised to this country from our donors and the people who want to support efforts like the ones we passed this afternoon on health care to our people. When Parliament is willing as it is, the Government should take advantage and pass even the Procurement Bill which is still hanging. The donors have insisted that, that Bill must be passed to structure how Government funds are spent and how procurement is carried out. The Government should take advantage and bring these Bills next week. We are willing as Members of this House to sacrifice a few more days to get these Bills passed, so that we can get moving with our partners in developing this country. We did not pass the HIV/AIDS Prevention Bill, which is a very critical Bill. The Ministry of Health has told us that, if we pass this Bill, we would reduce the HIV/AIDS scourge that has ravaged the people of Kenya. We would have legislated efforts and steps that would help in reducing the effects of the HIV/AIDS pandemic.

Mr. Temporary Deputy Speaker, Sir, this afternoon, we tabled the items on the consensus and way forward on the constitutional review process. We are seeking leave of this House to conclude or road-map that effort. If this House agrees with us, we will be able to put in place the mechanism that will eventually get the review process on course and, eventually, to a conclusion. That way, the people of Kenya can realise the dream that they have dreamt for the last ten years.

Mr. Temporary Deputy Speaker, Sir, on those grounds, I want to persuade hon. Members to

stay on for two or three more days, so that we can conclude that business.

With those few remarks, I beg to oppose.

The Assistant Minister, Office of the President (Dr. Machage): Bw. Naibu Spika wa Muda, ningependa kuunga mkono Hoja hii. Tumeshughulika kwa siku nyingi katika Bunge hili. Tumepitisha Miswada na Hoja mbali mbali. Kwa hivyo, tumechoka. Ni heri kwenda kupumzika, hata kama ni siku chache tu. Hata hivyo, naomba tusichukue muda mrefu kwenda kupumzika. Tuchukue labda majuma mawili au matatu na turudi kazini kumaliza Miswada iliyobaki. Hata hivyo, ningependa kushukuru Serikali kwa utu iliyoonyesha katika Jumba hili. Serikali imetoa fursa ya demokrasia na kukubali mawazo ya kila mtu. Tuendelee hivyo kwa sababu ndio mpango mwema.

Ningetaka pia kumshukuru Waziri wa Elimu, Sayansi na Teknolojia kwa mipango na hela ambazo ameweka kwa wakfu, kwa minajili ya maendeleo wilayani. Tungetaka akumbuke kwamba kuna sehemu nchini ambazo ziliwachwa nyuma kimaendeleo wakati uliopita. Hizo hela zitumike kwa minajili ya maendeleo ya sehemu hizo.

Ningetaka pia kuwaomba Mawaziri---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisisio): Order, hon. Members!

*(Prof. Saitoti consulted
loudly with other hon. Members)*

The Assistant Minister, Office of the President (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, protect me from Prof. Saitoti!

Bw. Naibu Spika wa Muda, ningetaka kuwaomba Mawaziri kutumia wakati huu kuzuru sehemu mbali mbali nchini, na kuonyesha mapenzi ya Serikali kwa wananchi wa nchi hii. Pia, watumie fursa hiyo kuwaelezea wananchi maendeleo ambao yatatekelezwa wilayani. Wakifanya hivyo, watu wataelewa sera na mipango ya Serikali.

Kwa hayo machache, naunga mkono Hoja hii.

Mr. Moroto: Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii kuchangia Hoja hii muhimu. Naunga mkono Hoja hii. Umefika wakati wa kwenda na kukutana na wale waliotuleta hapa.

(Applause)

Mambo mengi yamesemwa ambayo yamefanya tubaki nyuma. Inaweza kuwa upande wa Serikali umelala. Huu ndiyo wakati wao wa kuamka. Mwaka ujao, lazima tutawashinda. Walijiandaa na sisi tulikuwa na watu wachache waliopatana na kwenda kona moja. Wale wengine hawakutueleza tuelekee wapi. Kwa hivyo, napongeza Serikali ya wakati huu. Hata kama wanaharibu, ni wakati wao. Sisi tutajiandaa kuwalima mwaka ujao ili tupate nafasi ya kwenda mbele.

Nataka kuchukua nafasi hii, kwa niaba ya watu wa Kapenguria, kuwashukuru Mawaziri na Wabunge wenzangu ambao wamewatelembelea watu wa Kapenguria na kuwaunga mkono.

Bw. Naibu Spika wa Muda, waheshimiwa Wabunge hawa wameunga mkono zaidi ya miradi 100. Vile vile tumepiga hatua kubwa katika sekta ya elimu. Ningependa kuwapongeza waheshimiwa Wabunge ambao walifika Kapenguria ili kusaidia katika miradi ya maendeleo. Vile

vile, ninawashukuru wananchi waliowachagua na Mungu awabariki.

Eneo la Kapenguria ni eneo linalosifika sana katika nchi hii. Mashujaa ambao walipigania uhuru wa nchi hii walitoka Kapenguria. Kwa mfano, hayati Mzee Jomo Kenyatta na kundi lake walifungwa kule Kapenguria kwa muda mrefu. Jambo la ajabu ni kwamba ijapokuwa korokoro ile walifungwa iko Kapenguria, wilaya yetu haijapata manufaa yoyote.

(Prof. Saitoti consulted loudly)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Saitoti! Only one hon. Member should be on his feet contributing to the Motion.

Mr. Moroto: Bw. Naibu Spika wa Muda, wakati mashujaa wa kupigania uhuru waliposhikwa, walitiwa korokoroni huko Pokot Magharibi. Wakaaji wa sehemu hiyo waliwalinda na kuwatetea. Lakini mashujaa hao walipoachiliwa, waliwasahau wakaazi wa Pokot. Kwa njia ya kuwambuka mashujaa hao wa uhuru, wakaazi wa Pokot walihifadhi jela hiyo na kuifanya makavazi ya kitaifa. Hata wakati huu ukizuru makavazi hayo na uyalinganishe na makavazi mengine nchini, utagundua kwamba kuna tofauti kubwa. Kwa hivyo, ningependa kuuliza Serikali, kupitia kwake Makamu wa Rais na Waziri wa Mambo ya Humu Nchini, kuhakikisha kwamba makavazi hayo yameboreshwa zaidi.

Bw. Naibu Spika wa Muda, kuna sehemu inayoitwa Chewoyet ambayo ilibadilishwa kuwa shule kubwa. Ukitembelea mahali hapo, hutaweza kutambua kwamba mahali hapo palikuwa korti iliyokuwa ikitumika wakati wa kesi za mashujaa wa upiganiaji uhuru. Hapo ndipo walikuwa wakijitetea. Aidha, nitamwuliza Waziri wa Elimu, Sayansi na Teknolojia aangalie maslahi ya shule hiyo kwa vile ni shule iliyoheshimika. Watu wakubwa katika nchi hii walisomea shule hiyo. Hata marehemu Makamu wa Rais, Mhe. Wamalwa Kijana alisomea shule hiyo. Ni jambo la kusikitisha kwamba watu wakubwa ambao walisomea katika shule hiyo hawaikumbuki.

Kwa hayo machache, ninaunga mkono.

The Assistant Minister for Energy (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

Hon. Members should be accountable to their constituents for whatever they do in the House. Secondly, we have also to evaluate our work. We have eventually received the much awaited Constituency Development Fund (CDF) money. This money will assist us to implement the various development programmes in our constituencies. We have been faced with a lot of hurdles, but eventually, the CDF money has been released. Secondly, Mr. Temporary Deputy Speaker, Sir, we have the issue of the constitutional review, and it has been a headache to us because hon. Members have been arguing about it in the House. We shall have an opportunity to go and ask our people for advice on the way forward. We shall also be having enough time to prepare our people on the referendum and, at the same time, as we come to amend the Bomas Draft---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Mr. Wamunyinyi and the others, please, consult in low tones.

The Assistant Minister for Energy (Mr. Kiunjuri): As we come back here to amend the Bomas Draft, we shall have sought views from our own constituents because we get the mandate from them. Therefore, we shall be able to argue in a very, very sober way, because we shall have obtained the actual directives from our people.

Mr. Temporary Deputy Speaker, Sir, we have not been paying enough attention to our constituencies. Last time when we were supposed to go for the three-month recess, we went to the Bomas of Kenya. We have not even been able to follow up on the meetings of the District Roads Committees, of which we are members. The engineers are still doing their business in the normal way, and they are not implementing the directives clearly. So, we shall, for the first time, have the opportunity to follow up on the developments in the constituencies and even follow the heads of departments to know what they have been doing with the monies which have been allocated to them from the Budget which has been made by this Parliament. We shall, for the first time, be able to draw clear lines on what they should be doing and what we, on our part, should do at the same time.

Many Bills have been passed in this House; for example, we have passed the Wildlife (Conservation and Management) (Amendment) Bill. I will be taking the first opportunity to tell the people of Laikipia about the achievements that we have made here. We shall be able to go and ask them to go to go and follow up on these issues so that we can benefit out of the Bills that we have passed in this House.

Mr. Temporary Deputy Speaker, Sir, too much of anything is poisonous. If we want to "swallow" everything by passing all the Bills and we are not implementing them, then it will be of no use. For the first time, we should now go back home and make sure that we implement those Bills. At the same time, we should make sure that the hon. Members of Parliament are accountable. Some of us have received a lot of challenges and the press people are chasing us all over us, and some of our names have been tarnished completely. Today, as I was listening to the news, Transparency International rated the Kenya Police as the most corrupt, followed by hon. Members of the National Assembly as the second most corrupt people in this country. You can imagine that we are losing the war on corruption. We are losing our dignity, and we must now be able, for the first time, to go---

Dr. Godana: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Assistant Minister in order to lump together the hon. Members of this House when he knows that the reason for Transparency International labelling this House as corrupt is the Anglo Leasing scandal, in which only the Government side was involved!

(Applause)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, Transparency International is also aware that there was the Goldenberg scandal. They are also aware of other records and that hon. Members of Parliament--

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

The Temporary Deputy Speaker (Mr. Poghismo): Order, hon. Members!

The Assistant Minister for Energy (Mr. Kiunjuri): They are also aware of the "List of Shame". Transparency International is also aware that Members of Parliament are said to be bribed with only Kshs10,000 when they go to Mombasa. That is the magnitude of this matter, and it must be taken seriously.

Dr. Godana: It is the Government bribing!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order!

The Assistant Minister for Energy (Mr. Kiunjuri): For us who care and mind about our names, the institution of Parliament and this nation, this matter must be taken seriously. We must get an opportunity to go out to our people and make sure that we clean up all these matters.

With these few remarks, I beg to support.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion, and I want to say only one or two things. Since the Ninth Parliament began, we have not had a recess, and I

wish to tell my colleagues that, this is a good time to go back and reflect if our performance in this House has been up to par.

Dr. Godana: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is a tradition in this House, particularly on a Motion of this nature, that it is always a see-saw between the Government and the Opposition side. We welcome our friends who have come from the Government side to sit on our side. However, the Chair should not recognize them as if they come from this side, because they are taking our chances. So, I think the Chair should look at hon. Members to see if they are members of KANU, which is the only Opposition party.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, it is also good for the hon. Member to know that when an hon. Member is in the Opposition, he or she does not have to oppose all the time!

(Applause)

I would like to inform my colleagues that this is a good time to adjourn so that we reflect on what we have done. We know that we have done so much, but there is still more that needs to be done, particularly on the issue of Constitutional review. Kenyans are looking at this House because the Government promised Kenyans a new Constitution within 100 days since they took power. Unfortunately, this has not happened. All we see is constant shifting of goal posts. I would like to implore my colleagues to go out there and hear more from Kenyans because they are unhappy, disappointed and disgusted with this delay.

Mr. Temporary Deputy Speaker, Sir, there are other issues that we need to hear from our constituents; for example, the emerging new corruption cases in this country. It is not only the now famous Goldenberg affair that is a rot. Kenyans would like to know where their money that was supposedly taken up by the Anglo Leasing scandal is. They would like to know who stole the money and why those people behind this scandal are being protected. This is because we are not going for a two-day retreat to our constituencies.

I would like to thank the Government for facilitating the Constituency Development Fund (CDF). There is a lot of expectation from this CDF by our constituents. I am very happy because I know this is happening in this country for the first time. There is also the bursary fund, thanks to the NARC Government.

Mr. Temporary Deputy Speaker, Sir, I said I will not say much. With those few remarks, I beg to support.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): Asante sana, Bw. Naibu Spika wa Muda, kwa kunipa fursa hii kuchangia Hoja hii. Ningetaka kuunga mkono Hoja hii na kuwaomba waheshimiwa Wabunge wenzangu wanayoipinga, kuiunga mkono. Hii ni kwa sababu Bunge hili limefanya kazi nyingi mwaka huu; kazi ambayo hata wananchi wetu wanaweza kuiona. Tumepitisha Hoja, Miswada na Sera nyingi. Najua wapiga kura wanatusubiri ili tuendeleze maendeleo katika sehemu zetu za uwakilishi.

Juzi pesa za maendeleo zilitolewa ili kusaidia maeneo yetu ya uwakilishi hapa Bungeni. Hata hivyo, kuna sehemu nyingi ambazo hazijapata pesa hizi. Tukiwa hapa hatuwezi kupata fursa ya kufuatilia pesa hizi.

Tumebakisha wiki tatu tu kufunga mwaka huu. Mhe. Makamu wa Rais ametueleza kwamba kuna mengi tunastahili kufanya. Ningependa tukirudi katika maeneo yetu tuwaongoze wananchi katika mambo tofauti ya maendeleo. Kwa mfano, kama mhe. Mbunge anaweza kuanzisha mashindano ya mpira wa kandanda siku ya Krismasi au siku ya mwaka mpya. Hivi, wapiga kura watapata fursa ya kujumuika pamoja nasi. Hivyo ndivyo tunavyoweza kukutana na watu wetu na

kuedeleza miradi ya maendeleo.

Ningependa kuwahimiza Wabunge wenzangu kuhimiza utamaduni wetu. Hata hivyo, tunapohimiza utamaduni wetu, tukumbuke kwamba kuna ule utamaduni duni ambao haufai. Utamaduni huu ni kama ule wa kuwatahiri wasichana. Tuwasaidie wasichana wetu kwa kukomesha utamaduni huo. Kuna watu wengi ambao wanafikiri kwamba huo ni utamaduni wa tangu kale. Tunafaa kuhifadhi utamaduni ambao unaweza kutusaidia na kuacha ule ambao hautusaidii.

Bw. Naibu Spika wa Muda, watu wetu wanahitaji elimu. Hatujakuwa na wakati wa kukutana na watu wetu kutoka sehemu tunazowakilisha hapa ili kujibu maswali waliyo nayo kuhusu katiba mpya. Tunapaswa kuupitisha Mswada wa katiba mpya. Watu waliotuchagua wana maswali mengi kuhusu mambo ya katiba. Ninaomba tuiunge Hoja hii mkono ili tuende likizo ya wiki tatu tu, na wiki ya nne turudi hapa. Ninawaunga mkono Wabunge waliosema tusiende likizo ya muda mrefu. Ni vizuri tukirudi hapa Bungeni ili tupitisha Mswada ya kuleta maendeleo.

Ninaunga mkono.

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order, to move that the Mover of this Motion be now called upon to give an official reply?

Dr. Godana: On a point of order, Mr. Temporary Deputy Speaker, Sir. May I inform my colleague who is asking for a curtailment of this debate that this is one of the occasions which are considered important to the Opposition? No one can curtail debate on this Motion!

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir. According to our Standing Orders, the Motion which has been moved is accorded a maximum of three hours. That means that we cannot go on debating it indefinitely.

Dr. Godana: On a point of order, Mr. Temporary Deputy Speaker, Sir. May I tell my colleague, and those hon. Members who have cheered in his support, that it is true the Motion is accorded a maximum of three hours? However, that is the only case when hon. Members have a lot to say. Otherwise, if hon. Members run out of what to say, it can take less time, but debate on it cannot be curtailed.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Godana, you can make your remarks as I consult.

Dr. Godana: I rise reluctantly and grudgingly to support this Motion. I say grudgingly because as a Member of the House Business Committee, I know that we agreed to have this Motion debated today. As a man of honour, as we in the Opposition are, I do not want to break that promise. We in the Opposition are not like people who have experience in breaking memorandums of understanding (MOUs).

Mr. Temporary Deputy Speaker, Sir, the NARC Government came to power by conning Kenyans on the basis of false promises; promises they knew they would not fulfil. These were promises of 500,000 new jobs additional to the 498,000 jobs that the economy was already creating, free primary education, free health care and a new Constitution within 100 days. What do we have? The additional jobs have turned out to be a mirage. The free primary education, we have got it admitted, from none other than the Head of State himself, is a mirage. Parents have to build schools. We are back to the *status quo ante* before the elections of December 2002.

On free health care, Mrs Ngilu, as Minister for Health, acted with pride at the beginning when she ordered hospitals to release patients who had been detained. What do we have? Patients who are actually being detained for days on the corridors of Kenyatta National Hospital. On the Constitution, we are getting to 700 plus days and no sign of a new Constitution with a Government

that is determined to shift goal posts even when we have tried in the Opposition to lead and help them to reach a consensus as we did reach in Naivasha. So, we go into the country on recess with this information and Kenyans will surely be the better judges.

Mr. Temporary Deputy Speaker, Sir, the NARC Government used this opportunity to actually "bastardise" multi-party democracy when they decided against the letter and spirit of the law to appoint Ministers, to their rank, from other political parties in particular, the Opposition party, without the express consent of the party as is required by the law.

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that this Government breached the Constitution by not consulting the Opposition party, when he himself was a Cabinet Minister in the last Parliament and Moi appointed Ministers from DP and other Opposition parties?

Dr. Godana: Mr. Temporary Deputy Speaker, Sir, I wish the hon. Assistant Minister had done a little homework. Moi appointed Minister Raila and other Ministers from NDP, as it then was, with the full consent of that party, led by those leaders, which is what the law requires.

The Assistant Minister for Roads and Public Works (Eng. Toro): What about hon. Githiomi?

The Temporary Deputy Speaker (Mr. Poghismo): Order, Eng. Toro! If you want to speak, you will either stand on a point of order or you catch the Speaker's eye. Let us not shout!

Dr. Godana: Mr. Temporary Deputy Speaker, Sir, this Government came to power on the additional promise of fighting corruption which we must accept is a major "cancer" in this society and became a "cancerous" growth, sadly during the tenure of the previous Government. That, we concede. That is one of the reasons why we apologised to Kenyans, as a party, and this Government has perfected this phenomenon of corruption with the Anglo-Leasing scam.

Mr. Temporary Deputy Chairman, Sir, this Government came to power with the promise of fighting corruption and they spent the whole last two years pretending to fight corruption while allowing new corruption to go on and went further to actually perfect it by instituting the so-called Goldenberg Commission which has turned out to be a new vehicle for corruption by appointing favoured activists to be lawyers and commissioners on that body and, indeed, not with an intention to end it, but to have "a fat well-yielding milking cow"!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, a lot of hon. Members talking from this side---

The Temporary Deputy Speaker (Mr. Poghismo): Your time is up!

Dr. Godana: With those few remarks, I beg to support.

The Minister for Roads and Public Works (Mr. Raila): Asante sana, Bw. Naibu Spika wa Muda. Mimi, vile vile, nimesimama kuunga mkono Hoja hii. Wahenga walisema eti: "Kibebacho kikivuja ni nafuu kwa mchukuzi".

Ni kweli ya kwamba Wabunge wana uchovu mkubwa kabisa na kuupunguza uchovu huu, wanatafikana waende wapumzike kidogo.

Bw. Naibu Spika wa Muda, mwezi wa Desemba ni wa hekaheka na mambo mengi. Inatafikana Wabunge wapate nafasi ya kwenda kuungana pamoja na jamii zao na watu wa sehemu zao za uwakilishi Bungeni ili waweze kuzungumza nao na kupata majira mapya.

Kama tunavyojua, katika Katiba mpya, tarehe 26, Desemba, sasa imetengwa kuwa siku ya utamaduni. Zamani tulikiwa tukisherehekea siku hiyo kama ya Uingereza ambayo ni siku ya kufungua sanduku za zawadi ambazo wengi wa Waafrika hawapati. Kwa hivyo, ni muhimu zaidi Wabunge wakienda, tarehe 26 wawe na watu wanaowaakilisha Bungeni na washerehekee siku hiyo

kwa utamaduni wa Kiafrika na wananchi wa Kenya. Vile vile, tuweza kufundisha watu wetu kwa maana kuna upotovu wa nidhamu na watu wengi wanakiuka mila. Zamani Waafrika walikuwa hawawezi kula kizinda cha msichana bila ndoa. Lakini siku hizi, tunaona vitendo vingine tofauti. Tunaona watoto wa miaka mitano wakibakwa na watu wazima, wengine ambao wanaweza kuwa mababu zao. Hawa watu wanabaka watoto wadogo. Nilisema kuwa hiki ni kitendo cha kinyama lakini kusema kweli wanyama hawabaki. Hata mbwa, kwa mfano, hungoja hadi mbwa mwenzake awe "ameeiva" kabisa ndipo anakwenda huko.

(Laughter)

Inatakikana tukae na watu wetu na tuwazungumzie ili tuweze kurudia utamaduni wetu na kuishi kwa njia ya heshima.

Neno muhimu zaidi lililozungumziwa hapa ni la Katiba. Ni kweli kuwa imechukuwa muda. Tuliahidi kuwa itapatikana kwa siku 100 lakini zimepita. Hata hivyo, yaliyopita si ndwele; tunaganga yaliyomo na yajayo. Kwa hivyo, tusikate tamaa. Wakenya wanataka Katiba mpya na ni lazima tuvumilie. Wahenga walisema kwamba mstahimilifu hula mbivu. Kama tujuavyo, siku ya leo tumeleta ripoti hapa Bungeni. Kama wanachama wa Kamati ya Bunge iliyopewa wadhifa wa kuangalia mambo ya Katiba, tuliketi, tukajadiliana na kukubaliana na hiyo ripoti ililetwa hapa na Mwenyeketi wetu. Tunataka tuchukue nafasi hii kabla hatujarudi kujadiliana ili tukirudi hapa, sisi kama wanakamati tulete Mswada ambao utaonyesha mwelekeo wa kubadilisha Katiba kisheria, kinyume na wale ambao wanataka kupitia katika dirisha la nyuma.

(Applause)

Kinyume na wale ambao wanataka kuvunja sheria kwa kupitisha Katiba ambayo Wakenya wenyewe hawataki. Wakenya walitoa maoni yao kwa Tume ya Prof. Yash Pal Ghai na wakasema walivyotaka Katiba iwe. Wale ambao walishindwa Bomas kwa kura na waakilishi 629, wasije hapa Bungeni kwa watu wachache na kupitisha mabadiliko. Wasifanye mabadiliko ambayo walishindwa kufanya kule Bomas. Eti sasa wanaweza kuja hapa Bungeni na kumshika Mbunge huyu hapa, na yule pale halafu wasaliti matakwa ya wananchi wa Kenya! Wakenya watatuangalia na uchaguzi utakapokuja, wewe jua ya kwamba siku ya kيامa ikija, utabeba msalaba wako mwenyewe.

Kwa hayo machachee, ninaunga mkono.

Dr. Shaban: Bw. Naibu Spika wa Muda, ningependa kuinga mkono Hoja hii.

Tumefanya kazi na sasa ni wakati wetu wa kupewa fursa ya kwenda kupumzika. Huu ni wakati wa sherehe nyingi sana. Ni wakati wa harusi kufanywa kwa wingi. Vifo pia vimezidi. Mwaka huu tumepatwa na majanga mengi. Njaa imewaumiza Wakenya sana, hasa watu wangu wapendwa wa Taveta, ambako mwaka huu hatukupata mvua ya kutosha. Vile vile, ndovu wametuumiza sana.

Serikali ya NARC iliahidi kuajiri vijana 500,000 kila mwaka. Hivi majuzi, tulishangaa kuona vijana wakiandikwa kazi na baadaye kufutwa. Waliondolewa kwenye mafunzo na kurudishwa nyumbani. Mpaka sasa, hawajaambiwa lo lote. Natumai Waziri, ambaye analichunguza swala hili, sasa atapata muda wa kuweza kuangalia swala la vijana hao ili waweze kurudi kwenye mafunzo yao, wahitimu na kuanza kazi.

Vile vile, kumekuwa na mafuriko ya maji huku na kule mwaka huu wote. Katika eneo la Taveta, mvua ilinyesha upande wa Tanzania. Katika sehemu ninayoiwakilisha Bungeni hakukuwa na mvua. Mafuriko kutokana na mvua iliyonyesha upande wa Tanzania yalikuja yakatuharibia mimea yetu. Vile vile, Ziwa Jipe lilikuwa limekauka. Ningependa kuchukua nafasi hii kulishukuru

shirika la CDTF - shirika la muungano wa mataifa ya bara ulaya - ambalo limetupatia pesa ili tuweze kuliokoa ziwa hilo. Hivi sasa, tunaendelea na kazi ya kuliokoa ziwa hili.

Ningependa kumwomba Rais Kibaki atumie wakati huu wa likizo kuzungumza na Mawaziri waache utukutu wanaotonyesha kila siku. Tunataka waache kwenda mbio huku na kule na kufanya fujo hapa na pale. Ningependa achukue fursa hii azungumze nao ili mwaka ujao tuwe na amani. Kelele zao pia zimetuletea visirani katika nchi hii.

Ningependa kuwashukuru sana wapendwa wangu wa Taveta. Tunapokwenda kwenya likizo hii, ningependa kuwaombea krismasi njema na mwaka mpya wenye mafanikio.

Mr. Kingi: Ahsante sana, Bw. Naibu Spika wa Muda. Mimi pia, ningependa kuiunga mkono Hoja ambayo iko mbele yetu ili twende mapumzikoni.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Hon. Members, I need to give some ruling on what I had been asked by Mr. Kagwe regarding this Motion. My advice is that this is a Motion of Adjournment. As long as there is somebody wanting to speak, they will continue to do so. When I get to a point when I do not see anyone interested in speaking, this debate will be closed.

Proceed, Mr. Kingi.

Mr. Kingi: Bw. Naibu Spika wa Muda, nilikuwa nimeanza kusema kwamba sisi tunaenda likizoni kupumzika, lakini Serikali haiendi mapumzikoni. Huu ni mwezi wa sherehe nyingi. Kwa hivyo, ningependa kuiomba Serikali izingatie usalama wa wananchi. Kuna visa vingi vinavyotendeka kila siku, vya majambazi wanaotumia silaha kali na kuwanyang'anya mali wananchi wapenda amani. Visa hivyo vinaharibu jina zuri la Serikali yetu. Kwa hivyo, Waziri anayehusika na usalama ahakikishe kwamba anatumia maafisa alio nao, na ambao tunawalipa pesa nyingi, ili wananchi waweze kufurahia mwezi huu mtukufu, ambao unalikizo nyingi.

Pia, ningependa kuzungumzia janga la njaa tulilokuwa nalo. Mvua imenyeshwa katika sehemu nyingi nchini, na wananchi wamepanda mahindi, maharagwe, na kadhalika. Wamepanda mimea mingi ambayo wangependa ilindwe na kutunzwa ili njaa iondoke. Katika sehemu fulani, ndovu wameanza kuiharibu mimea. Kwa hivyo, tunaihimiza Serikali ihakikishe kwamba inawalinda wananchi pamoja na mali na mashamba yao ili waweze kupata chakula. Hatutaki kusahau ya kwamba Waziri wa Barabara na Ujenzi amefanya kazi nzuri. Lakini, kama tunavyojua, huu ni mwezi wa shughuli nyingi na hatutaki ajali za barabara ziwe chanzo cha huzuni kwa watu wengi. Kwa hivyo, ingefaa sheria zile ambazo tumeweka na hatua zile ambazo tumechukua ili kulinda wananchi ambao wanasafiri kwenye barabara zihimizwe ili waweze kusafiri kwa hali nzuri; kwa amani na starehe, na waungane na jamii zao na marafiki wao wakati huu wa Krismasi.

Bw. Naibu Spika wa Muda, tumesikia hapa ya kwamba, tumerudia mpangilio ule wa wazazi kujenga shule. Kuna sehemu nyingi katika nchi hii ambapo kuna umaskini mwingi. Mwito huu wa wazazi kurudia mpangilio wa kujenga shule umekuja kwa mshangao kwa wengi wetu, na tungetaka Serikali ifikirie jambo hilo tena kabla hatujarudia mpangilio huo. Kwa sababu, ikiwa tutaendelea nao, basi watoto ambao wanatoka katika sehemu zile ambazo ni maskini watakosa elimu muhimu. Kwa hivyo, tungetaka Serikali itafute pesa kama vile tulivyopitisha Hoja hapa Bungeni, ili pesa hizi zitumike kwa kujenga shule tulizo nazo.

Kuna sehemu nyingi za barabara ambazo ni mbaya, na kama tujuavyo, huu ni wakati wa safari nyingi. Kwa hivyo, ingefaa Serikali itafute njia za haraka za kuweza kuzirekebisha ili ziweze kupitika, na wananchi wasafiri vizuri kwa furaha.

Kwa hayo machache, ningetaka kuwaombea wenzangu Krismasi njema na mwaka mpya wenye furaha. Asante.

Ms. Abdalla: Bw. Naibu Spika wa Muda, ningependa kuunga mkono Hoja hii ya kufunga Bunge. Kama walivyosema wenzangu, kwa hakika, Wabunge wamechoka. Lakini wale walioko

upande wa Serikali wamechoka sana kwa sababu wamefanya kazi nyingi ya kuitwa kila wakati Bungeni kupiga kura bila kufikiria. Ni maombi yangu kwamba wanapoenda likizoni, wataweza kufikiria vizuri, ili wakirudi hapa Bungeni waweze kupiga kura wakitumia akili zao na siyo visababu visivyoeleweka.

Bw. Naibu Spika wa Muda, pili, ningependa kuhubiria Serikali hii. Mimi kama Mwislamu ninaamini kwamba alama za mnafigi ni nne, na mnafigi hatawahi kuona Mbinguni. Tunaelezwa kwamba mnafigi ana alama nne; kwanza, akiahidi hatimizi. Serikali hii iliahidi wananchi vitu vingi, na kama mjuavyo, haijatumia chochote. Pili mnafigi husema maneno ya uongo. Kama mjuavyo, juzi kuna Naibu wa Waziri ambaye alitueleza kwamba zile kazi ambazo Serikali imezindua ni 985,000. Lakini, kuna tofauti kati ya kuzindua na kupatia watu kazi ambazo zipo. Alimweleza mwenzangu; Mbunge Maalum, kwamba ni mmoja wa wale watu ambao wamepewa kazi zilizozinduliwa. Kazi ya Mbunge Maalum iko katika Katiba ya Kenya. Kwa hivyo, Siyo NARC iliyoleta kazi hiyo. Kwa hivyo, ingefaa hii Serikali ijiepushe na unafiki. Kwanza nimefurahi sana, kwamba Makamu wa Rais ambaye ni mzee yuko hapa Bungeni, na anasikia maneno haya. Mimi kama mwakilishi wa vijana, ninaogopa kuenda upande ule wa Serikali, kwa sababu, ninaogopa kuwa mnafigi. Ningetaka kuenda peponi mimi!

Bw. Naibu Spika wa Muda, pia ningependa shida moja itatuliwe hapa Bungeni. Kuna wengi wetu hapa Bungeni ambao wanatumia wakati wetu vibaya, kwa sababu hawaelewi Sheria za Bunge. Ningependa kumuomba Bw. Spika atengeneze Sheria za Bunge katika lugha ya Kiswahili ili wenzetu ambao wanatupatia shida kwa kutupotezea wakati, waweze kuzielewa hizo Sheria za Bunge. Kuna shida ya kutoelewa Sheria za Bunge katika Serikali. Siyo tu hatuelewi Sheria za Bunge, lakini Serikali pia haidhamini sheria. Wakitupeleka kortini, majaji wao wanatoa---

The Vice-President and Minister for Home Affairs (Mr. Awori): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Tumelezwa na Mrembo kwamba hatufahamu sheria---

Ms. Mbarire: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Umesikia Makamu wa Rais na Waziri wa Mambo ya ndani akimwita Ms. Abdalla "Mrembo!" Hapa hakuna warembo! Kuna Wabunge! Hakuna warembo hapa!

The Vice-President and Minister for Home Affairs (Mr. Awori): Minesema, "Mheshimiwa Mrembo."

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

The Temporary Deputy Speaker (Mr. Poghiso): What it is now? The Vice-President and Minister for Home Affairs is on a point of order.

The Vice-President and Minister for Home Affairs (Mr. Awori): Bw. Naibu Spika wa Muda, Sheria za Bunge zinasema huwezi kutumia neno "uongo" ndani ya Bunge. Mheshimiwa Mrembo amesema kwamba upande huu wa Serikali unasema uongo. Ni bora tuangalie sehemu hiyo ya Sheria za Bunge.

Ms. Abdalla: Bw. Naibu Spika wa Muda, nakubaliana na--- Sasa, sijui nitamtaja vipi, kwa vile ameniita mimi "Mrembo"

Mr. Wanjala: Mzee wa Kazi!

Ms. Abdalla: Basi, kama Mzee wa Kazi alivyosema---

(Laughter)

Mr. Wanjala: Anaitwa Mheshimiwa Mzee wa Kazi!

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! Everybody here is an hon. Member of Parliament. I do not understand how one becomes a "Mrembo" or a "Mzee wa Kazi"! But whatever those names are, address each other as hon. Members!

Ms. Abdalla: Bw. Naibu Spika wa Muda, mshimiwa Kiongozi wa Shughuli za Serikali Bungeni, ambaye pia ni Makamu wa Rais na Waziri wa Mambo ya Ndani, amenikosa kwamba nimetumia neno lisilokubaliwa Bungeni. Lakini kwa hakika, Serikali inatumia pesa ningi kutekeleza mambo yanayoletwa Bungeni.

Kwa hayo machance, naunga mkono Hoja hii.

The Assistant Minister for Trade and Industry (Mr. Miriti): Bw. Naibu Spika wa Muda, umefika wakati wa wale wanaofanya kazi ngumu kwa bidii, na ambao ni wazalendo wa nchi hii, kupumzika. Kuna wakati wa kufanya kazi na wakati wa kupumzika. Tumekuwa na majukumu mawili. Jukumu la kwanza ni kutunga sheria za nchi hii, pamoja na kufanya kazi zote hapa Bungeni. Pia, tuna wajibu mwingine wa kuwatembelea na kuwazungumzia watu wetu huko mashambani vile tutatumia pesa ambazo tumepewa na Serikali ya NARC, katika mpango wa Constituency Development Fund (CDF). Watu wengi hawajui vile hizo pesa zitatumika na ingefaa tuwaelezee.

Bw. Naibu Spika wa Muda, kama unavyojua, sisi tulio wapya katika Bunge hili, hatujapata nafasi ya kutosha kwenda kuwatembelea watu wetu. Tangu mwaka jana wakati tuliingia hapa, tumekuwa tukienda huko Bomas of Kenya kutunga Katiba kila wakati kikao cha Bunge kikiisha. Kwa hivyo, imekuwa vigumu sana kwa wananchi waliotuchagua kuelewa ni kwa nini tumeshindwa kupata nafasi ya kuenda kuwatembelea. Sasa umefika wakati ambao tunastahili kuenda kutembelea wananchi wetu.

Rais wa nchi hii pamoja na Serikali yake wamefanya mambo mengi sana mapya katika nchi hii. Ni wachache tu ambao hawajaona kazi iliyofanyika. Ni vigumu sana kumuambia kipofu aone. Pia, ni vigumu sana kumuambia kiziwi asikie kwa sababu wengine wako na macho ya kuona kuwa kazi imefanyika lakini hawaoni. Wengine wana masikio ya kusikia lakini hawasikii, hata wakiambiwa na wakiona. Utawaona wengine wakisema kuwa wanasikia na wanaona.

Ms. Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to imply that Kenyans are blind and deaf for not hearing? Unless he claims that NARC is doing miracles. Otherwise, none of us is seeing all these things he is claiming that NARC has done.

The Assistant Minister for Trade and Industry (Mr. Miriti): Bw. Naibu Spika wa Muda, wasioona na wasiosikia wako ndani ya Jumba hili. Serikali ya NARC imefanya kazi nyingi. Tumepata elimu ya bure kwa shule za msingi. Ni mijengo tu, lakini Mbunge hapa anajua kuwa hakuna siku ataambiwa na mwanafunzi ampe pesa za karo ya shule. Hii ndio sababu ninasema wako na macho lakini hawaoni.

Mr. Wanjala: On a point or Order, Mr. Temporary Deputy Speaker, Sir. I sympathise with the Assistant Minister who is on the Floor because just yesterday all his party leaders defected to the LDP. Is he in order to mislead this House that there is free primary education when the President just gave instructions yesterday that parents should now build all classrooms in schools?

The Assistant Minister for Trade and Industry (Mr. Miriti): Bw. Naibu Spika wa Muda, kila saa Waziri wa Elimu anawaeleza lakini hawaelewi. Hata leo, alizungumzia juu ya jambo hili na hiyo ndio sababu tunasikia maswali kama hayo. Wengine walisoma gazeti jana lakini hawakuelewa. Pole sana!

Bw. Naibu Spika wa Muda, ninaunga mkono.

Mr. Kenyatta: Mr. Temporary Deputy Speaker, Sir---

Mr. Muchiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. It appears that we have ventilated enough. Would I be in order to ask you to order for closure of the debate?

The Temporary Deputy Speaker (Mr. Poghiso): I actually gave a ruling on the same subject.

Proceed, Mr. Kenyatta.

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me and for reminding the hon. Member that he should have been paying attention.

I rise to support this Motion of adjournment because as has been said we have sat for an incredibly long time. A lot of issues have been brought to the fore during this Session and over the last two years. I believe this recess will give Members of Parliament an opportunity to go back and consult with their constituents on various matters. It will give hon. Members time to travel, visit one another and build relationships as we understand different parts of this country and the fact that this country is made up of a number of different ethnic groups. We all need one another. The only way we can enhance the Kenyanness is through this opportunity that, hon. Members can use to travel and visit one another.

Mr. Temporary Deputy Speaker, Sir, I think this recess will also enable the Government to put its house in order. As a Parliament and a nation, we have been treated to a circus by the Front Bench especially on the Government side. I hope that the President will use this opportunity to either sack them or have them work together as a team. Cabinet Ministers should not work for their interests, but for the interest of the people of this Republic, who voted this Government to power.

Mr. Temporary Deputy Speaker, Sir, a lot has been said about what the Government has achieved over the last two years. I believe that Kenyans have yet to realise the dream they were promised by this Government. I think the only thing that this Government held on to, as a pledge and as a promise to the people, is the provision of free primary school education. That dream, too, has been shattered. Kenyans have been told that it is now the responsibility of parents to build schools. Some hon. Members have said that the Government still provides free primary school education because parents are no longer required to pay school fees. I think the Minister for Education, Science and Technology can confirm that parents whose children are in primary schools have never been required to pay school fees. However, they have been paying building and maintenance funds to maintain those learning institutions. In a nutshell, the President said that the scenario which prevailed before has now returned.

The Minister for Education, Science and Technology (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt the hon. Member, but he has provoked me. Just before he came in, I made it clear that--

The Temporary Deputy Speaker (Mr. Poghishio): Prof. Saitoti, what is your point of order?

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the hon. Member is misleading this House because when we said that we will implement free primary school education, we said that we will remove all the fees charged in those schools. We also said that no child would be denied entry to school. We also promised that we would provide books and all the learning materials. Free primary school education is not a dream, as the Leader of the Official Opposition is telling us.

The Temporary Deputy Speaker (Mr. Poghishio): Order! Again, that is a very good argument and not a point of order!

Proceed, Mr. Kenyatta!

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir. I believe that in one way or another, with the statement that the President made, there is no doubt that parents will go back into their pockets. Whether we call it building funds or give it any other name, parents will be required to build primary schools. On the same note, the Government told us that we should not participate in Harambees. I would like the Government to tell us how our parents will build these institutions because the spirit of Harambee, which enabled us build these institutions, has been banned.

Mr. Wanjala: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Leader of the

Official Opposition in order to mislead Kenyans and this House that it is the Government which banned Harambees when he passed the law in this House which says that we should not contribute to Harambees?

Mr. Kenyatta: Mr. Temporary Deputy Speaker, Sir, that is not a point of order. It is clear that we did not vote for that particular amendment. The fact that we are here does not mean that we voted for it. We voted against it!

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, interrupt only if you have a proper point of order. Let the hon. Member finish making his contribution. This is a Motion of adjournment and if you want to interrupt, please, stand up and be recognised.

Proceed, Mr. Kenyatta!

Mr. Kenyatta: Mr. Temporary Deputy Speaker, Sir, they are just trying to waste my time. What we are saying will be said severally, not just by the hon. Members of this House, but by Kenyans as a whole.

With those few remarks, I beg to support.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Mr. G.G. Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have just ruled that until hon. Members stop rising to contribute, that is the time you may ask for the Mover to be called upon to reply. Supposing we all walked out and you were left with ten hon. Members! That is indirectly campaigning for us to come back here next week!

The Temporary Deputy Speaker (Mr. Poghisio): What was your point of order? Are you challenging the ruling from the Chair?

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am just stating the implication of that ruling.

The Temporary Deputy Speaker (Mr. Poghisio): That is not a point of order, then! Probably, on a point of information, you would have gone somewhere.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute and support this Motion.

I agree with those who have spoken before me and have said that it is high time we went on a break. During this time, we can do a number of things. One of them is to enlighten our constituents on what we have done for the last one year. We should tell them what kind of Motions have been passed in this House, what critical decisions have been made that affect them, and how best to deal with those situations.

Secondly, we have an opportunity to talk about Parliament and what it is all about. We should also help to repair the negative image that has been associated with much of the business that has taken place in Parliament during the last one year.

Mr. Temporary Deputy Speaker, Sir, this is also an opportunity for Ministers and Assistant Ministers to re-organise their Ministries and do things that they were not able to do because too much attention was on Parliament. This may include issues related to restructuring, matters relating to doing strategic plans and addressing even Questions that come before Parliament.

Some hon. Members have already spoken about the need for us to visit constituencies outside ours, but more importantly, we should promote the local tourism. As much as it will be a good idea for those who can afford to go out of the country, let us remember that in many of the Western and Asian countries, local tourism is really significant. Hon. Members can lead in this.

On education, I think education has been spoken about quite at length. I do not know why

we are placing much importance on what the President has said regarding the free primary school education, when we have said it many times in this House that free primary school education is about partnership. As much as the Government is doing the very much that we are doing, we expect communities and even hon. Members to contribute to supporting education in this country. I would like to challenge hon. Members that as much as we expect too much from the Government, it is high time they built, at least, one primary school in their respective constituencies.

Mr. Temporary Deputy Speaker, Sir, I would also like to say that it is not a good idea for us to accept that Kenyans are completely helpless and that it is not possible for parents to do a little bit for their own children. Part of the responsibility of parents is not just to have children, but also to contribute to supporting those children. It must be made very clear that one of the responsibilities of the parents is also to contribute to supporting the education of their children. I also hope that we will spend this recess to refresh ourselves and come back to this House a more united people. A lot of the politics that we have seen in the last two years have been politics of division.

I think much of the politics we have been practising for the last one year has been politics of division. It is politics about power and sometimes nothing to do with development. It is politics about people just wanting positions. I do hope that we are going to focus on issues that are related to development. I also hope that even political parties will have an agenda that will guide the way they see development and how they will arrive at it, as opposed to just fighting for raw power. I also hope that we will desist from the hypocrisy that we have seen practised by many of our politicians. Today, they say one thing and tomorrow they say a different thing altogether. I really hope that we will be a dignified community of politicians and that we will stand by what we say, so that we do not keep on shifting goal posts and our positions from time to time.

I do hope also that we will come back re-energized. Even though we, as a Government, have done a great deal, this is an opportunity for us to refresh and come back to do even better. In two years, we have done many things that the KANU Government failed to do in 40 years when they were in power. In two years, we have done much more in terms of redressing some of the problems that were created by the previous regime. But if we can politic less and be guided more by action, rather than just rhetoric, I believe this country has a future under this Government.

With those few remarks, I beg to support.

Mr. Omingo: Asante, Bw. Naibu Spika wa Muda kwa kunipa nafasi hii nizungumze machache juu ya Hoja hii. Kinyume na madai ya mhe. Makamu wa Rais, Bunge hili halijachoka, bali tu tunahitaji nafasi ya kutekeleza wajibu wetu mwingine.

Mhe. Makamu wa Rais amependekeza pia kuwa Wakenya washeherehekee wiki hii ya uzalendo kwa kuwakumbuka wazalendo wetu. Lakini ingefaa pia tukumbuke ya kwamba uzalendo haumaanishi kuleta watu kama Bw. Ayanu hapa nchini au kutumia pesa za Serikali kiholela.

Bw. Naibu Spika wa Muda, mhe. Makamu wa Rais alipokuwa anapendekeza Hoja hii, alisema ya kwamba Bunge hili lihairishwe kwa muda usiojulikana. Hata katika shule za msingi, wanafunzi hujua siku ya kufunga na kufungua shule. Hivyo basi, napendekeza ule Mswada wa Kifungu nambari 58 na 59 uletwe Bungeni ili Wabunge wapate kujua wanafunga na kufungua lini. Tulipofungua Bunge hili mwaka huu, Kamati ya Kuratibu Mipango ya Bunge ilileta uzushi Bungeni. Hadi leo uamuzi haujatolewa kama msimamo wa Kamati hiyo ni sawa au la. Hii imechangia Sera za Serikali kubadilishwa kiholela bila Kamati kuketi na kujadiliana kwa umakini. Heshima ya Bunge hili haitaonekana vizuri na wananchi.

Kulikuwa na madai kwamba kuaajiriwa kwa wanajeshi mwaka huu hakukufanyika kwa njia ya haki. Hata hivyo, uamuzi wa Bw. Spika haujawahi kuletwa hapa Bungeni mpaka sasa. Inaonekana uamuzi huu utakuja kama umechelewa sawa na ule wa sakata ya Anglo Leasing. Kwa hivyo, ni vizuri pia tuandamane kwa mawazo. Kuna Mawaziri wametenda kazi. Waziri wa Fedha

ametengeneza mambo sawa. Lakini kuna Mawaziri wengine wanakuja Bunge kupokea mapendekezo ya Bajeti tu. Baada ya hapo, kazi yao ni kula na kupeana kandarasi za ujuaji na ukora.

Kuna shida ya usalama katika nchi hii. Hatujui tunaenda kuwaeleza nini wananchi kuhusu usalama. Wanawake wananajisiwa, ukora umezidi katika Bunge na watu hawana usalama popote kule. Ningalikuwa Waziri anayesimamia usalama, ni vizuri hata---

*(Ms. Mbarire crossed the Floor
without bowing to the Chair)*

The Temporary Deputy Speaker (Mr. Poghisio): Order, Ms. Mbarire! Proceed to the bar and bow to the Chair before you cross the Floor!

*(Ms. Mbarire proceeded to the
bar and bowed to the Chair)*

Mr. Omingo, please, proceed!

Mr. Omingo: Mhe. Naibu Spika wa Mda, ningependekeza kwamba usalama urejeshwe katika nchi hii. Kuna Mawaziri wengine hawajafanya kazi yao sawa sawa. Mmoja wao akiwa Waziri anayesimamia usalama. Tunamuhimiza atupatie usalama.

Kwa hayo machache, naunga mkono Hoja hii.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion. I have only two or three things to point out.

First, it is important that we go home to fraternise with our employers, tell them what we have done and what we plan to do.

Secondly, in the next session of Parliament, I want the Leader of Government Business, to look at the time management in this House. If you look at our Standing Orders, Questions are not part of the business of this House. But we have spent so much time, perhaps up to 40 per cent of the entire session, on Questions. Those Questions are aimed at the gallery and, in many cases, achieve nothing. We spend so much time on Questions at the expense of critical legislation that is pending! At the end of the session, we are not able to finish pending legislations.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, I would wish that the House Business Committee, under the chairmanship of His Excellency the Vice-President and Minister for Home Affairs, re-designs the management of the time of this House, so that we spend more time on critical business of legislation and debating papers of policy. Those who ask Questions under Standing Order No.39 can use it to require Ministers and Ministries to give them written answers, which they can then pass on to their constituents. They can say whether action has been taken or not, and do follow ups. That way, we will end up with much more meaningful work on the Floor of this House, than the Questions which take a lot of time. Sometimes, Questions are repeated after a day, a week or even three weeks, eating into valuable time.

Secondly, Mr. Deputy Speaker, Sir, while we congratulated the Minister for Transport for

the very energetic work he did in bringing sanity in the transport industry, one can see that there is a frightening resurgence of road accidents. We are seeing in the newspapers that accidents are happening every other day. People are maimed or killed. Those of us who sometimes take time to hop into *matatus* and public transport vehicles, know that the seat belts that were introduced are no longer in use. They have all been abandoned and we are back to the bad old days. The gangsters who used to run the bus parks and stations are back, molesting travellers and doing all sorts of things. I think the Minister should wake up once more and put in place, not *ad hoc* measures, but long term sustainable policies that will bring sanity to our roads and the transport industry.

As we go for Christmas, many people, especially those from Western and Nyanza provinces, who have the traditional habit of going home to join their families for Christmas, will be at great risk of those gangsters that are manning our roads and public transport. Given the speed of madness that they use now to make more money, accidents are bound to happen. It is now that the traffic police are supposed to be more vigilant than ever before.

Mr. Deputy Speaker, Sir, during this Session, we passed momentous Bills. However, one lamentable thing about this House is that we do not seem to have a Public Relations Department that works. The Bills that we pass here - Apart from the scanty reports we get in the Press - our Public Relations Department has a duty to tell Kenyans the effect of the laws on the people, their positive elements, risks and so on. The other day we passed a Bill that deals with banking and interest rates. It is such a wonderful Bill that did not see any page of the Press and yet we want Kenyans who have been molested by banks to know that there is now a law in place and they have an avenue through which they can seek redress for the imbalances caused to them. Because of lack of a proper Public Relations Department, these Bills go unnoticed. Eventually, *wananchi* will encounter them when they break the law or when somebody wants to apply the laws on them. I think we need to revamp our public relations arm so that what we do here is circulated out there.

Finally, Mr. Deputy Speaker, Sir, I want to urge my colleagues; the Ministers, to take advantage of this recess and travel around the country to know and feel the problems affecting people, so that when we come next time we can deal with issues from a point of knowledge.

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

Maj-Gen. Nkaiserry: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity and I stand to support this Motion of Adjournment.

It is high time we went to visit our constituents and tell them what this Government has done for the last two years. I would like to pose a simple question to the Minister for Education, Science and Technology: Who should we believe; is it the Minister or the President? What the President said yesterday is what the people believe. To them, it is true that there is no free education. If there are no classrooms, you cannot teach students in the open. You must have classrooms to be able to teach them. Therefore, the President is right by saying that there is no free education.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Under our Standing Orders, only Ministers are allowed to use the name of the President as an authority in an argument and nobody else. Is the hon. Member in order to repeatedly use the name of the President as authority for his argument?

Mr. Deputy Speaker: Order, Mr. Wetangula! I think it depends on the manner the name of the President is used. The hon. Member is referring to a statement that was made yesterday. I do not think I can restrain him from referring to a statement which was publicly made yesterday. However, if the hon. Member talks in a manner that is not in favour of--- I have not heard him mention anything that is contrary to the statement that was made. If he does so, I will certainly stop him.

Maj-Gen. Nkaiserry: Thank you, Mr. Deputy Speaker, Sir, for saving me from my colleague, Mr. Wetangula.

Mr. Deputy Speaker, Sir, we have Shadow Ministers, and I am a Shadow Minister. That is why I seat on the Front Bench. I suppose that I can speak my mind to help the Government correct its mistakes. That is basically why we are here.

Mr. Deputy Speaker, Sir, the other thing we need to go and tell our people on the ground is that this Government has actually abdicated its responsibility as far as security is concerned. This afternoon, we were told that a foreign country has been taking our own people and not even the Minister responsible showed concern that our national sovereignty has been offended.

Similarly, we have a problem of food security and the distribution of relief food.

The Assistant Minister for Trade and Industry (Mr. Miriti): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead the House that the Government is not concerned, when he knows very well that he was a military General, and there were so many invasions when he was in charge and he did nothing?

The Deputy Speaker: I will just plead with hon. Members that each one has only five minutes. So, let the hon. Member say what he wants to say, so long as it is in order.

Maj-Gen. Nkaisserry: Thank you very much, Mr. Deputy Speaker, Sir. When I was a military General, there was nobody who ever tampered with the security of the Republic of Kenya. I was there and they knew me. There was a time when Ethiopia threatened Kenya, and I was dispatched to Ethiopia because the Minister for Foreign Affairs and the Minister of State, Office of the President in charge of Security were afraid to go to Adis Ababa. I went there and told them to their faces that Kenya is a sovereign State, and nobody will ever take an inch from it. They stopped threatening Kenya from that day on until I retired and until this Government took over.

Mr. Deputy Speaker, Sir, the other issue which I was talking about is the question of food security. Food security in this country is below par. We have many spells of drought in this country, and not even a single Minister or the President visited the people who are suffering from famine. So, we would like to take this opportunity to go and tell the people that, this Government is not there to take care of them.

The other point, which is equally important, is the question of corruption. Indeed, the Government is fighting corruption and talking about it, but the levels of corruption--- We have Ministers in this Government who are actually involved in corrupt deals; forget about the past Government and even the Anglo Leasing scandal. We hope that, by the time we resume, we will lay the facts on the Table. That is why we have a reason for going for this recess.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. The hon. retired Maj-Gen. Nkaisserry has made a very serious allegation; that, there are Ministers in this Government who are engaged in corrupt deals. Such a blanket accusation is totally out of order because it implicates everybody. If he has any names, let him bring a Substantive Motion here in order to debate about his colleagues.

The Deputy Speaker: Order, Maj-Gen. Nkaisserry! The rules of the House do not allow you to make allegations which you cannot substantiate. The safest way for you is to withdraw your remarks and apologize.

Maj-Gen. Nkaisserry: Mr. Deputy Speaker, Sir, the report about our country today is that we are ranked number five in the world---

The Deputy Speaker: Order, Maj-Gen. Nkaisserry! I have only given you a few seconds to withdraw your remarks and apologise, so that we can proceed.

Maj-Gen. Nkaisserry: Mr. Deputy Speaker, Sir, the Parliamentary Accounts Committee (PAC) as well as the Anglo Leasing Scandal reports are there.

The Deputy Speaker: Order, Maj-Gen. Nkaisserry! The Chair orders you to withdraw your remarks and apologise! It is against the rules to make a generalized allegation.

Maj-Gen. Nkaiserry: All right, I withdraw that statement, but I hope that after the recess, we will bring the names of these gentlemen here and that the President will reorganize the Government and kick out these corrupt Ministers.

With those few remarks, I beg to support.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. I did not have any intention to speak, but now that you have given me the chance, I would like to take this opportunity to ask this House, given the time we are entitled to this subject and given that we agree with one accord that we need the adjournment, that you now order the closure of this debate.

I beg to support.

(Laughter)

Mr. Deputy Speaker: It is up to the House to decide on the way forward. However, I see two hon. Members standing. So, I will give Mr. Chepkitony and Mr. Ndile opportunities to contribute to this Motion, then the Chair will see the way forward.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, after they contribute, the Chair could put the question!

Mr. Deputy Speaker: Hon. Members, the mood of the House is to close. So, take note of that. I will give each of them only two minutes to contribute to this Motion!

Proceed, Mr. Chepkitony!

Mr. Chepkitony: Mr. Deputy Speaker, Sir, I stand to support this Motion. This recess will give us a chance to rest as we also work for our constituents. We have done a lot in this House; we have passed several Bills. If the Government was waiting for the passing of these Bills to facilitate the creation of the 500,000 job opportunities per year that they promised Kenyans, I hope they will now be able to do so. The Investment Promotion Bill is very important for the creation of employment opportunities in this country.

Now, the NARC Government also promised Kenyans economic growth and wealth creation. Unfortunately, to date, nothing has happened. I hope this takes place. Sometime this year, we debated the Forest Bill. Although it never saw the light of day, I hope the Government will reintroduce it, so that we reinstate the non-resident *shambaa* system.

The question of logging in forests up to now has not been solved. There is a ban on logging for saw millers. This has led to destruction of forests. It is not possible for the Government to have a total ban on forests because it will lose the support of various communities. I am sure a number of hon. Members may have read an article in the newspapers on how a forest officer was attacked. People are very desperate and they would like this logging ban uplifted. There is no equitable utilisation of forest products; for example, only two companies have access to them. The Government should review this position and allow saw millers to start logging.

Mr. Deputy Speaker, Sir, on the question of the Constituency Development Fund (CDF), we have now been given the Kshs6 million which we will use to implement various projects. This recess will allow us to implement the projects that have been passed for these funds. We look forward to the Kshs20 million to be released very soon, so that we implement the proposed projects before we resume.

Mr. Deputy Speaker, Sir, on the question of building classrooms, I was happy to hear the Head of State clarify that parents are still responsible for building classrooms. A lot of buildings in our schools have stalled because parents do not want to contribute towards their construction. However, even if parents are supposed to contribute towards building classrooms, this should not just be for a few parents. I know that if parents are voluntarily asked to contribute towards this, none

of them will do so. Building of classrooms should be done by all parents, not by a selected few.

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

(Mr. Wamunyinyi stood up in his place)

Mr. Deputy Speaker: Just before Mr. Wamunyinyi walked into the House, we had a consensus that Mr. Ndile be the next person to contribute to this Motion. So, Mr. Wamunyinyi, hold your peace. You will be the next.

Mr. Ndile, proceed!

Mr. Ndile: Bw. Naibu Spika, nigepeenda kuanza kwa kumshukuru Makamu wa Rais na Waziri wa Mashauri ya Nchini aliyezungumza akitumia Kiswahili sanifu alipokuwa akiichangia Hoja hii. Hii ni ishara kuwa anataka kuwa mmoja wa Wabunge ambao wanataka kuwa wakiitumia lugha hii hapa Bungeni. Hii ni lugha ya taifa na hatuwezi kuipuuza. Hivi karibuni, tutaunda muungano wa Afrika ambao ni mkubwa kuliko ule wa Afrika Mashariki.

Ninaunga mkono Hoja hii ambayo itatuwezesha kwenda nyumbani kupumzika. Tunaporudi katika sehemu tunazowakilisha Bungeni, kuna mambo ambayo tunafaa kutimiza. Sijui nitakalowaambia watu wangu nitakaporudi nyumbani. Watu waliokuwa wakitarajia kupewa mashamba na Serikali bado hawajayapata. Miaka miwili sasa imepita tangu Serikali ya NARC ichukue uongozi wa nchi hii.

Nina uhakika kwamba Mawaziri wana furaha kwenda likizo kwa sababu wao wanafanya kazi katika ofisi kubwa. Walipata nafasi ya kuwatafutia watu wao kazi na sasa wanaenda kufurahia likizo. Hakuna mtu yeyote niliyemtafutia kazi katika Serikali hii. Mawaziri walio hapa wanataka tutoe hotuba zetu kwa haraka ili waende nyumbani. Wanafaa kutulia na kutupa nafasi ili tuchangie Hoja hii. Wao huwa hawaji hapa wanapotakikana kuja kujibu Maswali. Kwa hivyo, hawafai kuwa na haraka, ili tuweze kuwaambia makosa ambayo wamefanya.

Ninajua kwamba kuna Wabunge ambao wamegombana hapa. Wabunge ambao wameambiwa makosa yao hawaonewi. Nia moja ya kuwa hapa Bungeni ni kutafuta na kurekebisha mambo ambayo hayakufanywa vizuri na Serikali. Sisi ni kama mbwa anayetumiwa kunusa sehemu fulani ili kutafuta bomu. Hapa Bungeni, tunakuja kunusa ili tujue ni nani ambao wamewafanyia Wakenya mabaya. Mtu akiona nikimnusia, asiseme kwamba Bw. Ndile ni mbaya. Ninafanya tu kazi yangu ili mambo mabaya ninayonusa yarekebishwe.

Ninataka tuwe na likizo ili Wabunge wengine waende wakazingatie mambo ya kisiasa. Wengine wamenunua nguo rasmi za chama chao, na wangetaka kupata nafasi ya kuzivaa. Wabunge walio na pesa wataenda kusherehekea likizo hii vizuri.

Leo tumepitisha Mswada ambao utawafaidi wananchi. Tumepinga mabadiliko ambayo yalikuwa yameletwa na Serikali. Ninawashukuru Wabunge ambao wamepinga maadiliko hayo sana. Kama tungekuwa na mabadiliko katika Mswada huo, mwanachi wa kawaida hangefaidika. Ninaishukuru Serikali hii kwa mambo ambayo imetufanyia. Kama si bidii ya Serikali hii, hatungepata Kshs30 million za kusaidia maeneo yetu ya uwakilishi. Wakati wa uongozi wa Serikali ya KANU, Mswada kuhusu pesa hizi haungepitishwa kwa sababu Rais mstaafu Moi hakutaka Wakenya wafaidike. Sasa nitaenda nyumbani nikijivunia cheki cha Kshs30 million, ambazo ni za kutekeleza miradi ya maendeleo katika sehemu yangu ya Kibwezi, ingawa watu wangu hawajapewa mashamba. Nitawaeleza kuwa Serikali inatudanganya. Mambo yakiendelea hivi, nitatafutia mtu anayeweza kutusaidia kuyapata mashamba yetu kama vile Rais Mugabe wa Zimbabwe alivyofanya. Hatufai kubembeleza wazungu ambao wanaishi katika mashamba yetu. Tumeelezwa juu ya askari wa Uingereza ambao waliwabaka wanawake wetu. Ingawa kuna kitengo cha polisi ambacho kimekuwa kikiwauwa wabakaji, nina hakika kwamba wazungu ambao wamehusika katika

uhalifu huu hawatauwawa.

Wazungu wanatuingilia kila mara wakisema kuwa tuna ufisadi. Hawatatutawala tena kwa sababu walituletea sheria mbaya zingine na nashukuru sana zimeanza kuondoka. Tumeanza kuweka sheria za kusaidia watu wetu. Zile sheria mbaya za Mzungu kusema eti mwenye cheti ndiye mwenye shamba, mimi ninataka mzifikirie zaidi kwa sababu leo nikioa bibi yangu, na niseme huyu ni bibi yangu, hakuna mtu ataniuliza nilete cheti. Mkenya ataamini huyu ni bibi yangu. Leo nikiwa na shamba, kwa nini mnataka niwe na cheti ndio nijulikane mimi ndiye mwenye shamba. Hicho ndicho kitu Wabunge wafaa wafikirie na waangalie sheria zetu za zamani. Hatukuwa na hivyo vyeti na tulisaidiana na kuishi vizuri.

Bw. Naibu Spika, tena tunaenda nyumbani na kuna shida hizi za ubakaji. Tuende tujaribu kuongea na watu wetu. Ni nini shida ya watu wa Kenya eti wamekuwa wabakaji? Kenya inatambuliwa kama nchi ya wabakaji. Simuende muwahutubie watu wenu na muwaambie jinsi wanatakikana kuongea na wanawake kama hawajui kuongea nao? Muwasaidie kujua jinsi ya kuongea na wanawake wetu ndio waache kuwabaka.

Kwa hayo machache, naunga mkono. Tuende nyumbani lakini nitaenda kama nimekasirika kwa sababu ya mashamba.

Mr. Wamunyinyi: Asante, Bw. Naibu Spika, kwa kunipatia nafasi hii ili niweze kuchangia Hoja hii. Nitaanza kwa kusema kwamba ninaunga Bunge lihairishwe kwa muda usiojulikana.

Tumekuwa hapa kwa muda mpaka sasa tunaelekea mwisho wa mwaka na mambo mengi yametendeka katika nchi yetu. Ni wakati sasa tuangalie, tufikirie na tuone tutaanza mwaka mpya namna gani.

Bw. Naibu Spika, ningependa kusema mawili au matatu kwa kifupi ili niweze kuungana na wengine. Naona Mhe. G.G. Kariuki ametoka.

Mr. Deputy Speaker: Amelala!

Mr. Wamunyinyi: Bw. Naibu Spika, ameanza kusinzia lakini sio kulala. Ningependa kusema kwamba sisi ambao tuko katika upande wa Serikali inafaa tufikirie mambo ya vijana wa nchi yetu. Nasema hivi kwa sababu watu wengi waliostaafu wamekuwa wakiiitwa wakipewa kazi na Serikali. Wazee waliostaafu, wale waliohitimu umri wa kustaafu wanarudishwa kazi. Vijana ambao wamesoma na wako na elimu nzuri hawapatiwi kazi. Mmoja wa watu kama hao ni Bw. Murage ambaye aliteuliwa na Mhe. Rais kule Ikulu. Mimi nasikia yeye ni sorofea na anakaa Ikulu ili ampatie Rais mawaidha. Ni nini alichonacho huyu Bw. Murage ili anafanya atolewe ustafuuni ile akuje kufanya kazi katika Ikulu? Kwa sababu nimewahi kupata nafasi kuhudumu katika Kamati ya Bunge hili (PAC), najua huyu Bw. Murage ni mmoja wa wale watu ambao Bunge hili limepitisha kwamba anafaa asifanye kazi yoyote ya umma katika Kenya na sasa yeye ameteuliwa. Wale Mawaziri ambao wanakaa na Rais inafaa wamueleze vizuri na wamusaidie kazi vizuri. Inaonekana wamemwachilia tu huko. Saa zingine hawampatii mawaidha mema.

Bw. Naibu Spika, jambo la pili, ningetaka kusema juu ya wananchi ninaowakilisha katika Bunge hili, haswa wakulima wa miwa. Nasema mambo ya wakulima kwa sababu ukulima wa miwa umefanya watu wetu wanaishi katika hali mbaya ya umasikini. Wakulima wa miwa hawalipwi vyema. Bei ya miwa iko chini. Serikali inatoza ushuru kwa miwa. Wanalipisha usafirishaji wa miwa na mambo mengi.

Bw. Naibu Spika, hii Serikali iliahidi kuwasaidia wakulima lakini hadi sasa bado wakulima wa miwa wa Mumias na Trans-Nzoia wana shida. Bei ya mbolea pia imeendelea kupanda. Ikiwa mambo yataendelea hivi, wananchi ambao wanatakikana kusaidiwa na Serikali ili kuborehsa maisha yao watafanya nini? Haya ni mambo ambayo Serikali iliahidi kufanya. Inafaa Waziri anayehusika na kilimo - huyu Waziri mara nyingi hata haji Bungeni na mimi humkosoa hata kwa majibu yake mabovu aangalie maslahi ya wakulima. Kwa hivyo, ningetaka kuhimiza Serikali iangalie kwa

makini mambo yanayohusiana na wakulima wa miwa.

Jambo la tatu ambalo ni la mwisho, juzi wakati Mhe. Rais alipotembelea Mkoa wa Magharibi, kuna mambo aliamurisha.

An hon. Member: Aliahidi!

Mr. Wamunyinyi: Hakuahidi bali aliamurisha kuwa barabara zingine ziwewe lami na zilizokuwa hali mbaya zitengenezwe---

Kwa hayo machache, ninaunga mkono.

(Mr. Ndolo stood up in his place)

Mr. Deputy Speaker: Mr. Ndolo, do you want to contribute?

Mr. Ndolo: Yes, Mr. Deputy Speaker, Sir. Ahsante sana kwa kunipatia nafasi kuunga mkono Hoja hii ambayo inatupatia nafasi sisi Wabunge ambao tumefanya kazi tuweze kupumzika. Ningependa kuwashukuru Wabunge wenzangu. Ninafafahamu kuwa tumekuwa na wengine hata kama tumekosana lakini ni kwa sababu tumekuwa kama familia. Ikiwa nilimkosea Mbunge mwenzangu, ninaomba anisamehe na mimi nitamsamehe kama alinikosea.

(Applause)

Nitaenda kwa haraka sana kwa sababu ninaona kuwa wakati umeenda lakini ningependa kusema jambo moja au mambo miwili. Mimi kama Mbunge wa Nairobi, ningependa vile vile kuwashukuru wananchi wangu wa Makadara na Wabunge wengine wa Nairobi ambao tumefanya kazi nao vizuri. Ningependa tufanye kazi wote pamoja kama Wabunge wa NARC.

Kitu ambacho ningependa kuchangia ni kwamba itakuwa ni makosa sana ikiwa Wabunge wengine wa Serikali yetu ya NARC wataanza kwenda pembeni na kusema kuwa watafanya uchaguzi kwenye mashinani. Hivyo ni kuwakosea wananchi na itakuwa ni kama nitatumia lugha kidogo ya laana. Itakuwa wamewakosea wale wananchi waliowachagua. Kwa hivyo, itakuwa ni makosa sana ikiwa Wabunge wengine wataanza kutembea na kujaribu kugonganisha wananchi ambao wana amani katika hii mitaa ya Nairobi.

Kitu cha pili ningependa kusema ni kuwa usalama katika Nairobi umekuwa mmbaya sana. Tungeomba Waziri wetu wa mambo ya usalama ajaribu sana kuona ni namna gani anaweza kuwasaidia wananchi ambao wana taabu kwa wakati huu.

Kitu cha mwisho ningependa kuchangia ni kusema kwamba wakati wetu kama Wabunge umefika wa kumsaidia Rais wetu, Bw. Kibaki, ambaye, kusema kweli, amekuwa na roho nzuri sana. Lakini viongozi wengine ambao wako pembeni mwake wamezidi kumdanganya na watazidi kuwadanganya wananchi kwa sababu wamekuwa na tamaa ya utajiri wa haraka. Wamekuwa wakifikiria kuwa wao ndiyo wamefika mwisho wa dunia.

Ahsante sana na Mungu awasaidie. Ninawatakia krimasi njema na Mwaka Mpya Wabunge wenzangu.

Kwa hayo machache, ninaunga mkono.

Mr. Deputy Speaker: Thank you. I see no hon. Member now wishing to contribute to this Motion and, therefore, I will put the Question.

(Question put and agreed to)

The Chair also wishes to thank all hon. Members for the co-operation and support that they have given the Chair during this Session. On behalf of Mr. Speaker and all officers of the House, I

wish you all a Merry Christmas and a prosperous New Year.

ADJOURNEMENT

Mr. Deputy Speaker: Hon. Members, the House is, therefore adjourned *sine die*.

The House rose at 9.50 p.m.