

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 6th June, 2006

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Committee of Eminent Persons on the Constitutional Review Process

*(By the Minister for Justice
and Constitutional Affairs)*

Report of the Departmental Committee on Agriculture, Lands and Natural Resources on the Cotton (Amendment Bill) 2006

(By Mr. Bett)

Capt. Nakitare: On a point of order, Mr. Speaker, Sir. The hon. Member did not bow to the Chair after laying the document on the Table. Is he in order?

Mr. Speaker: He is absolutely out of order!

*(Mr. Bett stood up in his place
and bowed to the Chair)*

Very well!

The Economic Survey Report, 2006

*(By the Minister for Planning
and National Development)*

NOTICES OF MOTIONS

INTRODUCTION OF THE ESTABLISHMENT OF MINISTRIES BILL

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, this House do grant leave for the introduction of a Bill for an Act of Parliament entitled: "The Establishment of Ministries Bill", in pursuance of Section 16 of the Constitution of the Republic of Kenya.

INTRODUCTION OF THE ANIMAL TECHNICIAN BILL

Mr. Wario: Mr. Speaker, Sir, I beg to give Notice of the following Motion:-
THAT, in view of the fact that agriculture remains the backbone of the Kenyan economy; and that the livestock subsector contributes about 13 per cent of the Gross Domestic Product; aware that following the donor-led Structural Adjustment Programme in the late 1980s, the Government stopped employing trained field extension officers; further aware that the country boasts of 6,000 trained but jobless animal technicians; noting with concern that the Government is unable to provide the livestock farmers in ASAL areas which hold over 80 per cent of the livestock population with qualified staff leaving them at the mercy of quacks; this House grants leave for the introduction of a Bill entitled: "The Animal Technician Bill, 2006" to regulate the training, registration and licensing of animal technicians and for matters incidental thereto and connected therewith.

INTRODUCTION OF THE COMPETITION BILL

Mr. Sungu: Mr. Speaker, Sir, I wish to give notice of the following Motion:-
THAT, this House do grant leave to introduce a Bill of Parliament to repeal the Restrictive Trade Practices, Monopolies and Price control Act, Cap. 504 of the Laws of Kenya and to replace the same with appropriate law entitled: "The Competition Bill" in order to reduce monopoly and collusion between firms and for matters incidental thereto and connected therewith.

ESTABLISHMENT OF COMMITTEE OF SELECTION

Mr. Oloo-Aringo: Mr. Speaker, Sir, I beg to give Notice of the following Motion:-
THAT, this House resolves to establish a Select Committee to be designated the "Committee of Selection" which shall consist of a chairperson and a vice-chairperson and 13 other Members who shall be appointed by the House at the recommencement of every Parliament.
The Members of the Committee of selection shall serve in the Committee during the life of Parliament. The Committee of Selection shall consider the list as submitted by political parties and shall discuss and agree on the sharing out of plots in select departmental, house-keeping and *ad-hoc* committees and prepare the list of the Members to compose the Committee for the appointment by the House.
In placement of Members for various Committees, the Committee of selection will ensure that the process is all-inclusive and equitably distributed among political parties and that every Member shall be designated to serve in at least one Committee and that the professional, academic and special skills possessed by Members shall be considered in the compilation of the list of the membership of the Committee.

The Committee of Selection shall present for appointment by the House, a

list of designations of all Committees in the first 10 sitting days after its appointment. The hon. Members who are aggrieved regarding their placement shall appeal to the Board of Appeal which shall comprise the Leader of Government Business, Leader of the Official Opposition, the Government Chief Whip, the Chief Whip of the Opposition and one Woman Member appointed by the House. An hon. Member absenting himself or herself from three or more consecutive sittings of the Committee without the permission of the chairperson may be discharged and shall be replaced by the nominating party. A majority of the hon. Members of the Committee shall constitute a quorum.

QUESTIONS BY PRIVATE NOTICE

DELAY IN DISBURSEMENT OF GLOBAL FUND FOR HIV/AIDS MONEY

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

(a) What caused the delay in the disbursement of Kshs7.2 billion by the Global Fund for HIV/AIDS, Malaria and Tuberculosis?

(c) Could the Minister table the names of non-governmental organisations (NGOs) that have mismanaged funds meant to fight the aforementioned diseases?

(c) What action is he taking to ensure that the misappropriated funds are paid back?

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Speaker, Sir, I think this Question was supposed to be handled by the Ministry of Special Programmes. The issue of HIV/AIDS falls in that docket. So, we will ensure that the relevant Minister comes to handle it.

Mr. Speaker: Mr. Kingi, do you have any idea why the Assistant Minister or the Minister from that Ministry are not here?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Speaker, Sir, I have an idea.

Mr. Speaker: Yes!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, Mr. Munyes and the Vice-President are in Garissa on official duty. The Minister has no Assistant Minister to assist him.

Mr. Speaker: I think that is a plausible reason.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. This is the second time that this Question is being brought before the House. The first time it was directed to the Ministry of Health. The Ministry of Health then advised that the Question be directed to the Office of the President. Now the Assistant Minister is alleging that this Question should fall under the Ministry of Special Programmes. We all know that these funds are in the Office of the President. Is he not misleading the House?

Mr. Speaker: Order! I think we have heard which Minister is supposed to answer this Question. We have heard that he is in Garissa, unless you have information to the contrary. I think that is reasonable.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I wish to put it on record that the answer is already here. We thought the Question would be better answered by the Minister in charge who will also be able to answer the supplementary questions. Otherwise, the answer is here and we can answer it. We may not be able to give good answers to your supplementary questions. We are, therefore, requesting that it be handled by the responsible

Minister tomorrow or any other day the Speaker directs.

Mr. Sungu: Mr. Speaker, Sir, the matter of HIV/AIDS is very important. The Government has been avoiding answering this Question. I can vouch for the presence of the Minister in the precincts of Parliament this morning at 10.00 a.m. in the gymnasium.

Mr. Speaker: Order, Mr. Sungu! Hon. Members, in this time and age, being here in the morning does not preclude you from being in Garissa now. This Question will be answered tomorrow.

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

Mr. Speaker: Order, Mr. Ojode!

Mr. Ojode: I am the owner of the Question.

Mr. Speaker: Order! We must make progress. The Question is deferred to tomorrow afternoon.

(Question deferred)

REDEPLOYMENT OF OFFICIALS SUSPENDED
OVER FOOD RELIEF MISMANAGEMENT

Mr. Billow: Mr. Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

(a) Is the Minister aware that several senior Provincial Administration officials suspended on 13th January, 2006 on accusations of mismanagement of relief food in North Eastern Kenya have been redeployed?

(b) Could the Minister table the findings of the five Permanent Secretaries on the probe of mismanagement of relief food?

(c) What further action has the Government taken on the matter since the suspension of the officers?

Mr. Speaker: At the request of Mr. Billow, this Question is being deferred. Mr. Billow, when did you want it to be deferred to?

Mr. Billow: Next week.

Mr. Speaker: Could we defer it to Tuesday next week?

The Assistant Minister, Office of the President (Mr. Kingi): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well.

(Question deferred)

RATIONALE OF CURRENT
ANTI-TOBACCO CAMPAIGN

Mr. Weya: Mr. Speaker, Sir, I beg to ask the Minister of Health the following Question by Private Notice.

(a) What is the rationale of the current anti-tobacco campaign?

(b) Is the Minister aware that the tobacco ban will cost millions of shillings to implement?

(c) Could the Minister confirm that adequate consultations were made with the stakeholders before the launch of the campaign?

(d) What immediate measures is she taking to mitigate against the effects of the campaign on tobacco production and distribution?

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

(a) Kenya ratified the Framework Convention for Tobacco Control in June, 2004. One component of this Convention was to control smoking in public places and protect non-smokers from harmful effects of Tobacco. Member countries agreed to implement the agreement within two years of signing of the Treaty.

(b) Yes, there is a cost, but the Government will save much more millions in terms of healthcare costs and quality of life will be improved.

(c) I confirm that the National Committee of Stakeholders exists and consultations have been ongoing for the last two or so years.

(d) In consultation with the Minister for Agriculture, tobacco farmers are being advised to grow alternative cash-crops. For every one shilling gained from the tobacco industry, the health sector spends three shillings to treat the effect of tobacco use.

Mr. Weya: Thank you very much, Mr. Speaker, Sir. As hon. Members, we are supposed to bring Bills before the House on such issues. Before the Minister for Health went to attend the World Health Organisation (WHO) conference, she imposed regulations that were supposed to be deliberated in this House. This is because Mr. Sungu and the Minister have brought before this House a Bill to legislate on tobacco use. We do not have clear directions on what a public place is. The Kshs50,000 fine that the ordinary mwanachi will pay for smoking in public is imposed in Europe and foreign countries. This is because our people cannot afford to pay that fine. As an issue of concern---

(Loud consultations)

Mr. Speaker: Order, hon. Members! Mr. Weya, you are aware of the relevant Standing Order that bars you from making a Question an excuse for debate! In short, Mr. Assistant Minister, Mr. Weya is asking why you made the law outside Parliament.

Dr. Kibunguchy: Mr. Speaker, Sir, delegated legislation is allowed and that is what we used.

Mr. Munya: Mr. Speaker, Sir, I commend the Assistant Minister for taking those bold steps to control smoking, especially among young people. However, we have farmers who depend on tobacco for their livelihood. Some of the areas that produce tobacco do not receive enough rain to enable those farmers grow other crops. Could the Assistant Minister, with other concerned Ministries establish special funds and start irrigation schemes in dry areas so that those farmers can grow other crops?

Dr. Kibunguchy: Thank you, Mr. Speaker, Sir. I would like to thank Mr. Munya for commending the Ministry. Again, I confirm that the Ministry of Health, in consultation with the Ministry of Agriculture--- There are certain crops that we recommend to be grown in certain parts of this country.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, while I am deeply committed to controlling smoking in public places, and I appreciate the health aspects of it, the Assistant Minister has said that he took those measures as a result of delegated legislation. Could the Assistant Minister come up with a satisfactory way to deal with this issue so that the Government cannot be sued, or avoid injunctions being filed in court by tobacco companies to stop those regulations?

Dr. Kibunguchy: Mr. Speaker, Sir, we are looking into all those issues that the hon. Member has raised. However, the most important thing, as I said in part "a" of the answer is that we are a signatory to the Framework for the Convention for Tobacco Control. We have been a signatory since June, 2004, and we gave ourselves June this year, as the time-frame to implement those regulations. The Ministry is not banning the production or consumption of tobacco products.

The Ministry wants to make sure that if you want to smoke, you should smoke alone. Do not smoke with others. If you want to die, die alone. Do not die with others.

Mr. Weya: Thank you very much, Mr. Speaker, Sir. You have heard the Assistant Minister say that the Government will provide funds to the farmers who currently grow tobacco to enable them grow other crops. Could he clearly tell this House how they will finance those farmers? This is because those farmers are currently being funded by those multinational companies.

Dr. Kibunguchy: Mr. Speaker, I did not say that the Government will fund tobacco farmers to grow other crops. However, we encourage them to grow alternative crops.

Mr. Speaker: Very well! Is Mr. Cheboi here?

Mr. Cheboi: Yes, Mr. Speaker, Sir.

Mr. Speaker: Has your Question not been overtaken by events?

Mr. Cheboi: It has not, Mr. Speaker, Sir.

Mr. Speaker: Are you sure?

Mr. Cheboi: Yes, Mr. Speaker, Sir.

(Applause)

ORAL ANSWERS TO QUESTIONS

Question No.286

IMPLEMENTATION OF SALARY INCREMENT FOR CHIEFS

Mr. Cheboi asked the Minister of State for Administration and National Security:-

- (a) what was the amount of salary increase for chiefs and their assistants as promised by the Minister in 2005; and,
- (b) when the said increments will be effected.

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

(a) The Minister promised that a comprehensive scheme of service for chiefs and Assistant Chiefs would be prepared in which terms and conditions of service, including salary could be reviewed. The Ministry has completed the review process and forwarded the recommendations to the Directorate of Personnel Management (DPM) for study and advise.

Mr. Cheboi: Mr. Speaker, Sir, you can see that my Question has not been overtaken by events.

Mr. Speaker: Mr. Cheboi, you are perfectly in order!

Mr. Cheboi: Mr. Speaker, Sir, my concern is that the roadside promises made to every other--- Chiefs and Assistant Chiefs play an important role in our country. During the time prior to the referendum, they were promised an increment in their salaries. The Minister did not say that he would make a comprehensive salary review and send it to the DPM for study and advise. Why was it necessary to promise the chiefs and the Assistant Chiefs an increment in their salaries before the Minister consulted with the DPM so that we could know the amount and when they would be paid?

Mr. Kingi: Mr. Speaker, Sir, the Ministry promised the chiefs and the Assistant Chiefs that it would prepare a comprehensive scheme of service for them. This is what we have done. We have forwarded our recommendations to the DPM for study and advise. I do not think that we have done anything wrong up to now.

Mr. Speaker: Order! As a matter of interest, I thought the DPM is under your Ministry!

Mr. Kingi: Mr. Speaker, Sir, I agree but there is another Minister in charge of the DPM.

We have forwarded our recommendations to the DPM for study and advise.

Mr. Wario: Bw. Spika, Waziri atafanya nini iwapo DPM itakataa kuongeza machifu mishahara yao?

Mr. Kingi: Bw. Spika, ningependa kuomba tungoje mpaka tufike kwa daraja ndipo tuivuke.

Mr. Speaker: Bw. Kingi, umesema nini?

Mr. Kingi: Bw. Spika, ninasema siwezi kulijibu swali hilo kwa sababu hatujafika hapo.

Mr. Speaker: Bw. Kingi, ninakuamuru ulijibu swali hilo! Wewe ndiye ulisema hayo!

Mr. Kingi: Bw. Spika, tumefuata njia ambayo inafaa. Yale yatakayotokea baadaye yanahusu idara nyingine, na mimi siwezi kuwajibia.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. You ordered the Assistant Minister to answer the Question properly but he has declined to answer it. Is he in order to decline to answer the Question?

Mr. Speaker: He is out of order! Once you are ordered by the Chair to answer a Question and you fail, certain consequences will follow directly. So, Mr. Kingi, could you answer the question?

Mr. Kingi: Bw. Spika, nimeulizwa kwamba ni kitu gani tutafanya iwapo DPM itakataa kuongeza machifu na manaibu wao mishahara. Sijakataa kulijibu swali hili. Nimesema kwamba swali hilo halipo. Nimesema yale mambo ambayo tumefanya. Yale yatakayotokea baadaye---

Mr. Speaker: Order, Mr. Kingi! You are the one who raised that issue. I told you that the DPM is under your Ministry and you said that you have to get their approval. What will happen if the DPM declines to approve your recommendations?

Mr. Kingi: Mr. Speaker, Sir, but the DPM has not refused to approve our recommendations. Why am I being ordered to say what will happen if the DPM declines to approve our recommendations? Honestly, you are not being fair!

(Mr. Kingi laughed)

Mr. Speaker: Mr. Kingi, that is not a laughing matter, but my order! If the DPM declines to approve your recommendations, will you agree with it or not? That is a simple question. Answer that question and proceed!

Mr. Kingi: Mr. Speaker, Sir, in the event that the DPM declines to approve our recommendations, there is always room for negotiations and we will negotiate with it.

Mr. Speaker: Order, hon. Members! We have things on record! This is a House that records everything that is being said from the Floor. I am worried about the record that states that a department may overrule a Minister. Anyhow, it is up to you!

Capt. Nakitare: Thank you, Mr. Speaker, Sir. While the Assistant Minister has difficulties in answering this Question, my concern is that the remuneration of chiefs and Assistant Chiefs has been undermined. This is because they are now required to produce academic qualifications before they are promoted, and yet teachers are promoted on merit. What is the rationale of doing that? There are some chiefs who have worked for a long time and should be promoted on merit. What does the Assistant Minister have to say?

Mr. Kingi: Mr. Speaker, Sir, it is true that there are some chiefs and assistant chiefs who deserve promotion, but they have not been promoted. However, that is what we have proposed in our comprehensive scheme of service for the chiefs and their assistants.

Mr. Speaker: Order, hon. Members! I think it is getting a little confusing. The Assistant Minister says, "we have developed this scheme". What do you mean, Mr. Kingi? It is you and who

if the Directorate of Personnel Management (DPM) is not part of it?

Mr. Kingi: Mr. Speaker, Sir, we have already prepared the scheme of service.

(Loud consultations)

Could you, please, protect me, Mr. Speaker, Sir?

Mr. Speaker: Order! The Assistant Minister will be heard!

Mr. Kingi: Mr. Speaker, Sir, one arm of the Government has done its bit. There is the other arm that is supposed to look at it and then advise us accordingly. That is the stage we are at the moment.

Mr. Bifwoli: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered the hon. Member's question. Capt. Nakitare asked: "What rationale is the Government using?" Teachers are promoted on merit while administrators are promoted on academic qualifications when it is supposed to be vice versa.

Mr. Speaker: I thought he responded to that.

Mr. Kingi: Mr. Speaker, Sir, you are very right to say I responded to that. Maybe the hon. Member was not paying much attention. He could refer to the HANSARD for the correct explanation.

Mr. Raila: Mr. Speaker, Sir, as we all remember during the last Referendum campaign there were several goodies that were offered. Game parks were given and many districts were created. The increment of chiefs' salaries also was one of the packages. Could the Assistant Minister confirm that the Government did not have any intention to increase those salaries? It only wanted to woo the chiefs, so that they could campaign for the banana camp in the last referendum campaign.

Mr. Kingi: Mr. Speaker, Sir, if that was our intention, we would have left it at that. But we have gone ahead to prepare a scheme of service which we are sure will be accepted.

Dr. Ali: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House. If it was not the banana campaign, why did they write letters to those chiefs who did not support the banana camp?

Mr. Kingi: Mr. Speaker, Sir, we dealt with that issue last week when there was a Question by another hon. Member. We wrote those letters purely on administrative purposes. I said we had asked chiefs to show cause why disciplinary action should not be taken against them for particular reasons. As I said, this was purely administrative.

Mr. Speaker: We can not revisit a Question that has been dealt with. That is the rule!

Last question, Mr. Cheboi!

Mr. Cheboi: Mr. Speaker, Sir, I want to express my surprise that the Ministry is denouncing the DPM. I believe that the recommendations were from the Ministry. Could the Assistant Minister tell us in specific terms, how much they recommended as the salary increase? It is under him!

Mr. Kingi: Mr. Speaker, Sir, I do not think that is procedural. When we make recommendations to the DPM, we wait for it to finalise. We do not come to Parliament to tell hon. Members what we have recommended. I do not think that is proper.

Mr. Speaker: Order! I am totally confused!

Next Question by Mr. Masanya!

Question No.259

RATE OF POPULATION
INCREASE IN KENYA

Mr. Masanya asked the Minister for Planning and National Development:-

- (a) what the rate of population increase is in Kenya; and,
- (b) whether he could give the district population figures as at the end of December, 2005.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Speaker, Sir, I beg to reply.

(a) The rate of population increase in Kenya is 2.5 per cent, bringing the population as at December, 2005 to 33,445,119.

(b) I have many figures here. I am asking for the indulgence of the Chair whether to read or just table it. But I could maybe give indications on the basis of provinces.

Mr. Speaker: I think the safest thing to do is to table the document. There are very many districts.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Thank you, Mr. Speaker, Sir. I will proceed along the same line. But for the benefit of the House, let me just highlight the figures per province. The population in Nairobi Province by December 2005 was 2,751,860; Central Province, 4,038,407; Coast Province, 2,927,273; Eastern Province, 5,120,733; North Eastern, 1,438,916; Nyanza Province, 4,916,569; Rift Valley, 8,366,071; and Western Province, 3,885,290.

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

Mr. Masanya: Mr. Speaker, Sir, I thank the Assistant Minister for the answer. However, I would like to know whether the Government uses these figures in allocating the resources equitably in this country.

Mr. Ethuro: Mr. Speaker, Sir, the obvious answer to that is, "yes." We can use the simple example of the Constituencies Development Fund (CDF) which considers population as a factor in the allocation.

Mr. Bahari: Mr. Speaker, Sir, when answering this Question the Assistant Minister gave us the population figures. However, I have not heard him mention anything like estimates. I am wondering whether they actually carried out the population census in December, 2005.

Mr. Ethuro: Mr. Speaker, Sir, the Member of Parliament for Isiolo Constituency who is a good friend of mine knows that one responds to a question the way it was asked. The Question did not ask about the death rate. It asked for the district population figures and the rate of population increase, which I gave. But, obviously, the population census is undertaken every ten years. The last one was held in 1999. The next one is due in 2009. In the intervening period we use the fertility and mortality rates. That is how we arrived at the estimates by December, 2005.

Mr. Speaker: Very well. Last question, Mr. Masanya!

Mr. Masanya: Mr. Speaker, Sir, there are very many disparities in the allocation of resources. Does the Government intend to use the figures by the Electoral Commission of Kenya (ECK) in deciding the number of new constituencies in the country?

Mr. Speaker: Order! That is fishing in turbulent waters! No Minister is in charge of the ECK. Therefore, the Assistant Minister is incompetent to answer you.

If you do not have any other valid question, I am sorry. Mr. Billow, do you have a valid question?

Mr. Billow: Mr. Speaker, Sir, could the Assistant Minister tell the House whether the rate of population increase is the same in all the eight provinces? If not, what is the rate of population increase for each province?

Mr. Ethuro: Mr. Speaker, Sir, thank you for your support on the issue raised by Mr. Masanya. However, I would like to confirm that we have the capacity to do so. Mr. Masanya knows as much as everybody else in this House that the Electoral Commission of Kenya (ECK) in establishing constituencies, is guided by, among other factors, population density. So, that is, definitely, a factor.

Mr. Speaker: Order! Order, Mr. Ethuro! You should not make a ruling on a matter you do not have a *locus standi*! You are not in charge of the ECK.

Mr. Ethuro: Mr. Speaker, Sir, it is true. However, I am not so incompetent as not to answer his question.

Mr. Speaker: Order! Order, Mr. Ethuro! You may know what we do not know but the law does not allow you to answer for the ECK. The ECK is independent under the Constitution. So, please, answer Mr. Billow's question.

Mr. Ethuro: Mr. Speaker, Sir, I will do so. It must be obvious to the hon. Member that the rate of population increase cannot be the same in every province. It is, definitely, different. I do not have the figures with me but I will take the earliest opportunity to supply this House with those figures.

Mr. Speaker: Thank you, Mr. Ethuro! Hon. Members, Mr. Ndambuki's Question is deferred to Thursday next week. I know the Minister for Finance has an answer to that Question, but I have allowed Mr. Ndambuki to go out of the country. Would Thursday not fit you? I am prepared to have the Question slotted on the Order Paper of that day.

The Minister for Finance (Mr. Kimunya): Mr. Speaker, Sir, I would have preferred to answer the Question today given the Budget preparations that are going on.

Mr. Speaker: Would that help you? He is, obviously, not here. He has my permission to be away.

The Minister for Finance (Mr. Kimunya): As you wish, Mr. Speaker, Sir.

Mr. Speaker: Will Thursday next week be okay with you? I do not want to do as I wish but as agreed with you.

(Laughter)

The Minister for Finance (Mr. Kimunya): Thursday would be okay, Mr. Speaker, Sir.

Mr. Speaker: Very well! Thursday, next week.

Question No.231

FREEZING OF WORLD BANK/IMF
FUNDING TO KENYA

(Question deferred)

Question No.241

RETIREMENT OF MR. FRED OMUTUNYI

Mr. Marende asked the Minister for Water and Irrigation:-

(a) whether he is aware that Mr. Fred Amutabi Omutunyi, P/No.7808658, who was employed as a Water Supply Operator II, was retired purportedly on attaining the retirement age in the month of October, 2000;

(b) whether he is further aware that the said worker was at the time of the purported retirement 40 years old, 15 years before the official retirement age; and,

(c) whether he could ensure that Mr. Omutunyi is either reinstated or paid his full benefits for the years of service to the Government and due compensation for the pre-mature retirement.

The Minister for Water and Irrigation (Mr. Katuku): Mr. Speaker, Sir, I answered this Question last week. Mr. Marende tabled some documents following which you requested that I go through them and see whether my answer still stands. I stand by my answer.

Mr. Marende: Mr. Speaker, Sir, as I indicated last week, the answer by the Minister was most unsatisfactory. First, there is a letter dated 16th October, 1998 by which the said officer was interdicted with effect from 1st June, 1998. That letter was signed by the District Commissioner on behalf of the Permanent Secretary, Ministry of Health. The same District Commissioner, in a subsequent letter dated 30th November, 1999, advised the officer that following a meeting of the District Advisory Committee, the interdiction had been lifted. So, in effect, that officer was found innocent and ought to have been reinstated from 30th November, 1999. Why was he not reinstated?

Mr. Katuku: Mr. Speaker, Sir, the procedure as relates to the District Advisory Committee is that if the committee meets and makes a decision, it should forward that decision to the Permanent Secretary, accompanied by the minutes of that meeting. The final decision rests with the Ministry headquarters. In this case, after looking at what went on, the Ministry felt that the officer should have gone on interdiction. Immediately after that, a letter dated 8th March, 2000, was forwarded to the officer, interdicting him. The officer appealed against the decision to the Public Service Commission (PSC). All the documents that have been tabled by Mr. Marende were availed to the PSC. The case was found not pertaining and the officer was dismissed. He appealed again to the PSC against the decision to dismiss him but the decision was upheld. So, the case does not arise.

Mr. Bahari: Mr. Speaker, Sir, I believe what the hon. Member is telling us is that the officer's interdiction was actually lifted by the Permanent Secretary. The Minister is also telling us that, later on, in 2000, they decided as a Ministry, to once again interdict the officer. This looks like double punishment for this officer. Could the Minister confirm that the second interdiction letter was as a result of an afterthought and that it was invalid because the earlier interdiction had already been lifted? Therefore, double punishment should not have applied.

Mr. Katuku: Mr. Speaker, Sir, the position is that the letter which interdicted the said officer was signed by the District Commissioner on behalf of the PS following a district advisory committee meeting. The committee was supposed to forward the minutes of the same meeting to the parent Ministry, which was then the Ministry of Water and Environment. The Ministry looked at what had transpired and the letter of interdiction was formally issued to the said officer by the PS. So, the issue raised by Mr. Bahari does not arise.

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

Mr. Speaker: Sorry, we have got to finish this issue now.

Mr. Marende: Mr. Speaker, Sir, it is clear from the answer by the Minister, that he is evading very pertinent issues. The Minister does not deny that the District Commissioner had, in fact, acted for the PS and lawfully so. How can one hand of the Government take away what the other hand has given? This is injustice. The Minister ought to ensure that this innocent Kenyan is,

in fact, redressed appropriately by either being reinstated or being given compensation that he deserves.

Mr. Katuku: Mr. Speaker, Sir, I have stated that the DC acted on behalf of the committee which sat to advise on this matter. When the PS went through the file, he found the officer---

Mr. Syongo: On a point of order, Mr. Speaker, Sir. The Constitution is very clear on this matter. Permanent Secretaries only delegate authority---

Mr. Speaker: Order! Order!

Mr. Syongo: Mr. Speaker, Sir, if you could hear me out---

Mr. Speaker: How can I hear you out when you are, in fact, out of order! You should know what a point of order is and what a point of argument is. By the way, Mr. Syongo, you must, very quickly, discard that attitude towards the Chair. You are out of order!

Mr. Bahari: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: What is it?

Mr. Bahari: Is the Minister in order to mislead this House by implying that the delegated authority of the DC is not valid?

Mr. Speaker: Order! Order, hon. Members! I think sometimes we mix up some issues. If it is a question to determine whether or not that person was lawfully or unlawfully dismissed, that rests with the court. We deal with policy issues. We do not make judgements here. I do not think we can make a judgement here. So, I would advise Mr. Marende that, maybe, the afflicted Kenyan would be better served if this matter was taken to court rather than being ventilated here. I think that is the better way to go about it.

Mr. Marende: Mr. Speaker, Sir, could you allow the Minister to answer the question for whatever it is worth? I may find it useful even when we go to court.

Mr. Speaker: I am not the one who stopped him. It was Mr. Syongo.

Mr. Marende: Mr. Speaker, Sir, please, allow the Minister to finish what he was saying because we may have to tender this as evidence.

Mr. Katuku: Mr. Speaker, Sir, all civil servants are employees of the Government under the Public Service Commission (PSC). Any officer who is aggrieved by any decision taken by his immediate boss, for example, the Permanent Secretary, can appeal to the PSC. This particular officer did that. He was given an opportunity to appeal to the PSC and he presented all the documents which were tabled before this House. Thereafter, a decision was taken to the effect that he was properly dismissed. He re-appealed and the same decision was taken.

I would like to advise the hon. Member that if he is not satisfied with the decision of the PSC, he should not bring the matter to Parliament, but instead, he should go to court.

Mr. Speaker: Mr. Lesrima, before you ask your Question, the Acting Minister for Education and the Assistant Ministers are not in Nairobi. What do I do with that?

Mr. Lesrima: The Shadow Minister for Education should respond to the Question!

Mr. Speaker: Maybe the best thing for you is to put the Question and see whether any Minister has been instructed to answer it.

Mr. Lesrima: The Shadow Minister for Education is present.

Mr. Speaker: You can ask your Question then!

Mr. Kamotho: On a point of order, Mr. Speaker, Sir. I thought my Question comes first.

Mr. Speaker: Yes, you are right! I am wrong. I will now come to your Question.

Question No.250

UPGRADING OF NJUMBI-GATUNGURU -MIORO ROAD

Mr. Kamotho asked the Minister for Roads and Public Works:-

- (a) whether he is aware that Njumbi-Gatunguru-Mioro Road (E-546) serves Nyayo Tea Zones, Gatunguru Tea Factory and links important trading centres which include Mathioya Divisional Headquarters; and,
- (b) considering the economic importance of tea in the country, when the road will be constructed to bitumen standard.

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

(a) Yes, I am aware that Njumbi-Gatunguru-Mioro Road serves Nyayo Tea Zones, Gatunguru Tea Factory and links important trading centres which include the Mathioya Divisional Headquarters.

(b) Due to budgetary constraints, my Ministry has no immediate plans to upgrade the road to bitumen standard. However, the road will be improved to gravel standard under the French funded Roads 2000 Programme, which commences in the Financial Year 2006/2007. During the Roads Sector Stakeholders meeting held in July, 2005, the road was ranked number four in Murang'a District priority list.

Mr. Kamotho: Mr. Speaker, Sir, I appreciate the answer given by the Assistant Minister. He has acknowledged the importance of this road which serves a major tea producing area. Tea earns this country a lot of foreign exchange. What criteria does the Ministry use in deciding which roads should be tarmacked and which ones should be gravelled?

Eng. Toro: Mr. Speaker, Sir, the Ministry uses the roads priority lists from the districts. In Murang'a District, this road was ranked as priority number four for gravelling. So, if we were to consider bitumenising these roads, we would have given priority to the roads that were listed as priority number one, two and three first.

Mr. Karaba: Mr. Speaker, Sir, there is a road in Kirinyaga where bitumen was put five kilometres towards Kerugoya from Baricho. However, works on this road have stalled. Is this road still being considered to be upgraded to bitumen standard?

Eng. Toro: Mr. Speaker, Sir, it is not possible for me to state off head whether this road is being prioritised at the moment.

Mr. Omingo: Mr. Speaker, Sir, classification of roads makes it easier for the Government to maintain them depending on their categories. What clear policy does the Government have to re-classify roads that were classified many years ago, so that they can attract funding from the Central Government?

Eng. Toro: Mr. Speaker, Sir, even with the earlier classification of roads, we still have to go by the priorities. At the moment, priority has been given to the on-going works, some of which were started even before this Government took over power. We cannot give priority to other roads until we are sure that funds are available to upgrade them to bitumen standards.

Mr. Kamotho: Mr. Speaker, Sir, the Ministry of Roads and Public Works does not put into consideration the economic importance of roads in this country. The other day, the Government announced that the economy has grown by 5.8 per cent. However, that growth is not reflected in the lives of the rural ordinary Kenyans. Could the Ministry focus more on areas of high economic activities, so that the economic gains are felt at the ground level?

Eng. Toro: Mr. Speaker, Sir, I totally agree with hon. Member. The policy of the Ministry is to pay greater attention to the roads that serve high output agricultural areas. That will be reflected as soon as we get more funding. The hon. Member will be a beneficiary of the Roads 2000 Programme, which has prioritised roads in tea growing areas for gravelling.

*Question No.095*PROVISION OF ART TO BUTULA
HEALTH CENTRES

Prof. Mango asked the Minister for Health:-

- (a) whether she is aware that HIV/AIDS infection rate in Butula Constituency is 35 per cent; and,
(b) what plans she has to provide anti-retroviral therapy in health centres to arrest the situation.

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

(a) Yes, I am aware that HIV/AIDS infection rate in Butula Constituency is in the region of 33 per cent.

(b) Currently, the patients from the constituency requiring anti-retroviral drugs access them at Busia District Hospital and Nagina Mission Hospital.

However, construction work on a comprehensive care clinic for the provision of anti-retroviral therapy for those in need is on-going at Hunyangu Sub-District Hospital. At the moment, the training of health workers to offer anti-retroviral therapy from these centres is on-going.

Prof. Mango: Mr. Speaker, Sir, I would like to thank the Assistant Minister for that answer.

HIV/AIDS was declared a disaster in this country more than ten years ago. Up to now, many patients do not access anti-retroviral drugs. The centres the Assistant Minister has talked about are 40 kilometres away from Butula Constituency. A sick person cannot travel that far to access the drugs.

Could the Assistant Minister tell the House what budgetary provisions the Ministry has made to enable patients to access treatment?

Dr. Kibunguchy: Mr. Speaker, Sir, first of all, I would like to inform the hon. Member that care and support clinics for HIV/AIDS patients are being run twice a week at Hunyangu Sub-District Hospital and Bumala Health Centre.

However, as you are well aware, the Ministry is committed to increasing the number of patients on anti-retroviral therapy from the current number of about 70,000 to 140,000 by the end of this year. We are trying to make sure that anti-retroviral treatment is offered even at the level of health centres.

Prof. Oniang'o: Mr. Speaker, Sir, HIV/AIDS affects the whole country. Current data shows that only 3 per cent of the affected children access Anti-Retrovirals (ARVs). Could the Assistant Minister tell us what he plans to do to give special care and focus on the children?

Dr. Kibunguchy: Mr. Speaker, Sir, as I have just said, we will scale up the treatment of AIDS patients to about 140,000 by the end of this calendar year, and amongst those, will be children.

Mr. Speaker: Last question, Prof. Mango!

Prof. Mango: Mr. Speaker, Sir, could the Assistant Minister tell us what criteria is used to identify treatment centres?

Dr. Kibunguchy: Mr. Speaker, Sir, to get our target number, we are going to offer treatment even to health centres. I am sure that, in many of our constituencies and districts, there are health centres which are within the reach of most people.

Mr. Speaker: Very well! Next Question by the hon. Member for Samburu West Constituency!

*Question No.004*APPOINTMENT OF ZONAL
QUALITY ASSURANCE OFFICERS
IN SAMBURU DISTRICT

Mr. Lesrima asked the Minister for Education:-

- (a) whether he is aware that there are no quality assurance officers in 12 zones in Samburu District; and,
- (b) what plans are there to appoint zonal quality assurance officers or inspectors in the affected zones.

Mr. Speaker: Order, hon. Members! Mr. Lesrima, the Minister called me and requested to have the Question deferred because he is not available. Could I defer it to Thursday?

Mr. Lesrima: That is okay, Mr. Speaker, Sir.

Mr. Speaker: Thank you very much. Question deferred!

(Question deferred)

*Question No.338*MISMANAGEMENT OF NANDI
TEACHERS SACCO

Mr. Sambu asked the Minister for Co-operative Development and Marketing:-

- (a) whether he is aware that the Nandi Teachers SACCO has been experiencing financial mismanagement problems;
- (b) whether he is further aware that a committee was formed to investigate the problems;
- (c) whether he could table the report of the committee; and,
- (d) what action has been taken on those adversely mentioned in the report.

Mr. Speaker: The same happens to the Question by Mr. Sambu! It is deferred to Thursday!

(Question deferred)

That is the end of Question Time!

COMMUNICATIONS FROM THE CHAIR

PRESENCE OF MEMBERS OF PARLIAMENT FROM

SOUTHERN SUDAN IN THE SPEAKER'S ROW

Mr. Speaker: Order hon. Members! I wish to bring to the attention of hon. Members the presence, in the Speaker's Row, of hon. Members of Parliament from Southern Sudan.

(Applause)

They are: Hon. Josephine Moses Lado, MP, hon. Thomas Oto, MP and hon. Esther Ekere, MP. The hon. Members are attending a leadership exchange programme at the Education Centre for Women in Democracy in Nairobi. They are accompanied by Ms. Lorna Elia, Mr. Muchai

Ndung'u and Mrs. Wangari Kinoti.

Let me take this opportunity on your behalf, and on my own behalf, to welcome them to our country and wish them a happy and enjoyable stay in Kenya.

Thank you!

(Applause)

NOMINATION OF MEMBERS OF
CHAIRMAN'S PANEL

Hon. Members, in accordance with Standing Order No.10(1), I have nominated the following Members to serve in the Chairman's Panel for the Fifth Session of the Ninth Parliament:-

Hon. Daniel Khamasi, MP

Hon. Samuel Poghisi, MP

Hon. Kirugi M'Mukindia, MP

Thank you.

(Applause)

Hon. Members, let us listen to the Deputy Leader of Government Business
Please, proceed!

MINISTERIAL STATEMENT

APPOINTMENT OF MEMBERS
TO HOUSE COMMITTEES

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Speaker, Sir. I wish to make the following Ministerial Statement.

Mr. Speaker, Sir, the following hon. Members have been appointed to serve in the Committees as follows:-

SPEAKER'S COMMITTEE

Hon. Francis X. ole Kaparo, MP -
Chairman

Hon. Amos Kimunya, MP

Hon. John Michuki, MP

Hon. James Gachagua, MP

Hon. Prof. George Saitoti, MP

Hon. Dr. Chris Murungaru, MP

Hon. Peter Kenneth, MP

[The Minister for Justice and Constitutional Affairs]

Hon. John Mutinda, MP

Hon. Kiema Kilonzo, MP

Hon. Gideon Ndambuki, MP

Hon. Nick Salat, MP

Hon. Ali Wario, MP

Hon. Antony Kimeto, MP

STANDING ORDERS COMMITTEE

Hon. Francis X. ole Kaparo, MP - Chairman
Hon. David Musila, MP
Hon. Daniel Khamasi, MP
Hon. Onesmus K. Mwangi, MP
Hon. Paul Muite, MP
Hon. Otieno Kajwang, MP
Hon. Martin Wambora, MP
Hon. Daudi Mwanzia, MP
Hon. Dr. Esther Keino, MP
Hon. Lucas Chepkitony, MP
Hon. Tola Kofa, MP
Hon. Mutula Kilonzo, MP

CATERING COMMITTEE

Hon. Francis X. Ole Kaparo, MP - Chairman
Hon. Paddy Ahenda, MP
Hon. P.E.M. Ivuti, MP
Hon. William Omondi, MP
Hon. Alfred Nderitu, MP
Hon. Fahim Twaha, MP
Hon. Mohamed A. Haji, MP
Hon. Dr. Sammy Rutto, MP
Hon. Dr. Naomi Shaban, MP

POWERS AND PRIVILEGES COMMITTEE

Hon. Francis X. ole Kaparo, MP - Chairman
Hon. Musikari Kombo, MP
Hon. Capt. Davis Nakitare, MP
Hon. Katoo ole Metito, MP
Hon. Eng. Eric Nyamunga, MP
Hon. Gachara Muchiri, MP
Hon. Stephen K. Manoti, MP
Hon. Henry Kosgey, MP
Hon. Maj. Marsden Madoka, MP
Hon. Ms. Amina Abdala, MP
Hon. William Ruto Samoei, MP

LIBRARY COMMITTEE

Hon. David Musila, MP - Chairman
Hon. Reuben Ndolo, MP

Hon. Mrs. Jane Kihara, MP
Hon. Macharia Mukiri, MP
Hon. Wycliff Osundwa, MP
Hon. Moffat Maitha, MP
Hon. Mwanicha Okioma, MP
Hon. David Sudi, MP
Hon. William Boit, MP
Hon. Francis Achuka Ewoton, MP
Hon. Kipkorir Maritim Sang, MP

The House Business Committee has made the following replacements in the Departmental Committees.

**COMMITTEE ON AGRICULTURE,
LANDS AND NATURAL RESOURCES**

Hon. Yusuf Haji, MP
Hon. Ali Wario, MP

**COMMITTEE ON ENERGY,
COMMUNICATIONS AND PUBLIC
WORKS**

Hon. Mohamed Abdi Haji, MP

**COMMITTEE ON EDUCATION,
RESEARCH AND TECHNOLOGY**

Hon. Harrison Kombe, MP
Hon. Stephen Manoti, MP

**COMMITTEE ON HEALTH,
HOUSING, LABOUR AND SOCIAL
WELFARE**

Hon. Dr. Julia Ojiambo, MP
Hon. Benson Mbai, MP
Hon. David Koros, MP
Hon. William K. Boit, MP

**COMMITTEE ON ADMINISTRATION,
NATIONAL SECURITY AND
LOCAL AUTHORITIES**

Hon. Katoo ole Metito, MP
Hon. Patrick Ivuti, MP
Hon. Kipkalia Kones, MP
Hon. Noah arap Too, MP

**COMMITTEE ON FINANCE, PLANNING
AND TRADE**

Hon. David Mwiraria, MP
Hon. William Gitau Kabogo, MP
Hon. Lukas Chepkitony, MP

**COMMITTEE ON ADMINISTRATION OF
JUSTICE AND LEGAL AFFAIRS**

Hon. Njoki Ndung'u, MP
Hon. Zaddock Syongo, MP

PUBLIC ACCOUNTS COMMITTEE

Hon. Uhuru Kenyatta, MP
Hon. Norman M.G.K. Nyagah, MP
Hon. Jane Kihara, MP
Hon. Peter Odoyo, MP
Hon. Archbishop Stephen Ondiek, MP
Hon. Daniel Khamasi, MP
Hon. Zebedeo Opore, MP
Hon. Charles Keter, MP
Hon. Billow Kerrow, MP
Hon. Lagat Kipchumba, MP
Hon. Fahim Twaha, MP

PUBLIC INVESTMENTS COMMITTEE

Hon. Justin B. Muturi, MP
Hon. Mohamed Hussein Maalim, MP
Hon. Peter G. Munya, MP
Hon. Gitau Kabogo, MP
Hon. Gachara Muchiri, MP
Hon. Wafula W. Wamunyinyi, MP
Hon. Jimmy Angwenyi, MP
Hon. Abdi Bahari, MP
Hon. Kipkorir Maritim Sang, MP
Hon. Dr. Sammy K. Rutto, MP
Hon. Abdulahi Ali Ibrahim, MP

**THE PENSIONS MANAGEMENT
SELECT COMMITTEE**

Hon. D. Mwiraria, MP
Hon. Dr. Mukhisa Kituyi, MP

**THE SELECT COMMITTEE ON
CONSTITUENCIES DEVELOPMENT FUND**

Hon. Eng. Karue, MP
Hon. Stephen Manoti MP
Hon. Prof. Christine Mango, MP
Hon. Jane Kihara, MP
Hon. Lucas Maitha, MP
Hon. Eng. E.O. Nyamunga MP
Hon. Charles Kilonzo, MP
Hon. Mohammed Yusuf Haji MP
Hon. Henry Kosgey, MP
Hon. Dahir Sheikh Abdallah, MP
Hon. Sammy Koech, MP.

Mr. Omingo: On a point of order, Mr. Speaker, Sir. I served on a number of Committees last Session and there was a contradiction or controversy regarding the inclusion of my name in the Administration of Justice and Legal Affairs Committee. That was brought before the House and it was not resolved.

Mr. Speaker: I have already ordered and it has been done that your name as a representative of FORD-(P) is supposed to be there. You are now there. I can confirm that to you.

POINTS OF ORDER

FOOD SHORTAGE IN ISIOLO DISTRICT

Mr. Bahari: On a point of order, Mr. Speaker, Sir. I stand to demand a Ministerial Statement from the Minister of State For Special Programmes regarding a prevailing food shortage in Serisia Division of Isiolo District where it has been reported that 80 per cent of the population is facing starvation as a result of failed rains and the continuation of the drought.

(Loud consultations)

Mr. Speaker: Order, hon. Members! For those who do not know, the hon. Member is talking about a serious issue which is the continuation of the drought in spite of the fact that it has been raining in Nairobi.

Proceed!

Mr. Bahari: Thank you, Mr. Speaker, Sir. In this same area, the community has lost over 80 per cent of its livestock and, therefore, there is a continuous food shortage. It has also been reported that a number of deaths of women and children have occurred in the same area as a result of starvation and that nearly 60 of them have now been admitted to Isiolo District Hospital.

Could the Minister confirm this situation and inform the House what action he has taken to alleviate the impending human catastrophe in that region?

COMPOSITION OF THE PUBLIC
INVESTMENTS COMMITTEE

Mr. Sungu: On a point of order, Mr. Speaker, Sir. I seek your indulgence concerning Standing Order No.148(1) with regard to the composition of the Public Investments Committee

(PIC). *Inter alia*, this Standing Order states:

"There shall be a select committee to be designated the Public Investments Committee (PIC) for the examination of the working of the public investments. The Public Investments Committee shall consist of a Chairman who shall be a Member who does not belong to the parliamentary party which is the ruling party and not more than ten Members who shall be nominated by the House Business Committee to reflect the relative majorities of the seats held by each of the parliamentary parties in the National Assembly at the commencement of every Session provided that, the ruling party shall have a majority of not more than two".

Mr. Speaker, Sir, in this case the KANU party has six Members. Other parties other than the ruling party all have a representative and, therefore, the ruling party does not have a majority as provided for by Standing Order No.148.

Mr. Speaker: Order! That is actually irrelevant. The relevance is that the ruling party has a majority of more than two Members. In fact, the spirit of that Standing Order is to give the Opposition the ability to audit the Government. So, if the Opposition has more, all the better. In fact, the Government can actually quit it if they want. So, the only thing you cannot do is to let the Opposition quit. If there is no Opposition it will not function.

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

Mr. Speaker: We will not argue on this. That is my decision!

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

Mr. Speaker: What is bothering you?

Mr. Sungu: Mr. Speaker, Sir, I am a Member of the ruling party and I am not in any Committee and I am willing to serve. I have a case because I have been left out. So, I want to serve through you.

Mr. Speaker: Order, hon. Members! I will not be party to this. I will not care. I do not care. I have no desire to care. If it is party issues, sort them out there. I have nothing to do with it if indeed there are any more parties in Kenya!

(Laughter)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I just want to say that the anomaly hon. Sungu is raising had been noticed but because we need to have the Committees working, we have gone ahead with the list as it is but consultations will go on. Necessary replacements will be done and if any hon. Member is left out and is desirous of serving, negotiations will go on and adjustments will come about accordingly.

(Applause)

Mr. Speaker: Very well! Hon. Members should note the fact that we just do not remove hon. Members at will. They will have to actually resign once they have been appointed. Now, there was the earlier issue which was overtaken by this interesting debate, which should not have been, which is the question raised by hon. Bahari regarding starvation and admission of citizens to Isiolo District Hospital because of malnutrition and hunger. Is there any Minister who is likely to respond?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Yes, Mr. Speaker, Sir. The relevant Ministry will issue a Ministerial Statement on Tuesday, next week. So, give them enough time to compile the information.

Mr. Speaker: In the meantime, Deputy Leader of Government Business, since this is a

matter of life and death, if you are satisfied that actually this is a life threatening situation, I am sure you will accept. Is that so?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I want to confirm that appropriate responses will be made in the meantime.

Mr. Speaker: Thank you. Next Order!

BILLS

Second Reading

THE COTTON (AMENDMENT) BILL

(Dr. Ojiambo on 3.5.2006)

*(Resumption of Debate interrupted
on 30.5.2006)*

Mr. Speaker: Was there any hon. Member on the Floor? Yes, hon. M'Mukindia was on the Floor! Is he here? He is not here. He seems to have forfeited his chance. Is there any other hon. Member interested to contribute?

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

Order, hon. Members! Take your seats! You know I cannot decide whether hon. Members are standing to contribute or to go out. So, can we have some order? Is there any hon. Member interested to contribute?

Mr. Bett: Yes, Mr. Speaker, Sir. Thank you, for giving me an opportunity to contribute on this important Motion. I, first of all, want to thank the Mover.

Mr. Speaker: Order, hon. Members! From the look of things, we maybe concluding the debate on this Motion and it would be nice to hear from the Ministry of Agriculture. Is there any Minister or Assistant Minister for Agriculture?

The Assistant Minister for Agriculture (Mr. Kembu-Gitura): Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Kembu-Gitura, will you be able to respond?

The Assistant Minister for Agriculture (Mr. Kembu-Gitura): Mr. Speaker, Sir, we have just now seen the report on the Departmental Committee on Agriculture, Lands and Natural Resources and the position of the Ministry is that we, of course, support the Private Member's Bill but subject to several amendments that we will be proposing. I do not know whether this is the right moment to respond this afternoon without having taken cognisance and having looked at these amendments and then responding. I seek a direction from you, Mr. Speaker.

Mr. Speaker: Hon. Members, ordinarily a report of the relevant Departmental Committee should have been brought before the House at the very beginning of debate so that when hon. Members are debating the issue, they are better informed. Noticing as I do that the Committee did, in fact, table the Report this afternoon---

*(Mr. Muiruri stood up in his place
and consulted loudly)*

Order, Mr. Muiruri! What is it? Will you sit down?

Hon. Members, noting as I do that this Report was just tabled today, I think the House is the worst for it. This is because the House is informed by the findings of the relevant Departmental Committee. I take this opportunity to request Departmental Committees to move with due haste and speed to report on the Bills referred to them as quickly as possible. It will be pointless to have a report on a Bill at the tail-end of the debate. It will actually serve no purpose. Therefore, I hope that the Assistant Minister will respond in the best way he can. Mr. Kembi-Gitura, you will have the advantage of hearing Mr. Bett, who is the Chairman of that Departmental Committee.

Mr. Bett, you now take my wrath for having not moved with speed and diligence. So, we hope you respond. The House will not be held back because a Departmental Committee cannot move.

Proceed, Mr. Bett!

Mr. Bett: Mr. Speaker, Sir, first of all, I want to apologise because the Departmental Committee on Agriculture, Lands and Natural Resources has brought its Report today. This was not intentional. There were various reasons that caused the Committee not to report. That includes the Inter-Parliamentary Union (IPU) conference. The consultations between the Mover and the Ministry took a lot of time. We needed adequate consultations because the Ministry was keen to have the Bill moved in the House in a proper manner acceptable to them and, indeed, also acceptable to Mover. As a result of those reasons, we were unable to conclude our Report on time. I, therefore, would like to apologise on behalf of my Committee.

Mr. Speaker, Sir, cotton is a crucial crop in this country. Yet, today, it is at the very pale shadow of its former self. The beauty and glory of that crop disappeared at one time in the past. It went with it the industry that had been established and the farms that were all over the country. The loss was colossal both to the investors in the textile sector and to the farmers who had invested a lot in the cotton sub-sector. I am sure hon. Members do remember well-performing textile industries such as Kisumu Cotton Mills (KICOMI), Raymond Textile Company (RTC) in Eldoret, Nanyuki Textile Mills (NTM) and Nakuru Blankets. All of them collapsed because the crop that used to service them was no longer in produce in this country. That alone has, indeed, taken a lot of foreign exchange from this country. This money is used to import textile materials either as finished products or as raw products to be used in the few existing factories that are still able to manufacture them. That loss has taken a lot of foreign exchange out of our country. It has also taken away a lot of benefits that were accruing to the farmers, factories and the Government by way of taxes.

COMMUNICATION FROM THE CHAIR

CHANGE OF ORDER OF BUSINESS

Mr. Speaker: Order! Order! Hon. Members, I would like to give a little direction on the conduct of business. After

Order No.7, we are supposed to move on to Order No.8. I am told the Committee to respond to that Bill has also not given a report. Actually, they are out of the country. That will, therefore, have to be downgraded. Hopefully, we will be able to get the report on Tuesday, next week. So, after Order No.7 we will move on to Order No.9 to be followed by Order No.8, so long as it is not for today.

Hon. Members, in the meantime, I wish to state that no Departmental Committee, or any other Committee of the House is allowed to go out of the country when the House is sitting. They must stay here to do their job. The Clerk is hereby instructed by the Chair that no Departmental Committee will leave this country when the House is sitting.

Proceed, Mr. Bett!

(Resumption on Debate on
Cotton (Amendment) Bill)

Mr. Bett: Thank you, Mr. Speaker, Sir. When cotton farming failed to be expanded in this country, it occasioned a lot of losses in terms of factories collapsing and loss of employment. Many people who were employed in those factories became jobless and there was collapse of farms that were growing the crop. There was also loss of welfare to the families in various regions of this country. That has denied the Exchequer the much needed foreign exchange by way of exportation of what used to be our textile. This has caused many people to suffer.

Mr. Speaker, Sir, apart from cotton giving lint, it also provides seed that is used in the manufacture of food and animal feeds. That has also not been available and we have had to import such products at a very high price. It is sad that our land is able to grow this crop for us to get raw materials for our local factories.

Mr. Speaker, Sir, cotton is mainly used in the manufacture of clothes. I would not want to say that it was wrong to encourage the growth of the *mitumba* sector. It was not wrong to encourage the expansion of this sector, but it came up as a result of the collapse of the cotton industry. If we develop the cotton sector today, we will be able to service our factories so that we increase production. Every well dressed Kenyan usually buys clothes imported in this country. However, this country is in a position to manufacture clothes for local and export markets.

The amount of land that is available in this country to grow cotton is in excess of one million hectares. Unfortunately, we are only able to produce 20,000 bales of cotton. Out of the one million hectares, we can produce 300,000 bales of cotton. This will be enough for local factories and export to other countries. There are factories located close to cotton farming areas. These factories should be revived to increase production.

Mr. Speaker, Sir, importation of linen out of textile has been increasing at the rate of 20 per cent annually as a result of population growth. We can produce and be able to use our own cotton without importing from other countries. We need a system that will revive the cotton sector. This is a system that will revive cotton growing, revive the closed down factories and one that will enable textile traders to continue with this business. In the process, we will have the welfare of our people improved. This is only possible if we amend the existing Cotton Act.

Mr. Speaker, Sir, if we can amend this Bill, then it would take care of the needs of our people. We would also be able to satisfy the needs of textile manufacturers in this country. The Ministry of Agriculture is committed to reviving the cotton industry, although it has taken sometime to do so. I am happy that the Ministry agrees with the Mover of this Bill and that will get our firms working again. I do not want to continue talking.

I beg to support, and want to apologise for bringing our Report later than it was expected.

Mr. Kipchumba: Mr. Speaker, Sir, I want to support this Bill. I also want to make some remarks about the Bill. The coming up of this Bill was long overdue. I want to suggest that the *ex-officio* board members who are in the board be reduced. As we have seen in the case of Uchumi, most of the *ex-officio* members who have been Permanent Secretaries are unaware of what happens in the respective companies that they sit in as board members, apart from the fact that they just earn allowances. The most noble thing to do would be to reduce their number so that the board does not incur many expenses in terms of paying allowances, when, indeed, they cannot even advise the Ministries about what goes on in the companies. Therefore, I suggest that at a later stage, we remove Permanent Secretaries and only leave the Permanent Secretary, Ministry of Agriculture. The Permanent Secretary, Ministry of Finance and that of the Ministry of Co-operative Development and Marketing should be removed. We are all aware that we have one Government. Any information that is relevant to it will, indeed, be brought by one Permanent Secretary, who will be named in the board. I also want to suggest that we make an additional amendment; that, the Chief Executive be the Secretary to the board, as is the case in many companies where chief

executives or managing directors are, indeed, secretaries to the respective boards. Clause 3(3) says:

"The chairman of the Board shall be elected by the members of the Board from among the members elected under sub-section (1) (a) or appointed under sub-section (1) (b).

I want to suggest that we differentiate between membership. The primary stakeholders of the authority are, indeed, farmers. If farmers are the main stakeholders of the authority, the chairman must come from what is stipulated in sub-section 3((1) (a) and the vice-chairman, subsequently, from what is stipulated under sub-clause (1)

(b). The reason is because many times, farmers in many boards are relegated to be mere spectators. Therefore, we have to ensure that, indeed, the primary stakeholders who are farmers from various provinces are given the respective roles they should play. The secondary stakeholders, who are members of the associations of cotton growers' ginneries, should be given the position of vice-chairman. I will be making a recommendation, that the section, indeed, be amended.

Mr. Speaker, Sir, I also looked at the Bill and saw some suggestions that the Minister for Finance should ensure that the ruling price is determined by the Minister for Agriculture. I do not subscribe to price control. What would happen if the Minister in charge fixes a price and buyers do not buy? What recourse would the farmers take? Would the Minister order or force buyers to buy? I am not a believer of price control. Price is determined by demand and supply. I want to suggest that the issue of price control be removed. It has been tried in the past. No price control works. We are running away from a situation where Governments are left with the power of controlling prices. I do not think the Minister has the capacity to dictate or decide at what price farmers should sell their commodities.

Mr. Speaker, Sir, I am happy that the Controller and Auditor-General will be auditing the authority. That is a welcome move that should be supported. We are aware that the Controller and Auditor-General is doing a good job. The fact that the Minister concerned must bring to this House the accounts of the authority within 14 days, is indeed, a welcomed move.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, we are all aware that cotton is grown in the arid and semi-arid areas. That is one way of ensuring that our country's land is utilised fully. However, we are also aware that the cotton produced in this country can also be of competitive quality because we can

afford cheap labour. We are having a problem of unemployment, yet some of our land is under-utilised. Therefore, the Government must move with speed to effect---

It is known all over the world that the best cotton is produced in tropical areas where this country falls. I also want to support the fact that the authority should be supported by being given an initial capital of Kshs1 billion. However, the money must be a revolving fund. We are aware that some authorities, in the past, have been given money which went to the drain. If, indeed, Kshs1 billion is given to support the authority, it must be seen to be a revolving fund. It must be repaid. We have new ginneries everywhere, for example, in Kerio Valley and western Kenya which were bought but they have not been used because the industry collapsed.

Mr. Temporary Deputy Speaker, Sir, I am happy that, currently, we have the market under the African Growth and Opportunity Act (AGOA). But what are its benefits to this country? There are, indeed, no benefits to this country because as we are all aware, the middlemen and exporters reap most of the benefits. We hope that this industry will be encouraged, and many Kenyans are waiting for that. We also hope that the industry will not collapse again because the textile industry

that existed in this country collapsed in the 1980s basically because of competition.

I also hope there will be legislation that will put in place an institution that will ensure the production of high quality seeds. In the absence of a company like the Kenya Seed Company that will, indeed, produce high quality seeds, this authority will, in my view, be unable to enforce the production of high quality seeds because it may not necessarily have the capacity and capability to do so.

With those few remarks, I beg to support.

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

First of all, Mr. Temporary Deputy Speaker, Sir, I will start by congratulating Dr. Ojiambo for her passionate support for cotton growing in this country. Indeed, both Dr. Ojiambo and I come from a cotton-growing area. The Bill before the House is an attempt to improve the cotton industry, but it does not go far enough. I hope that the Minister for Agriculture, the line Ministry, in their response, will try to enrich this Bill.

The most critical content in this Bill is the creation of the authority. I agree that we need an authority, but the Ministry should give its input to ensure that we do not have an authority that will be loaded by persons who are unproductive; an authority that will just be another load on the farmer. The proposed authority looks like a sector representative board and Dr. Ojiambo has even gone further to propose that the representation be provincial and other stakeholders.

Mr. Temporary Deputy Speaker, Sir, running through the Bill, there is one thing that Dr. Ojiambo has omitted, and which the Minister should bring in to enrich the Bill; the members of this authority board have no qualifications! I hope we do not get to a situation where we load the board with everybody and anybody who just goes there to sit, doze, yawn, earn allowances and go home. Clause 5 of the Bill does not give a provision as to who qualifies to be a member of the board. When we leave things fluid like this, you will find some of our colleagues here pushing their hangers on and all manner of fellows to the board and this will not be good for the industry. We need qualified people who know what it means to grow cotton, who understand the plight of the farmers and who know how to market cotton so that the industry can be revived.

Mr. Temporary Deputy Speaker, Sir, the Bill also attempts to bring back price controls. I would like to discourage Dr. Ojiambo from following this route. We are in a liberalized economy and we cannot create a board whose functions include price fixing. This is not right because we are in a free market economy and we do not want to tie the farmers to unreasonable pricing structures that we have seen in other crops like sugar-cane and so on, where the farmers never get value for money because they are tied to cartels built in the law that fix prices.

Mr. Temporary Deputy Speaker, Sir, the cotton industry in this country has been neglected for a long time. I hope that the Minister will take the window created by Dr. Ojiambo in this Bill to have a much broader look at the industry. To revamp the cotton industry, we need a multi-sectoral approach. We need something to do with the Kenya Agricultural Research Institute (KARI) on research. We need quality seeds. This must be a product of research. The Kenya Seed Company must be brought on board. We need KARI and all other stakeholders that are involved in the production of quality seeds. Currently, the farmers grow cotton, remove the lint, and they are left with the seed. That is the same seed that they plant. This undermines the yield.

Secondly, Mr. Temporary Deputy Speaker, Sir, the Government has been putting a lot of money in various crop developments. For example, we have the Sugar Development Levy in the sugar industry. We have support for the tea and coffee industries and so on. Apart from creating the board, I would urge Dr. Ojiambo to go a little further and establish ways and means within the law on how the cotton farmers can be assisted. We also need to address the cotton industry by looking at the co-operative societies. Most cotton ginneries in this country are owned or were previously

owned by the co-operative societies. They were mismanaged and looted. They have all collapsed.

As we try to revive the cotton industry, how do we help the farmer through co-operative societies to revive their interests and capacity to run the co-operative societies and benefit from them? I think we also need to address this issue. I hope that when the Minister comes to respond, he should go beyond the provisions that Dr. Ojiambo has put in the draft Bill and give us provisions that will really help the farmers to take control of the cotton industry right from the issue of seed quality, all the way to the production and marketing of the lint and, above all, the ginnery and textile industry which depend on cotton.

Mr. Temporary Deputy Speaker, Sir, cotton is one of the crops that ordinary Kenyans, particularly in the Arid and Semi-Arid Lands (ASALs), can benefit from the growth of the economy. This is a crop which even a farmer who grows half-an-acre or one acre can, within three to four months, be able to harvest the crop and get some proceeds out of it. The level of neglect seen in people who have vested in this sector in this country is inexplicable. I hope that this is now going to give us a new beginning to move to assist the cotton farmers.

Hand in hand with that, Mr. Temporary Deputy Speaker, Sir, although it is not part of this Bill, I want to urge the Minister for Agriculture to reign in on those who have run down farmers' assets in terms of ginneries in this country. Successive Governments in this country have spent a lot of money establishing co-operative societies and ginneries for farmers. The middlemen moved in and ran down these ginneries leaving the farmers high and dry, stranded and unable to do anything with the crop. Eventually, the cotton industry collapsed.

Mr. Temporary Deputy Speaker, Sir, as you know, cotton farming is one of the easiest and cheapest in this country. If the Ministry of Agriculture allocated a district, like Bungoma, about Kshs30 million to Kshs40 million per annum, we would be able to assist in the revival of the industry. There are other areas like South Nyanza where Eng. Okundi comes from, Makueni, upper eastern areas and Baringo. We have lots of capacity to grow cotton. All we need is just a little support. The little support that I would want the Ministry of Agriculture to bring to this Amendment Bill is provision of extension officers. These are officers who can guide the farmer on the nature and quality of seed; the time of planting, the crop husbandry, the harvesting, post-harvest management and marketing of the crop. Eventually, the farmer needs advise on how to deal with the income from the crop. If all these things were done, then the Board that Dr. Ojiambo is trying to create in this Act will have a meaningful and satisfactory job to execute. Otherwise, we may create a white elephant that will do nothing. We may have a board that will end up spending money from the industry for no job done. This is so because the board will sit there. If they have no other legal framework to support them to execute their duty up to the ordinary farmer, the board will be meaningless.

Finally, Mr. Temporary Deputy Speaker, Sir, I would like to emphasise that we must, when we go to Committee Stage, either through the Minister himself or Dr. Ojiambo, get the qualifications of whom she wants to serve on this board so that we do not just have people filling up boards because they are connected to some of us.

With those few remarks, I beg to support.

Mr. Poghiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to contribute to the Cotton (Amendment) Bill. I do not intend to take long but I would like to join my colleagues in supporting this amendment. It is not only important and necessary, it actually begins by being a reminder that the Government needs to look at all Acts and try and help by bringing amendments to all Acts of Parliaments that are not in line with the liberalised economies. This is to ensure that we will begin to catch up with the rest of the world in preparing our laws to be in line with liberalised economies.

I would like to suggest that whatever happens in the case of cotton, this is a good avenue

for the ASAL areas to begin to diversify their economies. I think that cotton is the kind of crop that you can begin to see in ASAL areas. It does very well. There are varieties that do well in ASAL areas. This will cushion pastoralists from the frequent droughts and dependence on relief food year in, year out. I would like, therefore, whatever the board is, to be pro-active. So, when we pass this Bill and introduce this board, there should be an element of being pro-active in initiating new areas for growing cotton and introducing ginneries in those areas.

Mr. Temporary Deputy Speaker, Sir, I would like to ask my colleague, who is bringing this amendment, to make sure that even through the Committee Stage, it is included that there is potential for a bigger part of Kenya to grow cotton.

I would also like to state with regard to the funding obtained that I do not, first of all, agree that this is going to occasion any more from the Exchequer than it has already. Being an amendment to an existing Act, it is definitely not going to be an issue. So, we cannot deny it on the basis of it occasioning any extra monies from the Exchequer. I think that if there are any other monies, it will be just on the basis of growth but it is not going to be rejected on that basis. I would like to remind my colleague that this is an amendment and she should not even worry about that.

Mr. Temporary Deputy Speaker, Sir, I would like to say that if there is any more money to be increased, the board should work with like-minded or other organisations that are also in research so that they can expand the area under cotton. The Kenya Plant Health Inspectorate Services (KEPHIS) and the Kenya Bureau of Standards (KEBS) should be brought on board. The Agricultural Finance Corporation (AFC) should also come in to help young and beginners in cotton growing by giving them loans so that they can begin to prepare their land and manage to take their crop to the market.

Mr. Temporary Deputy Speaker, Sir, I think that my addition to this is that this is an area where those of us who are now dependant on livestock can begin to have some form of cash crop to go with it. It should be made deliberate so that when the young ones are growing and going to school, they can always expect that the parents will have fees and that they can pay their fees not depending on livestock. Maybe after that, we can begin to talk about other crops that can do well in ASAL. Maybe we can begin to talk about the commercialisation of the Aloe Vera plant. There could be other crops that can do well there that will enable people to have money and strengthen the economy of this country.

Mr. Temporary Deputy Speaker, Sir, I, therefore, I did not intend to add much but there are attitudes that must change. The attitudes of Kenyans, the Government and everybody should change. We need to ask ourselves: What happened to cotton before then? Uganda and other countries continue to sustain their cotton industries while ours collapsed suddenly. What really happened? What and how are we going to do it so that we do not have a repetition of that collapse when we revive the cotton industry? We, therefore, need to have lessons learnt and we have to move away from the structuring that exists right now in the cotton industry. Maybe the problem was the structures or with governance of those structures. We, therefore, need to amend this Bill so that it can take care of some of those pitfalls that befell our cotton industry in the past.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Minister, would you like to give the response from the Government?

The Minister for Agriculture (Mr. Kirwa): Yes, Mr. Temporary Deputy Speaker, Sir.

Thank you for this opportunity to give the response on behalf of the Government. At the outset, I agree with the spirit of the debate and the Bill subject to certain proposals that I will make in the course of time.

Mr. Temporary Deputy Speaker, Sir, it is true that the cotton industry has declined over the period occasioned by a number of factors that militated against the production and marketing of the

produce. Principal among them is the liberalisation of the sector where price controls were removed and the Cotton Board, which used to be the buyer of the last resort, was liquidated. It is for that reason that the forces of liberalised market economy took charge of the cotton industry and presided over the demise of cotton production in Kenya.

It is also true that 50 per cent of this country is appropriate for the production of cotton and it happens invariably that, that particular section of the country is also where there are high incidences of poverty. It is for this reason, therefore, that we in the Ministry of Agriculture and in the Government support the spirit and intentions of the Bill for purposes of streamlining the cotton industry. Principal among the purposes that we have as the Government, is that we feel that cotton, once fully revitalised is going to address the issues of poverty, reverse the trends of poverty levels and shall also be able to give sustainable food security for the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, the cotton industry used to support over eight million Kenyans and we intend to revitalise it. This was close to 30 per cent of the population of this country. As a way of addressing some of the problems that militated against high cotton production and its marketing the Government, last year, put aside Kshs250 million for its revitalisation, basically to provide seeds and other support services to farmers so as to enhance production. It is for this reason that, against conventional thinking that the cotton industry has not been revitalised by this Government. Cotton production has gone up by 50 per cent from a situation where we were using 70 per cent imported cotton and 30 per cent of the cotton from local production. Since production has gone up from 30 per cent to 45 per cent, an increase of 50 per cent over a period of 18 months, it is, therefore, for this reason that we intend to have a comprehensive review of Cap 33 of the Laws of Kenya to allow for the spirit of a liberalised market economy, and address specific issues concerning the cotton industry.

In December, 2004, we brought before this House a Bill, which was not debated on due to lack of time. As I said, the amendments that we intend to introduce shall be discussed at the Committee Stage. I want to seek the indulgence of my hon. colleagues to look at ways of ensuring that the amendments that we shall introduce will not curtail the spirit of the Bill. Our intention is to be cognisant of the fact that we are dealing with a liberalised market economy. We can no longer do the things that the Cotton Board used to do, and in the manner they were done, 20 years ago.

Mr. Temporary Deputy Speaker, Sir, hon. Members have raised the need for us to revitalise the regime of laws affecting various parastatals. I want to bring to the attention of the House the fact that the Ministry of Agriculture is thinking of bringing to the House an umbrella legislation to reflect the totality of changing circumstances, and also allow for ease of reference to various laws. I am saying this because the Ministry of Agriculture, and other concerned Ministries, are governed by over 101 pieces of legislation which are either obsolete, in conflict with one another, or are difficult to effectively interpret. It is for that reason that our intention, along with sister Ministries in the agricultural sector, is to bring one umbrella legislation to address the inadequacies not provided for in the current legislative regime. The intended reforms in this sector will be far-reaching and, therefore, we shall be able to inform the House about some of them at the right time.

The other issue that I feel my hon. colleague, and the House at large, should be able to take note of is that experience has shown us that collection of revenues or levies is better handled by the Kenya Revenue Authority (KRA), which is the body with the requisite capacity and personnel to deal with collection of levies. It is also our intention that this should be the case for purposes of collecting levies in the cotton subsector.

There has been concern about the take-over of ginneries by private individuals all over the country. While the outcry may be something that we need to note, it is also true that most of the ginning machines are either obsolete or the technology in use is not compatible with the state of technology obtaining in the rest of the world today. It is for this reason that, instead of crying over

what has happened, we need to look ahead, and see how we can improve the technology that we use for purposes of enhancing our cotton production. As you know, technology changes continuously. Therefore, technology that was appropriate 30 years ago cannot be said to be as good as it was at that time. It is for this reason that we in the Government are looking at ways and means of ensuring that what we do is meant to assist the cotton industry.

The other issue that we need to note is that in 1992 the Board owed in excess of Kshs500 million to various creditors and institutions. This is a liability that needs to be brought to the attention of the Government for purposes of cleaning the balance sheet of the Cotton Board, so that the new body that will take over from the Board will deal with a new situation instead of debts owed to various institutions. It is for this reason that I want us to approach this issue, at the Committee Stage, with a lot of caution for the purposes of assisting in the revitalisation of the cotton industry.

As far as other institutions are concerned, we are upbeat in trying to address problems, I as said before. We spend a lot of time looking at the future instead of digging out the past and clouding our vision for the future. These are the issues that we, in the Ministry, and Government, are looking at so as to assist the cotton industry and other sectors of the economy.

As you know, for the last 100 years, cotton has been grown in Kenya, and has been a major industrial crop assisting close to eight million Kenyans. At its peak time, the industry produced 70,000 bales per year. This is a situation we want to bring back and make it even better than it was.

Mr. Temporary Deputy Speaker, Sir, I do not want to take a lot of time. I have noted the sentiments expressed by various hon. Members on the way forward, and how we need to address the issues of poverty and unemployment. This will enable the economy of this country to improve. I will, therefore, make my contribution on behalf of the Government that, while we support the spirit of the Bill, I do hope that at the right stage, the hon. Member who moved the Bill, and other hon. Members, will listen to our side of the story, so that we produce a law that will assist the cotton industry now and in the future.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): It is now time for the Mover to reply. Or, is there any hon. Member who wants to contribute to this Bill?

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I would like to make my contribution to this Bill, because I believe it is a very important Bill. This is because the poverty level in the country has been on the increase.

As you know, one thing that the Government has been struggling to do is to reduce the level of poverty in our country. Poverty is one of the things that have been identified and we need to work hard to reduce it. The real situation on the ground is that poverty has been on the increase. Of late, especially in the areas occupied by pastoralists, the situation has been worsened by drought. In fact, nearly 80 per cent of the livestock belonging to pastoralists perished. The communities that keep these animals have been rendered poor and are now classified together with others who are faced with abject poverty.

Mr. Temporary Deputy Speaker, Sir, the relevance of what I am saying is that cotton does fairly well in some ASAL areas. In areas where rivers flow, cotton does even better. When I was in secondary school, I used to see the people living around the Ewaso-Ng'iro North Belt grow cotton and take it to Meru where there was a ginnery. I remember that some of my friends would pay school fees from the proceeds their parents earned from the sale of cotton. Therefore, in order to improve the lives of those communities that live in marginal areas; and in view of the fact that due to cattle rustling life has become nearly impossible because of conflict, this can be one of the ways to ensure that these communities make use of the soil and water in their environment in a better way.

I am surprised that people in those areas which used to grow cotton within Isiolo and the Tana Belt are now doing literally nothing. All they can do now is to wait for famine relief. You know how much money famine relief costs this country every year. We have tended to address the symptoms rather than the root causes of poverty and other problems in this country. This Bill has been brought at the right time so that cotton production and marketing can be properly supported by the State and used as one of the ways to alleviate poverty in the ASAL areas.

Mr. Temporary Deputy Speaker, Sir, it is important because over 80 per cent of our country is arid and semi-arid. However, that does not mean that we cannot produce cash crops and turn around the economy of this country. It is through the production of crops like cotton that we shall be able to turn around the economy of those that have been marginalised. This will be in addition to what already exists in terms of livestock production. We know that 50 per cent of livestock in this country is produced in the ASAL areas.

Mr. Temporary Deputy Speaker, Sir, the other issue that needs to be looked at in cotton production is the African Growth and Opportunity Act (AGOA). All along, Kenyans have not fully taken advantage of the AGOA. I do not recall seeing any increase in the production of cotton anywhere in this country. On the contrary, what we have done is to import cotton into this country and then produce material for export to the European market. It is extremely important and, in fact, long overdue that the Ministry responsible moves with speed to ensure that cotton production and marketing are properly supported so that this country can take advantage of the AGOA.

We all know that agriculture is the backbone of our economy. With cotton, there could be a lot of other related back and forward leakages which this country will be required to take advantage of.

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

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

The Temporary Deputy Speaker (Mr. Khamasi): What is it, Mr. Nderitu?

Mr. Nderitu: Mr. Temporary Deputy Speaker, Sir, given that there is nothing new coming from the Floor of the House, am I in order to suggest that the Mover be now called upon to reply?

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

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank hon. Members for their very sincere contribution to this amendment Bill. I have taken note of their very important contribution. I wish also to thank the Minister for his contribution to this Bill and the support he has given us.

When we started working on this amendment Bill, we held a lot of consultations with the Minister and stakeholders. Members of Parliament in whose areas cotton is grown were also consulted. I am very happy that their opinions have been brought together in the Second Reading of this Bill. We have, indeed, come out richer in terms of knowledge of what we need to do to make the cotton industry thrive and more sustainable for Kenyans.

I have taken note of the fact that Kenyans are aware that the cotton industry was supporting a lot of people in the marginalised areas of this country. It was a big income earner for us. In fact, over eight million people depended on the cotton industry. Today, it is upon us, as a Parliament, to assist these people reinstate themselves back to this industry. We need to give them a better legal framework within which they can operate and manage their welfare.

Mr. Temporary Deputy Speaker, Sir, I have noted concerns about the cotton co-operative societies that used to propel cotton production and development in this country. When liberalisation came about, the cotton industry collapsed and so did the co-operative societies.

We have noted that members of such societies are rendered helpless without a framework that puts them together. Since the co-operative societies collapsed, members will have to rely on these new regulations that are meant to put them together.

Mr. Temporary Deputy Speaker, Sir, I am happy to note that Members of Parliament were concerned about the quality of cotton in this country. They emphasised on the area of research. They argued that research on cotton seeds should be done in order to improve the quality of seed which should be made available to cotton farmers. The staple link should be improved for export market in order to make our cotton competitive. This is important and it is the reason why stakeholders wanted us to look afresh at the cotton industry.

Mr. Temporary Deputy Speaker, Sir, hon. Members have mentioned international trade pacts that could help foreign and local markets for the benefit of growers. In that respect, it is important to bring into the fold the Permanent Secretary, Ministry of Trade and Industry. He has participated in many fora with the World Trade Organisation (WTO) and many other organizations. He was able to bring information on the African Growth and Opportunity Act (AGOA). He is capable of bringing in the necessary information and support that cotton growers need.

Mr. Temporary Deputy Speaker, Sir, cotton development itself is very important. I am glad that hon. Members have talked about idle land that could be cultivated to increase cotton yields. We have over one million hectares of land available for cotton production. We have also talked about eight million Kenyans who could benefit from that activity. Definitely, we are talking about many jobs being created. It is important to revive the cotton industry to assist those who do not have other economic activities to sustain their livelihoods.

Mr. Temporary Deputy Speaker, Sir, we all know that those who live below the poverty line come from areas which depended on cotton as their main cash crop. Those people still live under the same conditions. They live in abject poverty even today because some of them, especially from Busia, do not have any other means of livelihood. They just wait and ask when their cotton industry will be resuscitated.

Mr. Temporary Deputy Speaker, Sir, many ideas have been raised to benefit cotton growers. Hon. Members have made reference to dilapidated cotton ginneries and development of Export Processing Zones (EPZs). Ginneries should also add value to cotton by introducing spinning, weaving, oil extraction, cotton animal feeds and so on. All that can be done when a proper legal framework is put in place to control farming activities and to do proper research to enhance the skills of farmers in the management of the crop.

Mr. Temporary Deputy Speaker, Sir, these amendments are aimed at giving mandate to cotton growers to have more say in their own trade and acquire modern skills to manage their resources. I am pleased to note that these amendments are establishing a Cotton Development Authority to enable stakeholders to participate in the management of their own activities.

Mr. Temporary Deputy Speaker, Sir, we have agreed with the Minister and hon. Members that other amendments will be brought at the Committee Stage. We have looked at this amendment Bill together with the Minister. We will introduce aspects that we think are necessary to make the draft amendment Bill richer. Hon. Members can look at what they contributed on the Floor of the House against what is in the printed amendment Bill. Later, at the Committee Stage, they can assist us to make it richer and more useful before we finish this process.

With those few remarks, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time)

*and committed to a Committee of the
whole House tomorrow)*

(Applause)

Second Reading

THE RETIREMENT BENEFITS
(AMENDMENT) BILL

The Assistant Minister for Finance (Mr. Kenneth): Thank you very much, Mr. Temporary Deputy Speaker, Sir. This is an amendment to an Act that was passed by this very House in 1997, for the creation of a Retirement Benefits Act. Nine years later, we have noticed the importance of bringing a few amendments to safeguard, regulate and ensure that governance of the retirement benefits are in good order. This particular amendment can be seen in three phases.

Mr. Temporary Deputy Speaker, Sir, first, as reforms within the sector of retirement benefits. Secondly, as a measure to good governance and, thirdly, introducing a few players. The bulk of this amendment is to introduce the role of an administrator into the retirement benefit schemes. The original Bill referred to a manager and a custodian and, over the years, we found it important to bring in an administrator to re-align what was set up by the Bill in 1997. If you go through the Bill, most of the amendments are aimed at bringing in the role of an administrator in a retirement scheme.

The second phase is to regulate those administrators. The criteria to regulate the administrators has been given.

The third phase is to ensure there is governance; by way of introducing regulations for the role of the administrators. We have given what the share capital of an administrator should be. We have said what an administrator should be. We have also said that he should be guided by certain regulations. All that is to ensure that retirement benefits schemes are in good order. Retirement benefits schemes are there to ensure that those who contribute towards their retirement are well taken care of when they retire. They get their money from their retirement schemes.

We have also brought in a set of regulations so that any retiree can be sure that he will get his retirement benefits when he retires. I am also aware that some of the Questions that have been brought on the Floor of this House have concerned people who have retired; people who have paid some pension and in some cases, most of those pension schemes have actually closed down, thereby causing a lot of pain for people who have worked very hard and who thought that at some point, they would enjoy their retirement benefits.

Mr. Temporary Deputy Speaker, Sir, one item which is very important in this particular amendment is to actually criminalise those employers who deduct money for purposes of retirement schemes and do not remit that money to those schemes. It has been the concern of this House that employers who have deducted employees' money have not remitted those deductions, not just to retirement schemes but to SACCOs or any other schemes that the employees could be involved in. We are, therefore, proposing, in amending this Act, that anybody who deducts money from an employee, money which he is supposed to remit to the scheme and does not do so in 15 days on deduction, has actually committed a criminal offence and the law should take its course. We are hoping that any employer who deducts any money and does not remit will take note of this so that the employee can get the benefit of deductions, because they are supposed to be invested on their behalf by the custodian or the administrator, so that they can accrue some interest to create what we call a good day when one retires.

Looking at the Bill, it is talking about three things. The reforms that will bring very good regulations, and this is what we need to do after nine years of existence. The need to criminalise has been more than urgent. The need to create an administrator as part of the custodian and managers of pension schemes has been desirable from day one.

With those remarks, I beg to move.

The Assistant Minister for Co-operative Development and Marketing (Mr. Mwenje): Thank you, Mr. Temporary Deputy Speaker, Sir.

I beg to second this Bill.

The Assistant Minister for Finance has outlined the various areas which need to be amended for the purposes of making this law more effective. As the Chair may note, every single day, Members bring Questions asking why particular benefits have not been paid to a particular individual. Even Members have privately decided to bring Motions which have turned into Bills to make sure that those who retire get their benefits.

Mr. Temporary Deputy Speaker, Sir, when somebody retires, that is the time that he needs to be looked after. At that time, that person does not have the energy to do other work. He has been saving so that, that money can sustain him for the rest of his life. But because of the delay in payment of these benefits, when somebody retires, most retirees die after one to two years in retirement.

In most Western countries, you will find that people look forward to their retirement time because they are assured that they will be paid. But here, you retire and you are never sure whether you will be paid your money on time. Because of these delays, people get sick and their lives change immediately. If one is used to eating some meat, they cannot even afford to eat even a quarter kilogramme. Sometimes, your wife can even leave you, as hon. Moi is suggesting.

Therefore, I want to agree totally with the Ministry of Finance that we amend the areas which cause any delay in payment. We must have a proper administrator of these funds who, immediately, is even answerable to Parliament and the people. I hope that the moment we pass this Bill, it will be implemented immediately.

I will give you a practical example. A brother to my father died some time back. His wife has been seeking to be paid his benefits. But because of the bureaucracy in these procedures, she has never been paid. I think she is likely to die before enjoying what was left by her husband. If, at my level, I have not been successful in assisting them to be paid, what about the common man?

Mr. Temporary Deputy Speaker, Sir, I also want to thank the President for ordering the increment of benefits to retirees. For the first time, the media, which has been very critical of this Government, showed appreciation. Although they are claiming credit that the increment was done because of their campaign, I want to tell them that this Government does not dance to the tunes of the media. It was done by the President in his own wisdom and the advice of his people, and not necessarily because of the media campaign. Nevertheless, their campaign served as a reminder, but they should not claim credit wholly.

With those remarks, I beg to second.

(Question proposed)

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir. From the outset, I rise to support this Bill. I agree with the objectives contained in it. In my view, it introduces three very important clauses apart from the addition of the word or title "administrator" to "managers and custodians."

Clause 2 of the Bill defines "trust corporation" as a company incorporated under the Companies Act, having a subscribed capital of not less than Kshs10 million and which is for the

time being empowered (by/or) under any written law, its charter, memorandum of association, deed of settlement or other instruments constituting it or defining its powers to undertake trust."

When you look at that particular definition of a trust corporation, it is very good. This is because it sets out the minimum share capital. It appreciates the tasks that it is likely to engage in, within the Retirement Benefits law, are such that they need adequate security because they will be engaging in the administration or management of funds which have been deducted from toiling employees of various organisations and/or persons.

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

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

Clause 6 of the Bill seeks to introduce a new Section 25 (b) on the qualification for registration as a scheme administrator. That is, one will not qualify unless that person applying in "a", is a limited liability company and "b", has such minimum paid-up share capital as may from time to time be prescribed. I would like to propose to the Minister that just like he has done with the trust corporation, he should consider introducing some minimum. I do appreciate that it is possible for the Minister for Finance as he does regularly during Budget speeches, to keep adjusting this. People will know from the outset that unless they have a certain minimum share capital, they may not necessarily even apply. I think it would be important for the law to state the minimum as we have done in the case of the trust corporations; not less than Kshs10 million. I think we could do the same in this. It is equally important. Whether it is the administrator or custodian, he is also deemed to be applying to perform a job of trust. He needs to administer. So, it is very important that he knows that one must have a minimum share capital of the company. That should be clear so that we are not told that the share capital is limited by guarantee and so on. I think we need to be more definite.

Mr. Temporary Deputy Speaker, Sir, I also wish to laud the Minister for having come up with Clause 21 of this Bill which similarly proposes to introduce a new Section 53 (a). We have said that a person or company that deducts an employee's contribution for onward transmission to a particular scheme commits an offence when he does not within 15 days remit it. But then we have said the employee will again give a notice of seven days that he intends to take out proceedings in court. Since we have seen, in practice, a situation where deductions do not reach the intended destination, which in this case is the scheme, I propose to the Minister to possibly introduce a provision that, indeed, introduces a penalty for anybody who fails within those 15 days to remit deductions. We should not just leave it to the contributor or employee to take action. Is it not possible that the Retirement Benefits Authority (RBA) can be given powers to actually, on its own, prosecute a person who fails within those 15 days to remit the deductions to a particular scheme, instead of leaving it only to employee? Many times some of these employees really do not have the capacity to institute legal proceedings against their own employers. We are giving them almost a licence to be sacked. Indeed, I want to agree with what I can hear from the Government side of the House; that generally we know that it is not easy to prosecute cases in court. It is never for free. They would be asked to pay court fees and such like things when, indeed, it is the employer who has failed to remit. I would propose that the RBA actually be the one to prosecute any person or employer who fails within the stipulated time to make the remittance, so that we remove the burden of having to take this action from the employee.

I am just wondering when such deductions are not noticed to have not been remitted many

years after the facts. We are giving this one 15 days. Indeed, we have seen this particularly in the case of the National Social Security Fund (NSSF), where an employee after retiring three or five years later goes to make his claim and he is told to bring all records showing how he has been contributing to the Fund, when, indeed, he was deducted money. The payslips would show that he all along was being deducted, yet, he is being told to bring proof of it. I think we put the retired employees into a lot of difficulties. I wonder whether the Minister could consider, within the RBA set-up, a mechanism by which the RBA itself becomes self-propelling in discovering which employers are not remitting the money. If they are not remitting the money within the stipulated time, the RBA should issue those notices. In fact, I think this clause should be re-worded so that the RBA is the one to issue the notice to the employer that he or she has not remitted deductions of employees "a", "b", "c" and "d" within 15 days and, therefore, he should take notice that within seven days it intends to institute proceedings against him for failure to do so.

Mr. Temporary Deputy Speaker, Sir, I would like to commend the Minister on the composition of the quorum in the Tribunal to hear such disputes.

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

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. I will be very brief. I would like to urge the House that this is a Bill that we do not need to belabour. We can dispose of it very quickly.

Mr. Temporary Deputy Speaker, Sir, it is absolutely important and necessary that we have administrators introduced, as the Bill proposes, so that the administration of funds is properly done. I associate myself entirely with the sentiments aired by my good friend, Mr. Muturi. I want to add and emphasise on the issue of prosecution. Where there is a default, the Retirement Benefits Authority (RBA) should be fully empowered to prosecute. These kind of offences are what in law we call "strict liability offences". They are the only offences where there is a departure from the norm in the Constitution; of being presumed innocent until proved guilty. These are prosecutions where once a company is taken to court, it is up to the company to prove that it remitted the money.

This being a strict liability offence, we would want the RBA to be the one to prosecute quickly and take away that burden from the employee because, as Mr. Muturi said, you put the employee on a collision course with the employer thus giving the employer a licence to sack the employee. Eventually, the employee ends up losing.

Secondly, I would like the Assistant Minister for Finance to also look at the issue of how to determine default. For instance, now Kenyans are faced with the nightmare of the collapse of Uchumi Supermarkets. You will find that Kenyans who have worked with the supermarket chain for the last 20 years or more, had their pension deductions made but not remitted to the relevant pension scheme. The company has collapsed. It is in liquidation. It is in total bankruptcy and the employees end up with nothing. The receiver managers will not want to entertain any such claims.

Mr. Temporary Deputy Speaker, Sir, what I would suggest is that the RBA rules be amended to provide that an employer must publish proof of remittances at regular intervals; If it is on a monthly basis, an employer must publish to the employees and to the satisfaction of RBA that they did not only deduct the money from the employees but they also remitted the same to the pension schemes. This is the only way we can be able to protect the employees, so that at the end of the day, we do not have an employee getting fathom payslips every end of the month, showing deductions when those deductions are never remitted to his pension scheme.

After retirement, when they go to the National Social Security Fund (NSSF) to claim their pension dues, the NSSF declares them strangers because the pensions body has not received a cent from their former employers. By that time, the employer will have vanished and left the country. It is only by regular publication of proof of remittances that we can protect the employees of the

various companies.

Mr. Temporary Deputy Speaker, Sir, I would also want to urge that we, as Parliament, make sure that the rules of the RBA are strictly enforced. We need to revisit the Bill that the Deputy Speaker brought to this House, which we passed into law. It provided that where the benefits of a retired employee are not paid within two months, they start accumulating interest until they are paid. We have a law which is not being enforced.

I think the RBA should also net in this provision, so that when people retire and are not paid, their money continues to accumulate. In case they die before they are paid, the money should continue accumulating interest. In case they die before they are paid, the money should continue accumulating interest and go to the estates of the deceased workers. That is the only way we can rein in rogue employers who sometimes defraud their employees.

Mr. Temporary Deputy Speaker, Sir, this amendment Bill is timely. We need to support and pass it quickly, so that we can move on to another business because it is not a matter that is contentious. It is a matter that is straightforward.

With those few remarks, I beg to support.

Mr. Kagwima: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to join my colleagues in supporting this important Bill.

As a country, we need to ensure that we take care of the people who contributed during their prime age, to the well-being of the economy and the country, right from former Members of Parliament to former assistant chiefs and other junior Government workers. There is a whole lot of these people in the countryside, who are living in poverty. Some of them have actually died of poverty after working for so many years for this good country. It is necessary that we pass this amendment Bill to ensure that even when people are in employment, they serve knowing that when they retire, they will not languish in poverty or be tempted to steal, so that they can take care of their future once they retire. Such action will change the mentality of Kenyan workers, be they in the private or the public sector.

Mr. Temporary Deputy Speaker Sir, it is very disappointing when you meet a bank manager or anybody who was enjoying such a position, then two years after his retirement you cannot even recognise his face. In the developed world, retirees enjoy themselves. Some people work, longing for the time they will retire, so that they can enjoy what they have worked for during their prime time. It is, therefore, timely that we put in place mechanisms that will ensure that administrators of retirement benefits schemes do not play around with what is supposed to go to retirees.

I would like to single out one firm which used to be a very good employer, namely, the Kenya Planters Co-operative Union (KPCU). The KPCU used to have a good retirement benefits scheme, where people would retire and get their benefits. However, in the course of time, when the company ran short of money, it stopped remitting deductions from the employees' salaries. Therefore, the scheme that was benefitting former employees collapsed or severed relations with that employer. As we speak now, five years after former KPCU workers left employment voluntarily having agreed with their former employer that they would be paid their benefits, they are in the countryside living miserable lives.

Therefore, I would like to appeal to the KPCU management, and other employers, to ensure that it honours agreements it entered into with its former employees, so that those Kenyans can lead normal lives. It is not only KPCU, but many more others including the NSSF. A few months ago, we read that the NSSF had problems paying retirement benefits to contributors from the private sector and from those who were not in formal employment.

Mr. Temporary Deputy Speaker, Sir, I would also like to appeal to those who are running current retirement benefits schemes to ensure that the schemes are run professionally. I hope that

once this law comes into effect, it will be applied strictly so that people can retire and enjoy their retirement benefits. I would like to appeal to employers who are supposed to pay retirement benefits to their former employees, including the National Assembly, to do so even as we wait for assent of this Bill from His Excellency the President, once it is passed.

Mr. Temporary Deputy Speaker, Sir, when you walk along the corridors of Parliament Building, you meet many former hon. Members looking very uncomfortable in pursuit of what they expect to be paid as pension by the National Assembly. I would like to appeal to the Chairman of the Parliamentary Service Commission and those in administration to ensure that former the hon. Members are saved from the agony that they have gone through all these years.

I had the experience of being out for five years and that experience is not sweet. So, we, in Parliament, should sympathise with those that are outside because life there is not sweet. When something is due to a person, why should he be subjected to suffering? As we pass this Bill, the National Assembly should set an example as a good employer for other institutions to follow. We should set an example as an organisation that takes care of its people when they are out of employment.

I would like to urge this House to quickly pass this Bill, so that our workers can enjoy. I have just remembered that old men from Europe come to Kenya using their retirement benefits and get married to our 21-year-old girls. This is because our standard of living in Kenya is so low. We should ensure that our workers enjoy their benefits after they have worked very hard.

With those few remarks, I beg to support.

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

When you grow old, you know how important it is to have benefits from your working life. In this country, very little emphasis is given to people who have served the Government and the private sector, particularly when it comes to their retirement benefits. I would like to thank the Minister for introducing this amendment to the Bill. The intention is good for retirees. I am very sure at the end of the day, hon. Members will pass this Bill. However, my biggest fear is: Who will implement it? The Government is the biggest defaulter.

More than a year ago, hon. Musila, in his wisdom, spent a substantial amount of money and time, and brought the Pensions (Amendment) Bill to this House to make sure that pensioners are paid promptly. The Government has failed to implement the Pensions (Amendment) Bill. The Government is the biggest culprit. When the Minister decided to make regulations to that amendment, he, in fact, wanted to defeat the spirit of the amendment. It is good that the same Government is bringing an amendment to this Act and once this Bill is passed, it should be implemented.

Mr. Temporary Deputy Speaker, Sir, the amendment seeks to criminalise those employers who do not remit retirement benefits. In my opinion, if you go by the rule of natural justice, such employers are actually guilty. They are not different from thieves and robbers. They want to reap where they did not sow. They are enjoying the sweat of others. There is no reason why the Government should sit and watch as employers refuse remit their employees' benefits. They plough the benefits back to their businesses, make more profits and expand their companies. The Kenya Revenue Authority knows very well that these people are not remitting their employees' deductions. Such employers should be jailed. In fact, if we jail quite a number of them, probably they will come back to their senses and know that what they are doing is a sin even in the eyes of God.

According to the Retirement Benefits (Amendment) Bill, the administrators should be given enough powers. They should not just be administrators by name. They should have sufficient powers to bring to book any employer who does not remit employees' retirement benefits to the

kitty. I would like to plead with the Government to make sure that once this Bill is passed, it is effectively implemented and then we shall be doing a very useful job here.

With those few remarks, I beg to support.

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I take delight in contributing to the debate on the Retirement Benefits (Amendment) Bill.

As you have heard from the previous speakers, the Government is the largest employer in the country. The methodology used to look after retirees in this country is pathetic. The National Social Security Fund (NSSF), which is supposed to benefit retirees has made no sense in this country. The money that has been contributed by employers has been invested in big endowments, which include housing units. The NSSF has been collecting rent but contributors, after retirement, do not get anything.

Mr. Kipchumba: On a point of order, Mr. Temporary Deputy Speaker, Sir. Given that hon. Members are now repeating the same issues, will I be in order to request you to call upon the Mover to reply?

(Applause)

The Temporary Deputy Speaker (Mr. Poghio): Let me dispose of that. Let me ask the House to decide!

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

The Assistant Minister for Finance (Mr. Kenneth): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank hon. Members because this Bill enjoyed support from both sides of the House. I have always said that, sometimes, we need to have a bi-partisan approach to things that are good for the nation. Hon. Members have unanimously supported this Bill.

Mr. Temporary Deputy Speaker, Sir, I have heard some of the suggestions. Some of them are worth considering. In fact, many Members have said that the Retirement Benefits Authority (RBA) should be mandated to look into the deficiencies created by employers. That is a very good suggestion.

Mr. Temporary Deputy Speaker, Sir, we want to criminalise employers who do not remit pension contributions. The employee should be able to report that to RBA when he or she becomes aware that his or her remittances have not been given to a pension scheme.

Mr. Temporary Deputy Speaker, Sir, there were fears that, once we pass this Bill, how would employers take any action? The amendment is very clear. It states that within 15 days of deduction, the same must be remitted. That means that the employer will have to prove to the employee that he has remitted his or her deductions. Seven days, thereafter, that action will be criminal.

The issue of "after the fact" was raised. I appreciate the concerns that have been raised. There are schemes that have failed because the employers have failed. Unfortunately, we can only act after this Bill has been passed. We might not be able to act in retrospect. I do not think we still have the data of those employers. As of now, it is very difficult to know employers who have deducted remittances and failed to remit them, unless the employees are able to bring it to the fore.

I also appreciate the point raised by Mr. Muturi on Clause 6, Section 25(b) about the introduction of a minimum. It is worth consideration. I am sure that, once we look at it, we will be able to harmonise it. However, overall, the whole House has been in concurrence.

With those few remarks, I beg to move.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Poghisio): Next order!

MOTION

ADOPTION OF REPORT ON NOMINATION OF KENYA ANTI-CORRUPTION ADVISORY BOARD

THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the Deliberations of the Nomination to the Kenya Anti-Corruption Advisory Board laid on the Table of the House on Thursday, 30th, March, 2006.

(Mr. Muite on 19.4.2006)

*(Resumption of Debate interrupted
on 19.4.2006)*

The Temporary Deputy Speaker (Mr. Poghisio): Who was on the Floor? It seems that there is no hon. Member who is interested in contributing to this Motion. Let me put the question.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Poghisio): Next Order!

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Constitution of Kenya (Amendment) Bill be now read a Second Time.

On 14th July, 2004, this House passed a resolution which I want to quote:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled: "The Constitution of Kenya (Amendment) Bill, 2004", to amend Sections 58 and 59 of the Constitution to provide for the National Assembly to control the calendar of the business of the House".

(Applause)

Mr. Temporary Deputy Speaker, Sir, it is almost two years since that resolution was

adopted by this House. This Bill seeks therefore, to implement that resolution which was passed by this same House. I want to go straight to the sections which the resolutions adopted.

Mr. Temporary Deputy Speaker, Sir, Sections 58 and 59 of the Constitution of Kenya deal with the summoning, proroguing, adjournment and dissolution of Parliament. All these functions are being controlled by the Office of the President. As we know, sometime back the Eighth Parliament passed a resolution leading to an Act of Parliament leading to the creation of the Parliamentary Service Commission, which deals with the salaries, remuneration, *et cetera* of the parliamentary staff and also hon. Members of Parliament. Therefore, to strengthen that resolution, this Bill seeks to remove those powers which the President has, so that Parliament can control its own calendar through the Parliamentary Service Commission.

Mr. Temporary Deputy Speaker, Sir, the current Constitution vests the power to dissolve and prorogue Parliament in the President. We have just come from a long recess, starting from the October Referendum period to March. If we had a parliamentary calendar we would not have stayed home for all those five months or so. It is, therefore, the responsibility of the Ninth Parliament, in essence, to adopt this Bill so that we can be judged by our work because, currently, as you are aware, when we go on recess we do not know whether it will be a long or short one. We also do not know when Parliament will be prorogued before a General Election or when it will convene after a General Election. All these functions are controlled by one person who is the President. With the democratisation process that is occurring in so many countries, Kenya should not be left aside. We should be part of it. That is why I am calling on my colleagues, the hon. Members of Parliament, to support this Bill so that we can know the exact time we are proceeding on either short or long recesses.

Mr. Temporary Deputy Speaker, Sir, Section 58 of the current Constitution talks about summoning of Parliament. It says it is the responsibility of the President to decide when Parliament commences its session. This Bill gives that responsibility to the National Assembly. This is indicated on the first part of the Bill on Page 335.

The Parliamentary Service Commission (PSC) has accorded great service to Parliament, and to an extent, this nation. When Parliament is on recess, whether there is an emergency or not, it depends on the President to summon it. However, the proposed Clause 58(4) provides for 20 per cent of hon. Members of Parliament to petition the Speaker of the National Assembly to convene it. This means that if we are on recess and there is a national crisis, 20 per cent of the sitting hon. Members, excluding the *ex-officio*, can petition the Speaker to summon Parliament. Mr. Temporary Deputy Speaker, Sir, when the House is prorogued during an election year, this Bill provides for 65 per cent of hon. Members of Parliament to petition the Speaker to reconvene Parliament if there is an agenda to be discussed. This Bill, therefore, does not allow for dissolution of Parliament. There is no time when the President will not be in office or in session. This Bill emphasizes continuity of office. Even after an election, there must be smooth transition to the next Government. It means I, as an hon. Member of Parliament representing a constituency, must remain in that position until the day when there is swearing in of a new hon. Member. That has been provided for in this Bill. It means Parliament will run for five continuous years without interruptions.

As we are aware, having been long-serving hon. Members of this House, when Parliament is dissolved, it becomes almost impossible for a Member to access facilities in Parliament. In fact, an hon. Member is treated as a stranger. An hon. Member is supposed to be respected until the day his or her constituents vote him or her out. If the Ministers and their Assistant Ministers remain in office until when there is a new Parliament, why should this not be the case for hon. Members of Parliament?

Mr. Temporary Deputy Speaker, Sir, with the introduction of constituency offices, there is a

lot of funding released to constituencies through the Constituency Development Fund (CDF). These funds are controlled by hon. Members. This Bill seeks the conformity of the PSC and the constituency offices. These offices are essentially an extension of Parliament. This means that there must be smooth handing-over to the next hon. Members.

Mr. Temporary Deputy Speaker, Sir, this Bill provides that Parliament stands prorogued on the 30th of November every year and a new Session to commence on every 1st Tuesday of February the following year. This provides for the long vacation. I believe the PSC will work out a timetable which will be approved by the House. The Bill says:-

"The timetable of the business of the House will be approved by this same House."

It is the responsibility of the PSC to provide that timetable and we adopt it. This has to be done by a way of the resolution of this House.

The Bill also provides that Parliament shall continue for five years from the first date the National Assembly first meets after dissolution, and shall then stand dissolved. Section 59(5) of the Constitution of Kenya reads:

"At any time when Kenya is at war, Parliament may from time to time provide for the extension of the period of five years specified in subsection (4) for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection by more than five years."

So, in case of any emergency, it is the work of this House to make a resolution. I do not want to touch on many issues because I believe that the Bill has been in the domain of most hon. Members for a long time.

Mr. Temporary Deputy Speaker, Sir, I call upon my colleagues to remember a point we have been talking about, that concerns the President being elected by the majority. We are individually elected by our constituents. Therefore, a vote of no confidence should not be passed in this House by hon. Members. After wide consultations with hon. Members, it was decided that a vote of no confidence on the President should not be a domain of this House. The decision should not be made by hon. Members. There is a new Subclause, 59(a) which is provided for in the Bill. I do not want to talk for long about it because I want to hear the views of my colleagues.

The Bill is important for this country. It is important because when the new Session started, the President himself said that the Government's agenda was to pass more Bills. How do we do that when we do not have a calendar? If one goes for an interview, they are asked which year they were born. That person is in a position to answer when he or she was born. The person may reply that he or she was born in 1960, 1970 or any other year. We should be able to answer questions the same way

to our constituents. We should be knowing when we are expected to go on recess or reopen Parliament. The possibility of the President using our ignorance as a campaign tool should not exist. Everybody will have known, for instance, that at the end of the month of November, after every five years, Parliament will stand dissolved for an election and will also be aware of when it will resume, which is during the first three weeks of February of the following year. That way, there will be continuity in the business of this House. The Bill complies with the Standing Orders and the Constitution of Kenya. I spent some time at the Attorney-General's office and I believe that the Minister for Justice and Constitutional Affairs will support this Bill.

With those few remarks, I beg to move and call upon my colleague, Mr. Muturi, to second.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, we have come a long way since we began the reforms in Parliament. We set up the Parliamentary Service Commission and enacted the Parliamentary Service Act to operationalise the Commission and, indeed, we have seen tremendous improvements. As the Mover has pointed out, the reforms which have been taking place in

Parliament elevate the position of hon. Members to a new height. Indeed, it was in this very House, in 2003, that we enacted the Public Officer Ethics Act, which, *inter alia*, defines a Member of Parliament as a public officer. Being public officers, enormous responsibilities are imposed on hon. Members. Among the things that hon. Keter has stated is that even at the constituency level, we need a smooth handing-over. As hon. Members, we are in charge of public resources. Therefore, it is only fair that at the end of our term, if the electorate has lost confidence in us and they think that somebody else is better placed to steer the affairs of the constituency, we also need to have time to smoothly hand over to our successors.

Indeed, Mr. Temporary Deputy Speaker, Sir, we have put public officers in those offices. It is fair that with this kind of arrangement, where Parliament knows when it is finally dissolved for the General Elections, hon. Members begin to prepare themselves in the event that they do not make it back to the House. Indeed, it is wrong to expect that they will be preparing themselves while operating from the fences as it used to be the case before we got offices in Continental House.

I am happy to say that I am aware that when we began thinking in terms of making these amendments, among the people that really made a lot of input to what was then proposed is the current Minister for Justice and Constitutional Affairs.

The Minister for Justice and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that I have had anything to do with this ill-advised Bill?

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I am a man who is known to speak the truth. Way back in 2000, if I may jog the memory of the Minister, when we were debating and crafting the Bill, first in various hotels, among them the Grand Regency Hotel, the Minister, among several other hon. Members, was one of the people who used to sit with me in those meetings. I know that I will be borne out by others. If she does not want to be associated with the current Bill as it is, she is at liberty. But I am sure that, obviously, her conscience will be haunting her. But the more important issue---

The Minister for Justice and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! We are not going to dwell on points of order and counter-points of order.

Proceed, hon. Karua!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, someone should substantiate what they assert. But in this instance, I would ask you to rule

whether it is in order for the hon. Member to make me a subject of the debate when I am not. But I will leave him to his delusions as to whether I have participated or not.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I want to produce before this House a copy of the HANSARD record of the debate when a similar Bill was being debated here on 25th July, 2002. If you want, I can read through the HANSARD report what hon. Karua said. It is all here. In fact, I am ashamed that I have to do this.

(Ms. Karua stood up in her place)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Ms. Karua! What is so important about this, anyway? He is dealing with another point of order!

Proceed, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, for the avoidance of doubt, I have stated from the HANSARD what Ms. Karua said on 25th July, 2002. However, I think this is not the issue today. If she challenges me, I can read verbatim what she said, if it is necessary. However, it

is not necessary!

The Temporary Deputy Speaker (Mr Poghisio): It does not enrich this debate at all if the argument is whether somebody said something or not. I do not think it is necessary to go into those details of what somebody said. Do you want to prove a point? Are you substantiating something?

Mr. Muturi: Yes, Mr. Temporary Deputy Speaker, Sir. Since the hon. Member rose to challenge me, among other things, the HANSARD reads:-

"Mr. Deputy Speaker, Sir, there is a lot of uncertainty in the air. The date of the General Election is only known, as the Constitution stands, to the President. The date that Parliament would be dissolved is only known to one player who has already expressed preference. This adds to the uncertainty. However, once this Bill is passed, the date of elections becomes certain and responsibility is shared between the Executive and the Parliament---"

(Applause)

*(Mr. Michuki stood up at
the Dispatch Box)*

The Temporary Deputy Speaker (Mr. Poghisio): Order, Messrs. Muturi and Michuki! If you find yourselves standing, both of you facing each other, that is out of order. By the way, could he respond and then I will give you a chance to raise your point of order? He is substantiating something that was asked of him.

*(Ms. Karua and Mr. Michuki
consulted loudly)*

He is dealing with another thing. Why do you not wait for him to finish?

The Minister for Administration and National Security (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Muturi, who has been in this House for many years, to mislead this House by saying that there was a Motion in the form in which it is now before us in the year "2000", when, in fact, the Keter Motion has just been tabled?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Michuki!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, the Bill that was before this House sought to amend Sections 58 and 59 of the Constitution. The Bill before this House seeks, similarly, to amend Sections 58 and 59 of the same Constitution.

*(Mr. Michuki and Ms. Karua stood
up in their places)*

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! What is the issue? Let him proceed with his contribution!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I believe that Mr. Michuki may have forgotten what happened in July 2002.

(Applause)

At that time, he was not a Minister and I am not surprised he is now saying that this Bill is different from that which was being discussed then.

*(Ms. Karua stood up
in her place)*

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! I think something that began as a very serious contribution is now being watered down by these points of order. I do not understand why we should even take more time on this.

Mr. Muturi, you can keep clear of mentioning anybody's name and just proceed.

The Minister for Justice and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is at liberty to substantiate, but let him read the title of the debate at hand to avoid transporting a different debate. It may relate to the same section but it certainly was not for the Bill before the House. Let him be honest and read the title so that nothing is in the HANSARD which is less than the truth.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, the subject matter is substantially the same.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, could the hon. Member read out the title of the Bill he is referring to?

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I think I require your protection.

The Temporary Deputy Speaker (Mr. Poghisio): You are very much protected. Proceed.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, what I am saying is that we want this Parliament to control its own calendar of events. That is the thrust of the Bill before this House, which we are now debating. Let me quote from the HANSARD something said sometime back.

"When this Parliament is finally able to control its own calendar, then we can take the responsibility for when we can sit and when we can go on recess. We can also rightfully take the responsibility for doing either too much or too little work".

Mr. Temporary Deputy Speaker, Sir, I am reading this because I was challenged to substantiate that the hon. Minister for Justice and Constitutional Affairs, Ms. Karua, ever spoke in support of this House controlling its own calendar.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): I do not know what point of order you are raising!

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): Mr. Temporary Deputy Speaker, Sir, my point of order is: Could the hon. Member read the title of the Motion he is referring to? I think we have demanded this and have a right to be given this fact.

The Temporary Deputy Speaker (Mr. Poghisio): I think that is a question.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, it is very clear in the HANSARD.

The Temporary Deputy Speaker (Mr. Poghisio): The quotation is from the HANSARD. Of course, the Bill has just been moved.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, could I read the title? It actually reads: "Bill: Second Reading; The Constitution of Kenya (Amendment) (No. 2) Bill- Mr. Oloo Aringo". That was the Bill that was being discussed on 25th July, 2002. It was in the course of her contribution that the hon. Minister for Justice and Constitutional Affairs, Ms. Karua, made those comments. I cannot understand what else I am being told to substantiate.

The Temporary Deputy Speaker (Mr. Poghisio): Since you have stated which Bill it was, could the hon. Minister deny or confirm that those were her words?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, it was totally a different Motion. When I respond on behalf of the Government, I will substantiate just how misguided and misplaced the present debate is.

Mr. Muturi: Mr. Temporary Deputy Speaker, as you can now see, positions do change, as I observed earlier on. The hon. Minister will be at liberty to say everything she wants to say when she will respond. She can deny all what is contained in the HANSARD of 25th July, 2002. Surely, I cannot begrudge her for doing that.

Mr. Temporary Deputy Speaker, Sir, the Bill before us requires that the House passes an amendment to Sections 58, 59 and some minor consequential amendment to Section 123. This is just to describe what a Session is. Just to recapitulate, if you look at the current Section 59(1), you will see that it says that the President may at any time prorogue Parliament. We are saying that at this age and era we cannot leave the responsibility to prorogue Parliament to one individual, who is also an hon. Member of this House. We are saying that, as a House, we need to make a provision in our Constitution so that prorogation times and the five-year period are known. In this way, on every 30th of November, we will go home because Parliament will stand prorogued. We will come back on the first Tuesday of February the following year. I cannot see anything that can be as enlightened as this proposal. All we are saying is that, that should not continue to be the function of the President because he has a dual role. He is the head of the Executive and is also a Member of this House. We are with him in what we are saying because, at the end of the day, he will have to sign this Bill into law if we pass it. We are not trying to shortchange the President.

Mr. Temporary Deputy Speaker, if you look at Section 59(2) of the Constitution, it states:

"The President may at any time dissolve Parliament."

Those of us who were here in July, 2002 when we were debating the original Bill know how eloquently several hon. Members made impassioned pleas for this to be removed. It is really something that you cannot imagine; that you can come here for five years, serve for one year or six months and depending on what the President thinks of the 222 of you, he can wake up one morning and dissolve Parliament. It makes an absolute mockery of democracy. You will have been elected by your constituents just as the President will have been elected by his or her constituents and Kenyans at large. How come then that it can take him only three months to decide that the best thing to do is to dissolve Parliament and thus subject you to such inconvenience?

Mr. Temporary Deputy Speaker, Sir, just to borrow the words used by one of the Members of Parliament and the immediate former Minister for Justice and Constitutional Affairs:

"Even kindergarten and nursery school kids are better placed to know when it is that their schools open and when it is that they will close."

All we are asking for is that it be stated in the Constitution that Parliament will run for five years from the date that it is elected. We want to remain for five years as Members of Parliament. Parliament will only be prorogued during recess within the stipulated period. If you read this Bill clearly, it states that in Section 58(2):

"Subject to Section 59, the sittings of the National Assembly in a Session of Parliament shall be held at such time and on such days as may be determined by the Parliamentary Service Commission and approved by the National Assembly."

All that we are saying is that we can actually, within this provision, begin looking at our own Standing Orders because we will define which days we shall be sitting.

Mr. Temporary Deputy Speaker, Sir, we have been told that sometimes we do not even pass enough Bills! How can we be blamed as a House for not passing Bills when, indeed, it is not the business of the House to prioritise business, and especially Bills? Members of Parliament have only two hours on Wednesday morning for Private Members' Motions. When we are accused by the entire nation and the world of doing too little and earning too much, we are saying, "allow us to

work." We know, for instance, that it is the responsibility of the Government of the day to prioritise business in the House. So, when the Government of the day does not do that and decides to prioritise a Bill such as the Sexual Offences Bill, even though important, then we cannot be blamed for not passing enough Government Bills. We want to tell Kenyans and the world that the blame should be placed where it actually belongs. It is not us to be blamed.

Mr. Temporary Deputy Speaker, Sir, I am surprised that anybody, at this age and era, would stand here to oppose such a forward-looking request by hon. Members who want to say: "Please, allow us to be able to set the times that we sit! We do not think sitting on Tuesday afternoons only is enough. We think that we should sit for more days and more hours."

Now, for anybody to stand here and oppose this Bill, he will be telling the world that we do not want to work, then the blame comes to Parliament! If we want to show the world that we are committed to working, we must be blamed for what we are responsible for. We just came from a long recess.

The Minister of State for Administration and National Security (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. I need your guidance on a constitutional issue such as this. Is it in order for Mr. Muturi to continue misleading this House that, by changing the two sections mentioned, the amendment introduces a law passed democratically? Is it correct for him to imply that the Constitution, as it is now---

An hon. Member: That is an argument!

The Minister of State for Administration and National Security (Mr. Michuki): It is not an argument!

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Minister! Basically, if there is anything that he has contravened in the Standing Orders, that is the issue you can draw his attention to. But you will have a chance to say those things when your time comes. So, let us proceed.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, to conclude, one just needs to look at the Memorandum of Objects and Reasons. It is very clear. We do not really have to belabour the points. This Bill represents yet another step in the consolidation of the dignity, authority and independence of Parliament. It seeks to establish a framework calendar within which the National Assembly may regulate its own sittings for the orderly and effective discharge of its business. We have absolutely no other motive. Those are the reasons and objects of moving this Bill. I do not see why anybody would find fault in it.

Mr. Temporary Deputy Speaker, Sir, I am, indeed, aware that the reason why this Bill has taken so long is because there were fears that the amendments which would be moved to Section 59, Subsection 3, would have the effect of removing the powers of the President once a Motion of no confidence has been passed. This Bill has addressed those concerns. It has come up with a very clear proposition that: Let that position remain. It is just like it is in the current Constitution. In accordance with the Standing Orders of the National Assembly, within three days of the passing of that Resolution, the President resigns from his Office and Parliament shall stand dissolved on the fourth day. That is how it is in Section 59, Subsection 3 of the current Constitution. So, in my view, the concerns and fears that were there have been addressed quite sufficiently.

Let me give an example. The Speaker ruled that Committees of this House should not travel outside the country as Committees when Parliament is sitting. Once we pass this Bill, it will be possible for us, as Parliament, to say: We will go on recess for one or two months in August because we know that, from 1st December to 1st February next year, we will be on prorogation. That will enable us, as rational human beings, to prioritise our work. The Committees that want to travel when Parliament is not sitting can then organise their calendars and diaries in such a manner that it becomes clearer to everybody when Parliament will not be sitting.

(Question proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I rise in opposition to this most untimely, misguided Bill. Members will recall that we have just passed through the constitutional review exercise. While I say this Bill is misguided, I do not mean the proposals in the Bill, which are, indeed, quite okay.

Mr. Muturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Member to call this Bill misguided when the Bill is a product of a Motion passed by this very House?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, in view of the constitutional review process which is in place, this Bill is not only misguided, but it is not meant to improve the reforms that are going on. It is meant to bring in piecemeal amendments to the constitution when we have a chance of debating and looking at all the areas required.

If one looks through the review process that has just been on and what is being proposed, one of the things that is sought to be amended is about Parliament taking control of its calendar. Is it desirable to amend the constitution piecemeal or we look at it as a whole and include all the items that need to be reviewed in the overhaul of the constitution?

You will recall that in 2002, when the Motion where I contributed was in place, the constitutional review process was actually being jeopardised by the then Government. The possibility of it being completed was not anywhere inside.

Mr. Temporary Deputy Speaker, Sir, the Member who has contributed is a latter day convert. I will be reading to this House in due course his stand during that Motion and at a previous occasion. This latter day convert must wait for a comprehensive amendment of the constitution. I do appreciate that like Saul on his way to Damascus, it does appear that my good friend on the other side has now seen the light.

(Applause)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! It is time to interrupt the business of the House. This House, therefore, stands adjourned until tomorrow, Wednesday, 7th June, 2006, at 9.00 a.m.

The House rose at 6.30 p.m.