

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th December, 2006

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Defence and Foreign Relations on the study visits to the Netherlands, Sweden, China, Malaysia and Japan on 23rd September to 4th October, 2006.

(By Mr. G.G. Kariuki)

NOTICE OF MOTION

ADOPTION OF REPORT BY ADMINISTRATION
OF JUSTICE AND LEGAL AFFAIRS
COMMITTEE ON TOUR OF USA

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

THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the visit to the United States of America (USA) to study the processes and procedures through which the Senate vets appointments by the President to the Executive offices laid on the Table of the House on Tuesday, 5th December, 2006.

Mr. Speaker, Sir, permit me to draw the attention of hon. Members to the vetting manual which is part of that report, copies of which are available in Room No.8.

QUESTIONS BY PRIVATE NOTICE

DEMOLITION OF ST. CATHERINE
PRIMARY SCHOOL

Mr. Ndolo: 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 police officers from Muthaiga Police Station and a District Officer from Makadara stormed and demolished St. Catherine Primary School in South B?

(b) Is the Minister further aware that during the incident, the officers fired teargas canisters

at teachers, students and parents and that food belonging to the school was stolen?

(c) What action is the Minister going to take against the said officers?

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

(a) I am not aware that police officers from Muthaiga Police Station and a District Officer from Makadara stormed and demolished St. Catherine Primary School in South B.

(b) I am also not aware that during the incident officers fired teargas canisters at teachers, students and parents and that food belonging to the school was stolen. However, I am aware of a dispute between St. Catherine Primary School and a Mr. Mwangi. The dispute relates to a plot neighbouring the school. The police heard commotion and noise from the area. The school's committee was fighting with a mob which was brought in by Mr. Mwangi. The police went to the site to separate the two groups. The police never used force. They separated both groups to maintain law and order. However, nothing was stolen by the police who did not take sides in the dispute.

Mr. Ndolo: Thank you very much, Mr. Speaker, Sir. I thank the Assistant Minister for that answer. However, it is very sad for him to mislead this House. The whole country saw what happened on that day. School children were beaten and that was aired on television. I am very disappointed by the Assistant Minister's answer. This is because---

Mr. Speaker: Order, hon. Member! For the benefit of the House, this is Question Time! Mr. Ndolo, please ask your question. If you want to make a contribution, bring a Motion and I will give you an opportunity! Please ask your question.

Mr. Ndolo: Thank you, Mr. Speaker, Sir. The Minister of State for Administration and National Security, Mr. Kimendero--- It is very sad if our kids can be beaten---

Mr. Salat: On a point of order, Mr. Speaker, Sir. I hope you heard the Questioner mention a name "Kimendero". Who is "Kimendero", Mr. Speaker, Sir?

Mr. Speaker: Yes, Mr. Ndolo!

Mr. Ndolo: Mr. Speaker, Sir, "Kimendero" is a Kikuyu name for somebody who used to squeeze---

(Laughter)

Mr. Speaker: Order, hon. Members! I think we are losing direction! We are turning this House into a place of mudslinging and name calling. This is not the first time this issue has arisen today. It happened in the morning. Mr. Ndolo and every other hon. Member, could you desist from dragging this House into the mud? Mr. Ndolo, first and foremost, withdraw the remark that you have made, which in my view, is not supposed to be made in this House.

Mr. Ndolo: Mr. Speaker, Sir, I withdraw that remark and apologise. That plot was covered by the Ndung'u Report. If the plot was mentioned in that Report, how come it was allocated to Mr. Mwangi?

Mr. Munya: Mr. Speaker, Sir, whether the plot is mentioned in the Ndung'u Report or not, it is not very relevant to this matter. However, I have some documents here which indicate that the plot was originally owned by the National Social Security Fund (NSSF). I have a copy of the original title deed which indicates that the plot belonged to the NSSF. I would like to lay it on the Table. I also have a court order that was issued by the High Court restraining the school from interfering with the said plot. I would like to lay the document on the Table.

*(Mr. Munya laid the documents
on the Table)*

Mr. Speaker, Sir, I also have documents from the Commissioner of Lands explaining the situation. However, that is not the issue because we are not trying to sort out the dispute as to who owns the land here. The police went there to prevent a fight between the committee and the person who had bought the plot from the NSSF.

In the second incident, the committee mobilised the parents, the students and the teachers of the school to march to State House. The police went to stop them from carrying out that demonstration. The teachers, parents and students started throwing stones at the police who dispersed the demonstrators peacefully. No one was hurt that day. So, there is nothing we are discussing here. The matter will be sorted out if it is in the Ndung'u Report when the issues in that Report are dealt with.

Mr. Speaker: Mr. Ndolo, ask your last question.

Mr. Ndolo: Thank you, Mr. Speaker, Sir. Maybe, the documents which the Assistant Minister has laid on the Table are from River Road!

Mr. Speaker: Order, Mr. Ndolo! Could I ask you a very simple question? Do you find it extremely difficult to be decent in your contribution?

Mr. Ndolo: Thank you, Mr. Speaker, Sir. I have some documents here from the Permanent Secretary, Ministry of Lands---

Mr. Speaker: Order, hon. Members! Why do you not go to court to sort out that issue? What are we doing here? There is a court order which you are trying to circumvent. What are we supposed to do? We must respect institutions. This Parliament must respect the courts the same way we demand that they respect us. That is how it should be. If there is a dispute pending in court, go and sort it out there.

Next Question by Mr. Gitau!

*(Mr. Gitau consulted
with Mr. Speaker)*

SETTLEMENT OF DEBT OWED
TO MICROHOUSE.NET BY NEMA

(Mr. Gitau) to ask the Minister for Justice and Constitutional Affairs:-

(a) Is the Minister aware that Microhouse.Net Limited entered into a contract with the YES Secretariat on 1st November, 2005 for the supply, installation and implementation of a referendum management system and Short Message Service (SMS) communication gateway for a contractual sum of Kshs7,650,000 and that to-date an amount of Kshs4,650,000 has not been paid as agreed in the contract?

(b) If the answer to (a) above is in the affirmative, when will Microhouse.Net Limited be paid the outstanding amount because the delay has threatened to kick them out of business through a pending proclamation of their equipment by auctioneers?

Mr. Speaker: I was inclined even to drop the Question because it is wrongly before the House. This is a debt collection! I think that Questions on debt collection should not be brought into this House again. Hon. Members, this House is not a debt collector. Do not file any Questions on debt collection. I instruct the Clerks to be vigilant. Any Question along that line should be rejected before it gets to Mr. Speaker!

(Question withdrawn)

Next Question by Mr. Karaba!

ORAL ANSWERS TO QUESTIONS

Question No.648

INCREASED INSECURITY IN KERUGOYA/KUTUS CONSTITUENCY

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

- (a) whether he is aware that a spate of insecurity has recently hit Kerugoya/Kutus Constituency leading to the deaths of more than ten people; and,
- (b) what measures the Government is putting in place to arrest the situation.

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

(a) I am aware that there have been several cases of robbery reported in Kerugoya/Kutus Constituency leading to the death of four people.

(b) The police have taken the following measures to curb insecurity in the area: Patrols by combined force of Administration Police (AP) and Kenya Police have been intensified in all urban centres within the constituency in addition to Flying Squad personnel from Karatina and Makuyu who have also been deployed to the area. The Embu Highway Patrol Unit is also assisting to man the Embu/Makutano Road. Those incidents took place during the month of September. However, no incident has been reported since then. The police arrested some suspects who have already been arraigned in court. An AK-47 rifle suspected to have been used in the robberies was recovered from the suspects. No serious incident of insecurity has been reported in that area since those measures were taken.

Mr. Karaba: Thank you very much for that very good answer. But all the same, the Assistant Minister should also be aware that four policemen were arrested for being involved in the same robbery, but they were released. Members of the public are very annoyed with that action where police officers are also involved in robberies. What steps is the Assistant Minister going to take to ensure that those police officers who are arrested and put in custody are also sent packing?

Mr. Munya: Mr. Speaker, Sir, it is true that some police officers were implicated by the suspects who were arrested. Those police officers were interdicted and investigations are going on to establish whether it is true they were involved in crime. If we get evidence to establish that they were involved in crime, they will never see another day in the police force. Right now, these are only allegations and they are being investigated and those officers are already on interdiction.

Dr. Rutto: Who is investigating the police officers? If the police are investigating their own, then there will be no justice. Who is investigating the police officers?

Mr. Munya: Mr. Speaker, Sir, if you trust the police to fight crime, then you must also be able to trust them to fight any form of crime, whether it is within the police force itself or anywhere else. In fact, it is the same police force which has interdicted them. So, that already shows that the police can investigate themselves.

Mr. Speaker: Last question, Mr. Karaba, or do you want me to give this chance to Mr. Nderitu?

Mr. Karaba: Yes, Mr. Speaker, Sir.

Mr. Nderitu: Thank you very much, Mr. Speaker, Sir. This is a very serious matter. It is only that we do not want to mention names here. In Kirinyaga District, there are six policemen who, any time there is a robbery, they are part and parcel of that robbery. In this incident, four of them were caught at night and they were actually together with the civilians who were arrested, and they were released. Could the Assistant Minister arrange for those police officers to be removed from Kirinyaga District and brought to Nairobi, near his office, until the investigations are complete? Thank you, Mr. Speaker, Sir.

Mr. Munya: Mr. Speaker, Sir, those police officers are on interdiction and senior police officers who are not based in Kirinyaga District are involved in the investigations to find out whether, indeed, they were involved in crime. If it is established that they were involved in crime, then the necessary action will be taken.

Question No.587

FAILURE TO CARRY OUT ARMED FORCES
RECRUITMENT AT GARBA-TULLA SUB -DISTRICT HEADQUARTERS

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

(a) whether he is aware that no recruitment has been undertaken for the Kenya Army and Kenya Police Service at Garba-Tulla Sub-District Headquarters in Isiolo District; and,

(b) what steps he is taking to ensure that such recruitments are carried out at Garba-Tulla.

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

(a) I am aware that no recruitment has been undertaken for both the Kenya Police Service and the Kenya Army at Garba-Tulla Sub-District Headquarters in Isiolo District. This is because the recruitment for police and army officers is normally done at district headquarters throughout the country. This is done to ensure that potential recruits from all the divisions within a district are accorded a fair chance for interviews. In this case, the recruitment of police and army officers in Isiolo District is done at the district headquarters in Isiolo Town.

However, the recruitment for Administration Police officers is done at the sub-district level. On 9th June, 2006, some administration officers were recruited at Garba-Tulla. We will make sure that at every recruitment, some officers for the Administration Police will be picked from Garba-Tulla. In the meantime, the other forces will continue recruiting at the district headquarters.

Mr. Bahari: Mr. Speaker, Sir, the objective of establishing sub-districts, particularly in remote areas, is to bring services closer to the people. During the last recruitment of police officers, I remember that in North Eastern Province, the recruitment was done in the sub-districts, particularly where hon. Abdirahman comes from, it was done in Habaswein! Could the Assistant Minister recheck his records and ensure that there is consistency across the board? He can confirm what I am saying here.

Mr. Munya: Mr. Speaker, Sir, the information which I have, and which is very reliable, is that recruitment for regular police officers is done at district headquarters, but the recruitment of Administration Police officers has been taken to the sub-district level because we have enough manpower to assist in that exercise. We do not have any plans to review that decision because we think it is fair as it gives everybody within the district a chance to be recruited to serve in the police service.

Mr. J. Nyagah: Mr. Speaker, Sir, now that the Assistant Minister has been given additional information, that in the neighbouring constituency of Wajir, recruitment was done at the sub-district level, could he consider going back to recheck his records and, therefore, do the same for Garba-Tulla?

The Assistant Minister for Trade and Industry (Mr. Abdirahman): On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to use me and my constituency as a reference point when Kenya is one country? They would rather go for the criteria in the selection of individuals than pointing at me. Are they in order?

Mr. Speaker: Order, Mr. Abdirahman! If it was done in Habaswein, it was not a secret. Therefore, it is open to comments and even criticism or praise.

(Applause)

Proceed, Mr. Assistant Minister!

Mr. Munya: Mr. Speaker, Sir, I am prepared to go and check that information to find out whether there were any special circumstances that required the police force to give that constituency an exception during the recruitment. If those special circumstances will be obtained in Garba-Tulla, then we will also be prepared to give Garba-Tulla those exceptions.

Mr. Speaker: Last question, Mr. Bahari!

Mr. Bahari: Thank you, Mr. Speaker, Sir. I am happy about the last statement which was made by my personal friend, Mr. Munya, and I want to assure him that he will find enough information. He does not have to look for Habaswein. In the entire North Eastern Province, and that is justified, recruitments are done at sub-district headquarters basically because of bringing services closer to the people.

Mr. Speaker, Sir, I want the Assistant Minister, for purposes of consistency, like he has done for the Administration Police recruitment, to proceed and consider the same for regular police and army officers.

Thank you.

Mr. Munya: Mr. Speaker, Sir, we will take his advice when we are considering the situation. But for now, the point of recruitment of police and army officers remains at the district headquarters. But if there are any special circumstances that allowed the police recruitment to be done in those other areas and if they also obtain in his constituency, we will also take that into account.

Question No.524

LACK OF GOVERNMENT-SPONSORED BOARDING
SCHOOLS IN TESO DISTRICT

Mr. Ojaamong asked the Minister for Education:-

(a) whether he is aware that there are no Government sponsored boarding schools in Teso District;

(b) whether he is aware that due to high school dropout rates, the Teso District Education Board submitted a proposal to the Ministry of Education to consider converting Machakus, St. Teresa Chakol, St. Josephs Amukura, Kolanya and Chelelemuk Girls Boarding schools into Government sponsored boarding schools; and,

(c) if the answers to (a) and (b) above are in the affirmative, when the

Government will start funding the schools.

The Assistant Minister for Education (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are no Government sponsored boarding primary schools in Teso District, like any other district which is not classified under Arid and Semi-Arid Land (ASAL).

(b) The Ministry has not received any proposal for converting Machakus, St. Teresa Chakol, St. Josephs Amukura, Kolanya and Chelelemuk Girls Boarding schools into Government sponsored boarding schools.

(c) Part "c" does not apply since the answers to "a" and "b" above are in the affirmative. However, the Ministry will take appropriate action once the proposal is received and studied.

Mr. Ojaamong: Mr. Speaker, Sir, these are boarding schools supported by the parents and well-wishers. So, the issue of being converted does not arise. I am just seeking for little assistance from the Ministry. Supposing I brought this proposal on Monday, will the Ministry be ready to give me some little financial assistance? We have already passed it in the District Education Board (DEB).

Mrs. Mugo: Mr. Speaker, Sir, the request will be looked into. However, it must come from the DEB, through the District Education Officer (DEO), and not through the hon. Member. That is the procedure. Let me add here that a lot of funding for primary boarding schools goes to Arid and Semi-Arid Land (ASAL) areas. I want to assure the hon. Member that we will look at the request when it comes appropriately and it will be decided upon depending on the regulations and guidelines.

Dr. Rutto: Mr. Speaker, Sir, while answering the Question, the Assistant Minister gave an implication that Government-sponsored boarding schools are majorly established in ASAL areas. Why can they not revise the policy and also construct Government-sponsored boarding schools for children orphaned by the HIV/AIDS scourge?

Mrs. Mugo: Mr. Speaker, Sir, these schools are sponsored in ASAL areas as well as in the poverty stricken pocket areas as designed in the Ministry of Planning and National Development. As far as the children orphaned by the HIV/AIDS pandemic are concerned, the Ministry has an elaborate programme to take care of them. But, of course, there is still room for improvement and we will fully look into their plight.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, part "b" of the Question indicates that there is increased high school dropout rates. However, the Assistant Minister merely responded about primary schools. Could she state whether the Government has ever sponsored public boarding schools in Teso District, because the answer she has given pertains to primary schools only?

Mrs. Mugo: Mr. Speaker, Sir, I referred to the primary schools. The current policy is to encourage day-secondary schools, because of the cost involved. However, if the hon. Member has a Question regarding a specific school, I will answer it. That is a different Question. I will, therefore, request for time to check whether we have Government-sponsored secondary schools in that area.

Mr. Speaker: Last question, Mr. Ojaamong!

Mr. Ojaamong: Mr. Speaker, Sir, the Assistant Minister has been articulating so much about the girl-child education. The last four schools mentioned in the Question regard girls. The issue I am raising is about the high school dropout rate of the girls. Could she consider funding the schools on humanitarian grounds and as a champion of girl-child education this year? I will come with the DEO next week to present you with the proposal.

Mrs. Mugo: Mr. Speaker, Sir, let the DEO of the district send the request. As I said, it will be studied. Once that is done, definitely, we will give a feedback. But the hon. Member is very right; that I am very concerned about the girl-child welfare.

Mr. Speaker: Next Question by Mr. Opopo!

*Question No.697*OPEC-FUNDED SCHOOLS IN KISII
CENTRAL DISTRICT

Is Mr. Opore not here? The Question is dropped!

(Question dropped)

Next Question by Capt. Nakitare!

*Question No.646*GRABBING OF KEPHIS LAND
IN KITALE

Capt. Nakitare asked the Minister for Agriculture:-

- (a) whether he is aware that KEPHIS land and staff houses belonging to Kitale Research Station have been grabbed;
- (b) whether he could inform the House how many acres of land have been grabbed; and,
- (c) whether he could table names of the grabbers and state what urgent measures he is going to take to repossess the land.

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

- (a) Yes, I am aware that KEPHIS land and staff houses belonging to Kitale Research Station were allocated to private developers.
- (b) A total of 225 acres of the land is in private hands.
- (c) My Ministry, through KEPHIS, has given quit notices to the allottees and requested the Commissioner of Lands to revoke the allocation, and Provincial Administration to prevent further invasion. As requested by the hon. Member, I wish to table the list of the allottees.

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

Capt. Nakitare: Mr. Speaker, Sir, I thank the Assistant Minister for that answer. However, I would have expected him to read out the first ten names on the list, in the interest of the public, to know who these grabbers were. The 47 Kenya Agricultural Research Institute (KARI) scientists are living in very poor conditions. It is like the Government has neglected their welfare. What steps is he taking to rehabilitate the staff houses at the KARI in Kitale?

Mr. Kaindi: Mr. Speaker, Sir, in general, the KARI has proposed to the Ministry a strategic plan. The Ministry has revamped its budget substantially to enable it deal with the refurbishment of its property. Indeed, in Kitale, particularly, Top Station, we are cognisant of the need to improve the living conditions of the staff.

Mr. Speaker: Last question, Capt. Nakitare!

Capt. Nakitare: Mr. Speaker, Sir, I had demanded that the Assistant Minister reads the first ten names of the land grabbers in that area.

Mr. Speaker: Order, Capt. Nakitare! If a document has been tabled, why can you not read it yourself?

Capt. Nakitare: Mr. Speaker, Sir, I will take time to read it.

This KEPHIS land is the hub of researchers who actually determine the Kenya seed quality, especially with regard to maize. How soon is this implementation going to take place? The allocation of this land to private developers was actually executed by the Provincial Administration.

Mr. Kaindi: Mr. Speaker, Sir, of the 225 acres, the KARI has now managed to get a title deed for 25 acres. We have also managed to recover another 80 acres, and the process of getting the title deed is in progress.

Mr. Speaker: Next Question, Eng. Karue Muriuki.

Eng. Muriuki: Mr. Speaker, Sir, I do not have a written answer, but I will ask my Question.

Question No.699

ISSUANCE OF ID CARDS TO
OL'KALOU RESIDENTS

Eng. Muriuki asked the Minister for Immigration and Registration of persons:-

(a) whether he is aware that messrs: Andrew Kihumba Waititu, waiting slip No.D715935 dated July, 2004; Johnston Nduati Mwangi, waiting slip No.A560193 dated December, 2000; Jeremiah Gitau Gitu waiting slip No.2081106885 dated February, 1997 and Milka Nduta Nduati, waiting slip No.2137629864 dated December, 2000, all of whom are from Ol'Kalou Constituency have not received their National Identity Cards despite having applied for them several years ago; and,

(b) when they will be issued with the cards.

The Assistant Minister for Immigration and Registration of Persons (Mr. Mwaboza): Mr. Speaker, Sir, before I reply, the hon. Member says that he has not been given the written answer, and I undertake to give a copy of the same.

Mr. Speaker, Sir, I beg to reply.

(a) The National Identity Cards for Milka Nduta, application serial No.2137629864 and Jeremiah Gitau Gitu, application serial No.2081106885 are ready.

(b) They are advised to collect their identity cards from Ol'Kalou Registration Station.

Mr. Andrew Kihumba Waititu and Johnston Nduati Mwangi have provided payment receipts Nos. D715935 and A560193 instead of waiting slips, which cannot facilitate checking status of their identity cards. They are requested to present their application serial numbers to the District Registrar, Nyahururu, or the Principal Registrar, Nairobi, to enable checking of their applications.

Eng. Muriuki: The Assistant Minister says these cards have been lying at the Ol'Kalou District Registrar's office. These applications for identity cards date back to 1997 and 2000. When were these cards sent to the District Registrar's Office in Ol'Kalou?

Mr. Mwaboza: Mr. Speaker, Sir, I once answered a Question, and said my Ministry had collected back to its offices over 5,000 identity cards, which were lying uncollected in various registration centres in this Republic. Before that, circulars had been issued and notices given to inform applicants to go to their respective registration stations where they had applied to check and collect their IDs.

Mr. Owino: Mr. Speaker, Sir, the Assistant Minister said in this House that applicants in Mombasa District had been exempted from producing their parents' identity cards when applying

for IDs. Why should such a measure not be implemented in the whole country?

Mr. Mwaboza: Mr. Speaker, Sir, I think that is a misconception. An hon. Member had raised a Question that people from Mombasa, or those of the Islamic Faith, were required to give birth certificates, or other identification of their parents or great grand parents. Then, through our administrative machinery, we said that those things should be done away with. Instead what is provided for under the law of registration of persons Act should apply.

Mr. Speaker: Last question, Eng. Karue.

Eng. Muriuki: Mr. Speaker, Sir, the Assistant Minister is handling this matter casually. If these ID cards have been lying at the Ol'Kalou Registrar's Office since 1997, could he table in this House the rest of ID cards which have been lying in various registration centres?

Mr. Mwaboza: Mr. Speaker, Sir, that is an independent Question and is not supplementary to this Question. But once this Question is asked, we will be ready to table the names of those people who have collected their IDs and those who have not.

Mr. Speaker: Well, next Question, Mr. J. Nyagah.

Question No.630

ISSUANCE OF TITLE DEEDS
FOR MWEA TRUST LAND

Mr. J. Nyagah asked the Minister for Lands:-

- (a) when the Government will issue title deeds for Mwea Trust Land in Mbeere District; and,
- (b) when the remaining part of the trust land, commonly known as "scheme", will be demarcated and allocated to people.

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

(a) The Government will issue title deeds for Mwea Trust Land in Mbeere District when cases pending in the High Court, Nairobi, against Embu County Council and the Government are finalised.

(b) The remaining part of the trust land, commonly known as "scheme", will be demarcated and allocated to people when the cases pending in the High Court, Nairobi, against the Embu County Council and the Government are finalised as they affect the whole of Mwea Trust Land in Mbeere District.

Mr. J. Nyagah: Mr. Speaker, Sir, this is a very sensitive issue. It can even cause clashes, and has been pending for many years. To avoid what has happened in other parts of the country, I would like the Assistant Minister to say which cases are still pending and how they affect this issue.

Mr. Kamama: Mr. Speaker, Sir, this is a long standing dispute. There have been about three task forces that were formed to actually address this problem. In 1990, there was a task force chaired by a District Commissioner, Mr. Akello. In 1995 there was a task force chaired by the late hon. Justice Chesoni, and there was also a verification team, which comprised of four senior District Officers and officials from the Ministry of Lands.

So, the Government has really tried to address this problem. But there are two major cases. In 1978, a person called Titus Kithaka and others filed High Court Case No.2312 against the County Council of Embu and the Attorney-General, requesting that the people on the ground be the only beneficiaries. There is also a case by the Mihiriga Kenda clan of Kirinyaga District. Theirs is High Court Miscellaneous Case No.268 of 1981 against the District Land Adjudication Officer, Embu, in the High Court, Nairobi, claiming the entire land on the basis of customary rights. The

cases are yet to be finalised, so that we can assist these people. So, there are very many cases dating back to 1981. These cases are there. It is not fiction. The cases are real and we cannot ignore them.

Mr. Karaba: Thank you, Mr. Speaker, Sir. The Assistant Minister has forgotten that Kirinyaga people are co-owners of this "scheme". If the title deeds are issued to the Mbeere and other people in the south, Kirinyaga people will feel incited against the Mbeere. Could the Assistant Minister count Kirinyaga people among the people who will be issued with titled deeds together with the people of Mbeere District?

Mr. Kamama: Mr. Speaker, Sir, I hope hon. Karaba is not complicating this issue by introducing other complaints from Kirinyaga people. I have promised this House that once we are through with the two major cases, we will be able to assist Mbeere people. We know that area is dry and they need to develop their farms. We will be able to sort out the problem. The only request I will make to the hon. Member is to liaise with leaders, and those involved in those cases, to fast-track them so that they can be disposed of as soon as possible to enable us issue title deeds to those people.

Mr. Speaker: Last question, Mr. Nyagah.

Mr. J. Nyagah: Mr. Speaker, Sir, as you have heard, there are cases that have prevented us from proceeding with this matter. People have been organising delegations to go to State House to veto these court cases. These are people who are interested in my seat. These cases have been pending for over 20 years. The Government has made it quite clear that nothing will happen because of those two cases. Could the Government, through the Provincial Administration and the Ministry of Lands, take over these cases in order to resolve all the existing problems, including reconciling the Mbeere and Kirinyaga people? This matter should be resolved once and for all, as doing so is in line with the Government policy of settling squatters.

Mr. Kamama: Mr. Speaker, Sir, as a Ministry, we are ready to engage in dialogue. I think the Provincial Administration is also ready to engage in dialogue so that, that issue can be brought to a stop. You know that we have three arms of the Government which work independently - Judiciary, Executive and Legislature. I know that if we engage dialogue and the cases have not been disposed of, it will be a case of *sub judice*. I encourage hon. Member and leaders in that region to pursue those cases in court, so that, that matter can be solved once and for all. We are ready to engage in dialogue. But the law must always be respected.

Mr. Speaker: I understand Mr. Ojode and the Assistant Minister have agreed that the next Question be deferred. Is that so, Mr. Assistant Minister?

The Assistant Minister for Planning and National Development (Mr. Serut): On a point of order, Mr. Speaker, Sir. We have not agreed with the hon. Member! I am ready to proceed. I have the answer with me.

Mr. Speaker: Oh my God! I was informed by the hon. Member that this Question was, at some stage, deferred so that the Minister and hon. Member could visit those projects. It was supposed to come back to the House after the visit. Is that not what you had agreed?

The Assistant Minister for Planning and National Development (Mr. Serut): Mr. Speaker, Sir, this Question was deferred last time because we wanted to visit certain projects. After consultations, I have realised that there are only four projects. The hon. Member is not in dispute. Others are capacity building and training. So, there is nothing to be seen on the ground.

Mr. Ojode: On a point of order, Mr. Speaker, Sir. It was the Chair who decided to defer this Question until the Assistant Minister visits the constituency and shows the hon. Member the projects he was alleging to be undertaking. There are no projects in that constituency! I even asked him whether some of the locations he was mentioning were in my constituency. So, the Chair deferred the Question until he comes to the constituency to verify the projects. However, he never

went there! He never consulted with me.

Mr. Ogur: On a point of order, Mr. Speaker, Sir. Ndhiwa and Nyatike constituencies were once a single constituency. The IFAD-funded project is not there! If he cannot visit Ndhiwa Constituency, let him come to Nyatike Constituency. There is nothing there. Nothing!

(Laughter)

Mr. Speaker: Order, hon. Members! The way I understand the Question, the very existence of that project is in question. It is not even in doubt! It is in question. I think the Assistant Minister had undertaken to go and confirm whether it is there. Now, he is saying he has been persuaded otherwise. I really do not know what to do. I do not want to direct Assistant Minister on how to do their jobs.

However, Mr. Assistant Minister, I think we have heard of an expression called "phantom projects" in this House. Those are projects that do not exist. You know it is not a new phenomenon. We have heard quite a lot about it. Why do you think it is undesirable that you satisfy yourself, as a servant of the people?

The Assistant Minister for Planning and National Development (Mr. Serut): Mr. Speaker, Sir, there are four major projects---

Hon. Members: Where? Where?

The Assistant Minister for Planning and National Development (Mr. Serut): In that particular location! They are not in dispute. What is in dispute is where the rest of the money went. I have documentary evidence to show what happened to the rest of the money. It went to capacity building; training and bulking!

(Several hon. Members stood up in their places)

Mr. Speaker: Order! The Question is not even before the House. What we are discussing here are the undertakings made either by hon. Members or Ministers, to the Chair. My attitude is: Once you have made an undertaking, the Chair will hold you to it. I will hold you to it! You go and find out the state of the projects because you give an undertaking.

(Applause)

You will have to go, my friend! Anyway, it is not dangerous to go to Ndhiwa and Nyatike constituencies.

Question deferred!

Question No.571

IFAD-FUNDED PROJECTS IN
NDHIWA CONSTITUENCY

(Question deferred)

Next Question by the hon. Member for Bahari Constituency!

Question No.688

OPERATION OF FOREIGN TRAWLERS IN
KENYA TERRITORIAL WATERS

The hon. Member is not present? Question dropped

(Question dropped)

Next Question by the hon. Member for Mumias Constituency!

Question No.675

TARMACKING OF EKERO-
BUYANGU ROAD

Mr. Osundwa asked the Minister for Roads and Public Works whether he could inform the House what has caused the delay in tarmacking the 33-kilometre Ekeru-Buyangu Road.

Mr. Speaker, Sir, I have, however, not received the written response. I have checked everywhere. They have not even brought it to the Speaker's office.

Mr. Speaker: Where is the Minister?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Speaker, Sir, the answer was sent. I have a copy if he might fear to get---

Mr. Osundwa: On a point of order, Mr. Speaker, Sir. At 1.00 p.m., I went to Room 8 to check whether the reply was there. But it was not there. I have checked with the Clerk-at-the-Table and he has confirmed that the Minister has not brought the reply. We are tired of the un-truths from the Ministers! They do not want to give hon. Members written replies!

Mr. Speaker: Order, hon. Members! Why are hon. Members on a war path? What has spoilt the mood?

Hon. Members: War! War!

Mr. Speaker: Hon. Members, let us recollect our good mood.

Mr. Assistant Minister, what happened to the reply?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Speaker, Sir, the written response was brought to Parliament today. So, if the hon. Member has not received his copy, I do not know the reason. I have my answer! I am not asking for the deferment of the Question.

However, Mr. Speaker, Sir, I beg to reply.

The tarmacking of the 30-kilometre Ekeru-Buyangu Road has delayed because of lack of design. However, tenders for tarmacking the road were advertised in the local daily newspapers on 18th, October, 2006. The tenders will be opened on 7th December, 2006. Works are expected to commence in February, 2007.

Mr. Osundwa: Mr. Speaker, Sir, that is a very good answer, if the Government can live up to its promise. We have heard many such promises before. The last promise was given by none other than the Head of State, when he visited Mumias. I hope the Assistant Minister is going to live to his words.

Eng. Toro: Mr. Speaker, Sir, there is a short history about that road. The Ministry went ahead and advertised for gravelling. A contractor was awarded the tender to gravel the entire 30-kilometres. When the President directed that we upgrade that road to bitumen standard, we started on the design. As I am speaking today, the contractor who is doing gravelling is already on site. However, we had to incorporate what he is doing and what is going to happen once we upgrade

that road. That is what has caused the delay. The hon. Member should not worry because once we open the tenders, the gravelling contract will end and the bitumenization programme will start.

Mr. Arungah: Mr. Speaker, Sir, could the Assistant Minister tell the House how much money has been allocated for the tarmacking of this road?

Eng. Toro: Mr. Speaker, Sir, we have allocated Kshs100 million for this road during this financial year. However, on the on-going contract for gravelling, it was awarded at a tender price of Kshs123 million. The Kshs100 million allocated for this financial year is adequate. Once we award a tender to a contractor, we undertake to pay the first certificate by end of the financial year. There is no way the contractor will have worked and issued two payment certificates.

Mr. Oparanya: Mr. Speaker, Sir, we are grateful for what the Assistant Minister has said that they will start tarmacking this road from next year. However, the gravelling of this road started nine months ago. Up to now, they have hardly done five kilometres. The contractor has even moved from the site. He has moved the equipment that was on site. I would like to know from the Assistant Minister when the gravelling will be completed. The gravelling was a different contract from tarmacking.

Eng Toro: Mr. Speaker, Sir, as I said, we are not very keen on the gravelling that is going on today. Once the bitumenization tender has been awarded, it will no longer be a gravel road but a tarmacked road. So, whichever way, the contract of the contractor who is on the ground today will have to be terminated and the other programme will start.

Mr. Osundwa: Mr. Speaker, Sir, the Assistant Minister has assured this House that the actual tarmacking will take place from February next year. Could he inform the House how much money is earmarked for the entire project?

Eng. Toro: Mr. Speaker, Sir, it is not easy to tell that. Like I said, we are opening the tenders tomorrow. However, what I said is what we have earmarked for this financial year to be spent on that road. The final figure will come out when the tenders are opened and the award has been made.

COMMUNICATION FROM THE CHAIR

DEFERREMENT OF COMMITTEE STAGE:
THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL

Mr. Speaker: Order, hon. Members! That is the end of Question Time.

(Loud consultations)

Order, hon. Members! I have a few directions to make before we go to the next Order.

First, on Order No.7(iii): The Committee of the whole House in respect of that Order will be undertaken tomorrow; that is, the Statutes Law (Miscellaneous Amendment) Bill. There are certain technical problems that have not been completed.

NOTICE ON THE MEMORANDUM BY HIS
EXCELLENCY THE PRESIDENT

Mr. Speaker: I also invite hon. Members to look at page 572 on Notices, the headline in bold: Memorandum by His Excellency the President. Hon. Members will recall that I, in fact, made a communication to this House about the Memorandum from His Excellency the President.

(Loud consultations)

Order, hon. Members! Some hon. Members cannot give one minute to Parliamentary business. Just one minute! So, I, in fact, communicated to this House, and the HANSARD is there, on the Memorandum by His Excellency the President on The Banking (Amendment) Bill, 2004. At the same time, I set out the procedures to be followed as a Communication from the Chair. That is a long time ago and some hon. Members may have forgotten. So, I put this one, not for business today. It is coming tomorrow but it is there as a notice to hon. Members that the issue of that Memorandum is coming to the Committee of the whole House tomorrow for its consideration.

Therefore, hon. Members are called upon by that notice to revisit the Communication issued by the Chair in this respect so that they are equipped to deliberate on this issue tomorrow. To make your work easier, I have further asked the Clerk to avail to hon. Members a copy of the Memorandum, but I think it is all there, and a copy of my Communication so that when we come to it tomorrow, hon. Members will understand what we are supposed to do. However, in short, what it means is that tomorrow when this matter comes, this Memorandum will be referred to the Committee of the whole House. The Committee of the whole House will consider the Memorandum of His Excellency the President. This House is at liberty to approve the Memorandum as it is, in which case it will be by a simple majority; or you may approve it with amendments, in which case again you will require a simple majority; or you may also wish to reject the Memorandum in its totality. In that case, you require 65 per cent of the hon. Members, not those present but the membership of the House. To reject it in total, you require 65 per cent of the total membership of the House excluding the ex-officio members. If at the end of the vote you do not get the 65 per cent, the objections by His Excellency the President will be deemed to have been accepted.

Once the result is known, then a report will be made to the House by the Committee. Once that report is accepted by the House, then the Bill will be read a Third Time. As of now, it has not been read a Third Time. It will be read a Third Time as a formality and then it will go back to His Excellency, the President who will then give assent. I hope we understand that procedure. I appreciate the fact that it is something new. We have not done this in the past. So, please, acquaint yourselves and get ready for it tomorrow. You have three options: To accept the Memorandum as it is, to accept with amendments or to reject in total. The number of votes required in two instances is the same simple majority. On the third, which is the total rejection of the objections by His Excellency, the President, you will require two thirds of the membership of the House. If you do not get it, you will be deemed to have accepted them. Thank you.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE HIV AND AIDS PREVENTION
AND CONTROL BILL

The Temporary Deputy Chairman (Mr. Maore): We are now in the Committee of the whole House. We are considering the HIV and AIDS Prevention and Control Bill.

Clause 2

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, we have some amendments to Clause 2 as detailed in the Order Paper.

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

THAT, Clause 2 of the Bill be amended –

(a) in the definition of "Acquired Immune Deficiency Syndrome (AIDS)" by deleting the words "caused by HIV, which attacks and weakens the body's immune system making the afflicted person susceptible to other life-threatening infections" and substituting therefor the words "resulting from depletion of the immune system caused by infection with the Human Immuno-deficiency Virus (HIV);"

(b) in the definition of "healthcare provider" by inserting a new paragraph as follows-

(f) counsellors who have completed training as approved by the Ministry for the time being responsible for matters relating to health.

(c) in the definition of "HIV test" by deleting the words "a test" and substituting therefor the words "a prescribed test or series of tests";

(d) in the definition of "Tribunal" by deleting the word "Equity" and substituting therefor the words "HIV and AIDS";

(e) by inserting the following new definitions in proper alphabetical sequence:-

"human biomedical research" means-

(a) any research that involves direct interference or interaction with the physical body of a human subject and that involves a concomitant risk of physical injury or harm however remote;

(b) any research programme that involves the administration of any drug on a human subject whether it is for the purpose of testing the effects or efficacy of the drug, or whether as a means for establishing any other objective of the research programme;

(c) any research that involves the trial or use of a medical device on a human subject;

(d) any research that involves carrying out a test on a human subject's physiological, emotional or mental responses, such test not being conducted for diagnostic purposes with a view to the therapeutic management of the human subject;

(e) any research involving human tissue, or medical, personal or genetic information relating to both identifiable and

anonymous human subjects for the purpose of generating data about medical, genetic or biological processes, diseases or conditions in human subjects.

"post exposure prophylaxis" means the administration of one or a combination of anti-retroviral drugs after probable exposure to HIV for the purpose of preventing transmission;

"self-testing" in relation to HIV infection means a prescribed test or series of tests carried out entirely by a person on self without the involvement of another person, which determine whether a person is infected with HIV

The Temporary Deputy Chairman (Mr. Maore): You should argue your case, so that we can proceed.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended:-

(a) by deleting subclause (2) and substituting therefor the following new subclause:-

(2) The educational and information campaign referred to in subsection (1) shall:-

(a) employ scientifically proven approaches;
(b) focus on the family as the basic social unit;
(c) encourage testing of individuals; and
(d) be carried out in schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities throughout Kenya.

(b) by deleting subclause (3) and substituting therefor the following new subclause-

(3) In conducting the educational and information campaign referred to in this section, the Government shall collaborate with relevant stakeholders to ensure the involvement and participation of individuals and groups infected and affected by HIV and AIDS, including persons with disabilities.

(Question of the amendment proposed)

Mr. Ligale: On a point of order, Mr. Temporary Deputy Chairman, Sir. We are not doing this thing in a correct way. An amendment was proposed. You should propose it to us.

The Temporary Deputy Chairman (Mr. Maore): I proposed, but nobody rose up.

Mr. Ligale: I am sorry, but you did not propose it!

The Temporary Deputy Chairman (Mr. Maore): I did! Maybe, you were talking to someone there.

Mr. Ligale: I am listening very keenly. The consultations are a bit loud.

The Temporary Deputy Chairman (Mr. Maore): I agree that there were a lot of consultations. I proposed the amendment, looked around and nobody was interested.

(Loud consultations)

Order, hon. Members! There has been a proposal that Clause 4 be amended. Usually, when we pause long enough and there is nobody interested, we put the question.

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

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended-

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

(2) For the purposes of subsection (1), the Government shall ensure training of healthcare providers on proper information dissemination and education on HIV and AIDS including post-exposure prophylaxis for prevention of transmission.

(b) by inserting a new subclause immediately after subclause (3) as follows-

(4) The Minister for the time being responsible for matters relating to health shall in collaboration with relevant stakeholders provide guidelines for post exposure prophylaxis.

The Temporary Deputy Chairman (Mr. Maore): I think the Assistant Minister should put some argument about the amendment. We are not asking you to read the amendment only. You should clarify the amendment so that Members can know what you are up to.

(Question of the amendment proposed)

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, we are amending Clause 6 to include post-exposure prophylaxis and also to empower the Minister to give guidelines for post-exposure prophylaxis.

(Question, that the words to be left out)

be left out, put and agreed to)

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

*(Clause 6 as amended
agreed to)*

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

Clause 13

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended by deleting the words "Chapter XV of the Penal Code" and substituting therefor the words "the Sexual Offences Act, 2006"

Mr. Temporary Deputy Chairman, Sir, we want to amend Clause 13 to make the subsection to be in conformity with the newly enacted Sexual Offences Act, 2006.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 of the Bill be amended –

(a) in subclause (1)-

(i) by deleting the word "written" appearing in paragraph (a);

(ii) by deleting the word "or" appearing in sub paragraph (iii) of paragraph (c);

(iii) by inserting the following proviso to paragraph (c)-

Provided that the medical practitioner may undertake the HIV test if the persons referred to in paragraphs (i), (ii), (iii) and (iv) are either absent or are unwilling to give consent.

(b) in subclause (3) by inserting the words "Subject to Section 17" at the beginning of the subclause;

(c) by deleting subclause (5).

Mr. Temporary Deputy Chairman, Sir, we would like Clause 14 to be amended as per the Order Paper so that, in part (a), the informed consent should not necessarily be written and part (b), the proviso allows medical practitioners latitude to do HIV/AIDS tests in circumstances where either the guardian is not present or is unwilling to give consent for the same.

(Question of the amendment proposed)

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

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

(Clause 14 as amended agreed to)

(Clause 15 agreed to)

Clause 16

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be amended-

(a) by inserting the words "or in the manner specified under paragraph (d) of sub section (4) at the end of subclause (1);

(b) by inserting a new paragraph into subclause (4) as follows-

(d) guidelines for self testing.

Mr. Temporary Deputy Chairman, Sir, by that amendment, we are introducing the new subsection to give the Minister guidelines for self-testing.

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)
(Clauses 17, 18, 19, 20, 21, 22
and 23 agreed to)

Clause 24

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 24 of the Bill be amended by deleting the words "antibodies, shall not knowingly or recklessly" appearing in subclause (2) and substituting therefor the words "shall not knowingly and recklessly"

(Question of the amendment proposed)

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

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

(Clause 24 as amended agreed to)

Part VII

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in the citation of Part VII by deleting the word "EQUITY" and substituting therefor the words "HIV and AIDS."

Mr. Temporary Deputy Chairman, Sir, the amendment is meant to delete the word "antibody" because we are dealing with HIV/AIDS which we already know is a virus. By consensus, the Board that will be set up will be known as the HIV/AIDS Board, so in this amendment, we are deleting the word "EQUITY" and substituting it with the words "HIV and AIDS."

(Question of the amendment proposed)

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

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

(Part VII as amended agreed to)

Clause 25

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That, Clause 25 of the Bill be amended-

(a) by deleting the word "Equity" appearing in subclause (1) and substituting therefor the words "HIV and AIDS;

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

(2) At least two of the persons appointed under subsection 1 (a), (b), and (c) shall be women.

(Question of the amendment proposed)

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

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 of the Bill be amended by inserting the following new subclause immediately after subclause (3)-

(3A) The Tribunal shall have powers to summon expert evidence as may be necessary for the discharge of its functions under this Act.

The clause is amended so that new subclause is introduced to allow the tribunal the latitude to summon experts in its deliberations.

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

*(Clauses 28, 29, 30, 31, 32, 33
and 34 agreed to)
Clause 35*

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 35 of the Bill be amended by deleting subclause (4) and substituting therefor the following new subclause-

(3) Where a proposer elects to undergo an HIV test pursuant to subsection (3) and

the results thereof are positive-

- (a) the proposer shall at his own expense enter into such agreed treatment programme with the insurer as may be prescribed by the Minister in consultation with the Commissioner for Insurance; or
- (b) the insurer may impose a reasonable additional premium or lien to the benefits ordinarily purchased; or
- (c) the insurer may decline granting the cover being sought.

The amendment seeks to introduce a new subclause that basically expands the earlier clause in the Bill and provides for flexibility for both the proposer and the insurer.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

(Clauses 36, 37 and 38 agreed to)

Clause 39

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 39 of the Bill be amended by inserting the word "human" immediately after the word "related."

The amendment seeks to introduce the word "human" and to indicate that the research is on human beings.

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

Clause 40

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 40 of the Bill be amended by inserting the word "human" immediately after the word "related" appearing in subclause (1).

(Question of the amendment proposed)

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

(Clause 40 as amended agreed to)

*(Clauses 41, 42, 43, 44
and 45 agreed to)*

New Clause

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 40 as follows:-

Anonymous

testing

40A(1) Notwithstanding anything to the contrary in this Act, the Minister for the time being responsible for matters relating to health may prescribe guidelines under which anonymous testing for HIV may be carried out.

(2) Any anonymous testing conducted pursuant to this section shall only be for the purposes of public health.

Mr. Temporary Deputy Chairman, Sir, the new clause is meant to introduce anonymous testing, which shall be used in biomedical research and HIV/AIDS surveys.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause
be read a Second Time, proposed)*

Mr. Ligale: Mr. Temporary Deputy Chairman, Sir, could the Assistant Minister explain the purpose of anonymous testing? There must be consent from people for testing to take place. People must voluntarily agree to get tested. Could we get an explanation from him on this issue?

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, anonymous testing basically means that we draw blood from an individual, take it to the laboratory, but rather than putting a name to identify it, we put a number. This is basically done for research purposes so that we are in a position to tell what the prevalence rate of HIV/AIDS in our community at any given time is.

The Temporary Deputy Chairman (Mr. Maore): Mr. Ligale, I hope you are satisfied with that explanation.

Mr. Ligale: Mr. Temporary Deputy Chairman, Sir, I am still not satisfied.

(Loud consultations)

I am not even sure if this House is in order! The consultations are getting louder!

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

Mr. Ligale: Mr. Temporary Deputy Chairman, Sir, it seems the new Chairman of KANU is forming a Shadow Cabinet here. There are a lot of loud consultations.

The Temporary Deputy Chairman (Mr. Maore): Mr. Ligale, I do not think that is true. There is no Shadow Cabinet at the Back Bench, it is supposed to be at the Front Bench.

Proceed and put your case!

Mr. Ligale: Mr. Temporary Deputy Chairman, Sir, if the purpose of anonymous testing is for research only, how will the researchers determine who gets to be anonymously tested? What will we achieve from this? This is not very clear.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I thought we would not go into a lot of details. However, the prevalent rates of the HIV/AIDS that we have in this country have come from the sentinel sites that we have. Those are selected sites. They could be for antenatal care and so on. If we want to get a true picture of the prevalence rate of HIV/AIDS in this country, we have to do anonymous tests. Those tests will allow us to get a true prevalence rate of the disease in the country at any given time. So, it is for research, but more importantly, for surveys.

Mr. Ojaamong: Mr. Temporary Deputy Chairman, Sir, the Assistant Minister has emphasised that anonymous testing is for survey purposes only. However, is there any provision, if this Bill comes into law, that if the results go out other than for survey purposes, what penalty is provided for the person who leaks out this information?

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, the Bill is very clear on this. Nobody will be tested for HIV/AIDS unless they have given consent. That bit is very clear. The other bit that we are now trying to introduce in anonymous testing is for purposes of knowing where we are, as a country, at any given time. So, on the one hand, we have provisions in the Bill. Nobody will be tested or denied employment opportunities just because they have not tested for HIV/AIDS. This is all covered in the Bill. However, this is just for us, as a country, and as a Ministry, to know where we are as far as prevalence rates are concerned.

Mr. Ojaamong: Mr. Temporary Deputy Chairman, Sir, I am not satisfied with that answer. I might be seeking employment and then I am tested anonymously and that information is provided to the employer. What penalty do you provide to protect--

The Temporary Deputy Chairman (Mr. Maore): Dr. Kibunguchy, the question the hon. Member is asking is, after you have collected the anonymous data and there is likelihood of abuse or misuse of that data by your Ministry, what redress is there?

The Assistant Minister for Health (Dr. Kibunguchy): That is why we are calling it anonymous because nobody will know that the blood comes from, for example, Mr. Ojaamong. When we collect the blood, it will just be given a number, it will not be attached with a name.

Mr. Bett: Mr. Temporary Deputy Chairman, Sir, the explanation being given by the Assistant Minister on the word "anonymous" is very inadequate. Clause 13 of the Bill says:-

"Subject to this Act, no person shall compel another to undergo an HIV test."

Whether this is being done under anonymous conditions or not, a person has to give authority for a test to be done. We will end up with many cases in court if we do that, for example, in the case of an institution in Kericho which is doing exactly the same.

The Temporary Deputy Chairman (Mr. Maore): Dr. Kibunguchy, could you harmonise the new clause with Clause 13?

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, I think there is no contradiction. In anonymous testing, no body will ever know who has given his or her blood. For purposes of research and surveys, it is extremely important that, we, as a country, know what our prevalent rates are at any given time. I do not see any contradiction in that.

The Temporary Deputy Chairman (Mr. Maore): Mr. Bett, it seems you still want to seek clarification.

Mr. Bett: Mr. Temporary Deputy Chairman, Sir, the person drawing the blood knows the person he or she is drawing the blood from. It cannot be assumed that the owner of the blood cannot be known. The blood will not be coming out of a person by itself, it will be drawn by a person!

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Chairman, Sir, that is very true. Of course, the blood will be drawn by a person. However, the person drawing the blood is not the person going to do the test.

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

*(The new clause was read
a second Time)*

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

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

THE ENERGY BILL

Clause 2

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

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

"biomass" means non-fossilised and biodegradable organic material originating from plants, animals and micro-organisms and includes bioethanol, biodiesel, biogas, charcoal, fuel-wood and agrowaste";

"outer continental shelf" means the outer continental shelf as defined in Article 76 Paragraph 1 of the United Nations Convention on the Law of the Sea or all submerged lands seaward and outside the area of lands beneath navigable waters";

"renewable energy" means all non-fossil sources including, but not limited to biomass, geothermal, small hydro-power, solar, wind, sewage treatment and plant gas."

(Question of the amendment proposed)

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

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

THAT Clause 2 be amended by inserting the following new definition in its proper alphabetical sequence:-

"sugar miller" means a person licensed to operate a sugar mill or a jaggery mill in Kenya for the production of sugar including refined sugar and other by-products.

Mr. Temporary Deputy Chairman, Sir, the reason for the amendment is that there are other

proposed amendments that will require the definition of "sugar miller".

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, the amendment by Mr. Ochilo-Ayacko is on page 588.

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, we have no problem with the amendment.

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

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 be amended by deleting paragraphs (d) and (f).

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, what was your amendment?

Mr. Weya: On a point of order, Mr. Temporary Deputy Chairman, Sir. There is a mistake in the way the Order Paper was done. Where Prof. Olweny's name appears, it was supposed to be my name and where my name appears, it is supposed to be Prof. Olweny. The amendments on that particular clause should be under my name.

The Temporary Deputy Chairman (Mr. Maore): All right. So, we go to Prof. Olweny.

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

THAT, Clause 5 be amended:-

(1) in paragraph (a) by:-

(a) inserting the following new subparagraph immediately after subparagraph (ii);

(iii) production and promotion of the use of gasohol";

(b) renumbering the subparagraphs accordingly;

(c) inserting the words "co-generation of electricity" after the word "energy" in subparagraph (iii);

(2) in paragraph (d) by inserting the following words immediately after the word "sector";

"including but not limited to-

(i) ensure that a minimum of ten per centum of electricity generated in the country is from renewable energy sources;

(ii) and that twenty- five per centum of the petroleum products fuel needs of the country are met by the use of biofuels such as bioethanol, gasohol and biodiesel;

(iii) and that the provisions in this section are achieved within ten years of the commencement of this Act".

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Temporary Chairman, Sir, I am a bit lost.

The Temporary Deputy Chairman (Mr. Maore): It is on page 586. Where it is appears as Mr. Weya, it is supposed to be Prof. Olweny.

Prof. Olweny, I think it is better that you explain a few things about this amendment so that the endangered ones can---

Prof. Olweny: Mr. Temporary Deputy Chairman, Sir, I am proposing that gasohol and generation of electricity be promoted in this country. This country has a lot of potential for gasohol production in that we have a lot of ethanol produced from molasses.

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Temporary Deputy Chairman, Sir. We are not able to follow the amendment. Is it on page 585?

The Temporary Deputy Chairman (Mr. Maore): It is on page 586. The notice of amendment given by Mr. Weya is supposed to be by Prof. Olweny.

The Minister for Energy (Mr. Murungi): So, we interchange the names?

The Temporary Deputy Chairman (Mr. Maore): Yes, please.

The Minister for Energy (Mr. Murungi): All right, thank you.

Prof. Olweny: Mr. Temporary Deputy Chairman, Sir, we have a lot of potential for gasohol production in this country and, after all, it was done before. Gasohol was produced in this country for some time and then later it was stopped. It was successfully used. Today, there is so much ethanol produced which could be blended with petrol so as to lower the cost of fuel that we use to propel our vehicles. The sugar mills also have a lot of potential for producing electricity which could be sold into the national grid. That would avail more electricity for our use in the country. They have a lot of baggase which is not used, and if they could use it to produce electricity, that would increase the amount of electricity available for us in this country.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, we are opposing this amendment because it is taken care of by two clauses already. If you look at Clause 5(iii); "production, distribution, supply and use of renewable and other forms of energy," the other forms of energy include what the Member is calling for. Secondly, if you look at Clause 103, it also takes care of it. If you look at our amendments in Clause 103, on page 582, we are inserting the words "biodiesel, bioethanol, charcoal, fuel wood." So, it is taken care of.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, just to narrow the gap between the Assistant Minister and Prof. Olweny, the importance of the sugar subsector cannot be over-emphasised. To augment the meagre earnings of the sugar subsector, it has been proposed by Government that co-generation be done. To state it very clearly does not burden the Ministry. As stated in subparagraphs (ii) and (iii), to give the Ministry about ten years to realise the per centum suggested there, is just to make it more specific. So, I would want to persuade the Assistant Minister to be magnanimous to the sugar subsector because it is actually Government policy to do co-generation.

The Temporary Deputy Chairman (Mr. Maore): I think the Minister is just worried about the too many words that have been used in the amendment. Are you satisfied that what you are saying is covered, Mr. Weya?

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I have seen other Bills that seek to address this issue in other countries. If you impose a certain percentage, the Government will be compelled to adhere to those percentages. In my opinion, they are not high at all. In other countries, the percentage that has been imposed is 50 per cent. For all types of energy that are generated at a the cost of carbon credit, 50 per cent of them have to be degradable fuels. So, I think we are not pushing the limit higher. We are only trying to emulate what other countries around the world are

doing, that is, to impose a certain percentage.

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

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

THAT, Clause 5 be amended by inserting the following new paragraphs immediately after paragraph (f):

"(f) collect and maintain energy data",

"(g) prepare indicative national energy plan"

This amendment seeks to include, as part of the duties of the Commission, collection and maintenance of energy data and the preparation of an indicative national energy plan.

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, we have no objection to that particular amendment.

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

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

THAT, Clause 5 be amended in paragraph (a) by inserting the words "and may also determine the price of petroleum products" immediately after the word "products" in subparagraph (ii).

The reason for proposing this amendment is that we had agreed with the Minister that we should put some kind of regulation on the pricing of petroleum products. If you look at Clause 5 closely, you will realise that there is no place which states that the commissioners, as part of their duties, will also be determining the price of petroleum products. This amendment was unanimously agreed upon by both of us.

(Question of the amendment proposed)

The Minister for Energy (Mr. Murungi): Mr. Temporary Deputy Chairman, Sir, it is true that we had discussed with the hon. Member and we generally agreed on the amendment that he is now proposing.

However, that amendment has already been taken care of by the Minister's amendment which is appearing on page 582 of the Order Paper. We have inserted a new paragraph (w) in Clause 102 which gives the Minister powers to determine the retail prices of petroleum and petroleum products. So, in view of that amendment, this other amendment by hon. Ojode will be superfluous.

We, therefore, would ask the hon. Member to consider withdrawing it.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, if you look at Clause 5 of the Bill, you will realise that it is important for us to add after the word "products" in subparagraph (ii) the words "that the functions of the Commission shall, among other things, be determining the price of petroleum products".

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, please, look at Clause 102 and see whether the two clauses are in disharmony or not.

Mr. Ojode: Mr. Temporary Deputy Chairman, the amendment proposed under Clause 102 is the main one because it seeks to regulate petroleum prices.

However, you cannot regulate petroleum prices without giving powers to the Commission. There is nothing wrong with that since that amendment is not taken care of in the role of the Commission.

When you look at Clause 5, you will realise that we need to add the words "and may also determine the price of petroleum products" even if we had agreed on the main amendment in Clause 102. We have also to give the Commission powers to determine the price of petroleum products.

The Temporary Deputy Chairman (Mr. Maore): I just wanted to ask the hon. Member to tell me whether what the Minister has proposed and what he is proposing are serving the same purpose. Is there any weight being added by your amendment?

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I am not adding an amendment at all. Even the Minister should have realised that since we are giving the Minister powers to fix the maximum price in respect of sale of petroleum products, the Commission should also be aware. This is because one of the functions of the Commission is to determine the price of petroleum and petroleum products.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, it is very clear in this Bill that the Minister shall take action upon the advice of the Commission. Therefore, any regulatory measure being taken shall be as a result of the advice coming from the Commission.

Secondly, it is also important that the Minister's decision is vetted. In any case, if the Commission delays in taking action, the Minister can be asked by hon. Members to give reasons for the delay. In other words, Parliament will be able to vet the Ministry.

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

*(Clause 5 as amended
agreed to)*

Clause 6

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 be amended-

- (i) in paragraph (I) by deleting the words "and determine";
- (ii) in paragraph (m) by inserting the words "persons with appropriate skills to check the accuracy of energy meters installed in residential, commercial or industrial premises" immediately after the word "of";
- (iii) by inserting the following new paragraph-
"(p) grant licences, in co-ordination with other statutory authorities, for sustainable charcoal production upon submission of satisfactory development plans."

(Question of the amendment proposed)

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

*(Question, that the words to be inserted
in place thereof be inserted,*

put and agreed to)

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 6 be amended by deleting paragraph (k)

The reason for bringing this amendment is that Kenya Bureau of Standards (KEBS) is already mandated to do these duties. We know that it is supposed to ensure that all products finding their way into the market are of acceptable standards. This Commission will be duplicating its work if it engages in determining the standard of meters. That particular function lies within the province of KEBS.

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, the hon. Member is telling us not to re-examine products. In practice, we have cross-examination and re-examination. What the KEBS is mandated to do is cross-examination of products. As a Ministry, we are asking that we be given powers to re-examine. If we do not do that, we might not be able to verify clearly that the quality of products we are giving Kenyans is of acceptable standards.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, it is the Minister who will give KEBS instructions about what specifications they want. So, it is a question of duplicating work if this Commission is going to be charged with the responsibility of doing what KEBS is already doing. That is exactly why I am pleading with the Minister to withdraw this amendment. People will be moving back and forward asking themselves as to who is exactly supposed to check the standard of products.

Normally, the Ministry will come up with standards and pass them over to KEBS. It is KEBS which will then ensure that those standards are upheld.

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, so, I hope upon reading it, you feel that the Commission does not need to touch on that part?

Mr. Weya: Mr. Temporary Deputy Chairman, the Minister will give the Kenya Bureau of Standards (KEBS) instructions on what standards they should maintain and so there is no point of duplicating the work.

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, actually the Bill does not make any reference to KEBS. It is you who seems to have faith in KEBS.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I do not mind the Commission doing it.

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

(Clause 6 as amended agreed to)

(Clauses 7, 8 and 9 agreed to)

Clause 10

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 be amended by deleting paragraph (c).

*(Question of the amendment
proposed)*

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

Mr. Weya: On a point of order, Mr. Temporary Deputy Chairman. I beg to move:-
THAT, Clause 10 be amended-

(a) in subclause (1) by deleting paragraph (e) and substituting therefor the following
new paragraph-

"(e) eight commissioners with knowledge in energy matters appointed by the
President and approved by Parliament.

(b) in subclause (2)(b) by deleting the word "fifteen" and substituting therefor the
word "seven".

I would like His Excellency the President to be allowed to nominate commissioners who
will have geographical representation.

Mr. Temporary Deputy Chairman, Sir, also in the paragraph (b) of this clause, it is very
clear that this Bill must have been drafted by someone who is elderly the reason being he wanted
15 years. You can imagine that somebody leaves university at the age of 25 and he can only
become a commissioner if he is over 45 years old and what is happening around the world is that
you find that youth need to be put into this Commission.

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, do not worry since the youth
can be 70 years old.

Mr. Weya: No, Mr. Temporary Deputy Chairman, Sir. They cannot be 70 years old. So, in
paragraph (b) of this clause, I would want the years reduced from 15 to seven to enable youth, who
are very productive and who are evolving much faster than the older generation, to be allowed to sit
in this Commission.

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
on Clause 10 (b), we have no problem with the change to seven years from 15 years.

The Temporary Deputy Chairman (Mr. Maore): So, you agree with the amendment?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I agree with the amendment to Clause 10 (b); that is in subclause 2; by deleting the word "fifteen"
and substituting therefor the word "seven".

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, if you want to
amend it, then you will have to follow the procedure.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I agree with Mr. Weya.

The Temporary Deputy Chairman (Mr. Maore): So, you agree with the amendment?

The Assistant Minister for Energy (Mr. Kiunjuri): Yes, Mr. Temporary Deputy
Chairman, Sir.

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

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

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Chairman, Sir. I understood the Assistant Minister to have been trying to separate the two amendments and to have been declining the issue of appointment by---

The Temporary Deputy Chairman (Mr. Maore): Hon. Ochilo-Ayacko, I think you are revisiting an issue that the House has made a decision on because if the Assistant Minister wanted to amend it, he should have followed the procedure but he did not.

The Assistant Minister for Energy (Mr. Kiunjuri): No, Mr. Temporary Deputy Chairman, Sir. I was very categorical on this one because we avoided moving the amendment. For us the amendment to paragraph (a) of this clause is not moved and that is why I was very categorical that we are not opposed to Clause 10(b). If at all it is a question of paragraph (a) of this Clause, then the amendment has not been moved.

Mr. Weya: Mr. Temporary Deputy Chairman, I categorically said that they go together. I said that I want the Head of State to appoint the commissioners and that the youth should also be involved and that is why I want to reduce the years from "fifteen" to "seven" to provide for the youth. The vote took place and the amendment was agreed to.

The Temporary Deputy Chairman (Mr. Maore): I agree but it would be appropriate. If the Assistant Minister wanted an amendment to that amendment, there is a procedure and you have not followed the procedure.

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Temporary Deputy Chairman, Sir. With due respect, I think there was confusion on both sides of the House because on our side we thought we were voting for Clause 10(b) and not Clause 10(a). We ask for clarity if the entire amendments that we are voting for could be repeated to us so that we can vote.

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, I want to put it that the House has ruled on the amendment put forward by hon. Weya. The only resolution that the House or this Committee can make is to rescind its decision, but there is no Motion to that effect.

For that reason, we have to call upon the hon. Assistant Minister to move it.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the decision on Clause 10(a) be rescinded because of confusion.

Mr. Temporary Deputy Chairman, Sir, while addressing the Chair, I was very categorical that I was dealing with Clause 10(b), and that one can be---

The Temporary Deputy Chairman (Mr. Maore): Mr. Kiunjuri, if you move that you have to rescind, then I will put the Question.

Mr. Weya, I think let us be very precise and separate the two amendments and the Assistant Minister can come forward.

An hon. Member: Mr. Temporary Deputy Chairman, Sir, you are confusing us now.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I followed the procedure and said that Clause 10 be amended as it appears on the Order Paper on page 586 and I finished. Mr. Temporary Deputy Chairman, Sir, I think they should be more attentive next time so that we do not have this confusion because the Assistant Minister is a bit confused.

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, Clause 10 (a) and (b) was being amended. Now, can you put your case.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,

the Departmental Committee on Energy, Communications and Public Works sat with the Ministry of Energy and the Minister and it was agreed that Clause 10 (a) remains as it is and that should enable the operations of the Authority to be effected as quickly as possible otherwise it might take another one year to make the Authority operational. So, I oppose the amendment.

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Chairman, Sir, I want some guidance from the Chair. We are about to take a vote on two issues here. One of them regards the manner of appointment of the commissioners and the other one is the age. I want the Chair to guide me.

Could we vote for them separately so that we can save the one on age that the Ministry has no objections to?

The Temporary Deputy Chairman (Mr. Maore): I actually stated earlier, when the Assistant Minister was having a similar problem, that anybody who wanted to amend Clause 10, to separate part (a) from part (b), was at liberty to do so as long as he followed the procedure.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, it is upon them to move that amendment. I beg to move that part (a) of the amendment be deleted, and that part (b) be retained to maintain the *status quo*.

The Temporary Deputy Chairman (Mr. Maore): So, you want to withdraw part (a) of the amendment?

Mr. Weya: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Maore): Okay. If you withdraw part (a), you can save the other one?

Mr. Weya: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Maore): Very well.

*(Question of the amendment
proposed)*

*(Question, that the resolution on Clause 10(a) be rescinded, put and agreed to)
(Resolution on Clause 10(a)
rescinded)*

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, we have a further amendment to Clause 10 by Mr. Ochilo-Ayacko.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 10 be amended in subclause (2) by deleting the words "as a commissioner" and substituting therefor the words "as a chairperson under subsection (1)(a) or commissioner under subsection (1)(e)".

Mr. Temporary Deputy Chairman, Sir, the reason for this amendment is that, in the mother Bill that we are amending, there was no provision for qualification of the chairperson. The only mention was that the same would be appointed by the President. We want to avoid a situation where non-professionals are appointed to this very important commission.

*(Question of the amendment
proposed)*

The Temporary Deputy Chairman (Mr. Maore): What are your comments, Mr. Kiunjuri?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,

we have no objection to the proposed

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

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

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, we have another amendment to Clause 10 by Mr. Moi.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, on behalf of Mr. Moi, I beg to move:- THAT Clause 10 be amended-

(i) in paragraph (e) by inserting the words "in consultation with the private sector" after the word "Minister".

(ii) by numbering paragraphs (d) and (e) as (c) and (d).

The amendments are found on page 584 of the Order Paper. This is on behalf of the Departmental Committee on Energy, Communications and Public Works. I think it is a matter that has been discussed with the Ministry.

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, we are opposed to this amendment because it is too broad and is not implementable.

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

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 be amended-

(i) in subclause (1) by deleting the words "on the advice of the Commission" and substituting therefor the words "on the recommendation of the Commission"; and,

(ii) by inserting the following new subclause (2)-

"The Minister may appoint the Director-General mentioned in subsection (1) from a list of three names of persons submitted by the Commission provided that the commission obtains the names through competitive selection process."

(iii) by renumbering the other subclauses appropriately;

- (iv) in subclause (2)(a) by deleting the word "or", and inserting the words "or related field" after the word "energy".

Mr. Temporary Deputy Chairman, Sir, in part (ii) of the amendment, as it appears on the Order Paper, the word "shall" is a typographical error by the drafters. The correct word is "may".

(Question of the amendment proposed)

Mr. Kombe: On a point of order, Mr. Temporary Deputy Chairman, Sir. I wish to seek clarification from the Assistant Minister. He has amended part (ii) of the proposed amendment by withdrawing the word "shall" and replacing it with "may". The word "may" gives the Minister an option. He may appoint, or he may not appoint, the Director-General referred to in this new Clause 2.

Mr. Temporary Deputy Chairman, Sir, now, in case the Minister opts not to appoint the Director-General, who else will do so?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, the word "may" will give the Minister a leeway in case of any objection arising from any quarters, to have the matter negotiated.

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

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

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, there is a further amendment to Clause 12 by Mr. Weya.

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

THAT, Clause 12 be amended-

- (iii) in subclause (2)(b) by deleting the word "fifteen" and substituting therefor the word "seven"; and,

- (iv) in subclause (3) by deleting the word "four" wherever it appears and substituting therefor the word "two".

Mr. Temporary Deputy Chairman, Sir, in my first amendment to this clause, I am reducing the experience from 15 years to seven years. In my second part of the amendment, I am reducing the term of office from four years to two years, renewable. The reason being that most chief **[Mr. Weya]**

executives now are given two years renewable contracts. That will enable a chief executive to work for two years after which the contract will be renewed for whatever number of terms he will be able to stay in office until he is unable to perform his duties effectively. If we fix the term at four years, a chief executive may sit back for all that period, as opposed to when his contract lasts two years, after which, depending on his performance, it may be renewed. Therefore, it will be better if a chief executive will be on a two-year renewable contract, to enable him to perform his duties effectively, as opposed to providing for a four-year contract and putting him in office and then be unable to remove him even if he fails to perform.

(Question of the amendment proposed)

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Temporary Deputy Chairman, Sir. We need some clarification from the Mover of this amendment. He is asking two

questions in his amendment: First, he is seeking to delete the word "fifteen" and substitute therefor the word "seven", which we have no problem with. However, we have a problem with the second set of his amendment, where he seeks to delete the word "four" and replace it with the word "two". We would like to request him to either withdraw part two, so that we can support part one of his amendment, or we reject everything in toto.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, why would the Minister want us to fix the term of office at four years as opposed to a two-year renewable contract, where a chief executive will perform and have his contract renewed after every two years? Why would he want to keep somebody in office for four years? If he could explain that to me, maybe, I will be able to withdraw my second part of the amendment to this clause.

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, in many appointments, I do not think the Government has two-year contracts.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, the Government does have two-year renewable contracts with chief executives.

The Temporary Deputy Chairman (Mr. Maore): Normally, the period is three years. Let us hear Mr. Ochilo-Ayacko.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, Mr. Weya reckons that there is some good practice of two years but may I, kindly, ask him to give us examples of where two-year contracts have been good, so that we are updated?

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I have seen the Government, in recent times, give all its chief executives two-year renewable contracts. So, I do not know why the Ministry wants to extend this period to a four-year renewable term, as opposed to a two-year renewable term. The Minister will be tying his hands if he is going to sign a four-year contract with somebody. The Ministry will have to pay such a person's salary for all those years, even if he will not be performing.

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, the Minister gave you a window. For instance, with regard to your first part of the amendment, he has acceded. He is willing to go with your proposed seven years instead of 15 years of experience. Or, you risk the blanket vote on both amendments.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I thought this House was supposed to dialogue and get a voice of reason. That is why we should scrutinize this Bill. Is it in order for the Minister to say: "You either have this or none", without giving the House reasons for his stand? That is coercion, in my understanding.

The Temporary Deputy Chairman (Mr. Maore): No, it is persuasion, actually. Maybe, the problem was the wording of his statement.

The Assistant Minister for Energy (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Chairman, Sir. It is just the wording, because what the Minister is asking for is that we already had a problem with Clause 10, and we had to move an amendment to separate the two subclauses. That is what we are asking him to do. Before he does that, I want to assure the hon. Member and the House that the Government has not been appointing chief executive on two-year contracts. It is, in fact, three years.

Secondly, Mr. Temporary Deputy Chairman, Sir, it would be unfair to ask a professional to disrupt his career to come and join an Authority where he is guaranteed the job for two years. If you are looking for real experts, it is only good to give them breathing space so that we can have qualified people who will be willing to disrupt their career to come and be engaged in this Authority.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I would like to go with the Minister's reasoning that the Government is doing three-year contracts. Can we do an amendment to change it from two to three years so that it can be informative of the way the Government is operating?

The Temporary Deputy Chairman (Mr. Maore): No, you should move an amendment to that effect.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I beg to propose an amendment to the amendment as suggested by the Minister.

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

THAT, Clause 12(3) be amended by deleting the word "two years" and substituting therefor the words "three years renewable"

I hope the Minister is happy with that.

The Temporary Deputy Chairman (Mr. Maore): That is an amendment to the amendment?

Mr. Weya: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Maore): So, we will start with the amendment to the amendment, and then come back to the real amendment.

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

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, if you look at what Mr. Weya is asking for, there is no need to amend the amendment.

With those few remarks, I beg to oppose.

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

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

(Clause 12 as amended agreed to)

Clause 13

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Paragraph (2) of Clause 13 be amended by deleting the word "fifteen" and substituting thereof with the word "ten".

(Question of the amendment proposed)

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

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

Mr. Weya: Thank you, Mr. Temporary Deputy Chairman, Sir. As for all the other reasons, I would like to propose an amendment to the amendment by the Assistant Minister.

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

THAT, Clause 13(2) be amended by deleting the word "fifteen" and substituting therefor the words "seven years"

(Question of the amendment to the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I have no objection.

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

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

(Clause 13 as amended agreed to)

Clause 14

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, do you have an amendment to Clause 14, or are you skipping it?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 be amended by deleting the word "Nairobi" and substituting therefor with the words "capital city of Kenya".

(Question of the amendment proposed)

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

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

Prof. Olweny: Thank you, Mr. Temporary Deputy Chairman, Sir.

I beg to propose an amendment to the amendment by the Assistant Minister.

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

THAT, Clause 14 be amended by deleting the word "Nairobi" and substituting therefor the words "Kenya at a place gazetted by the Minister".

(Question of the amendment to the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, what Prof. Olweny is asking us to do is exactly what we have done in Clause 14. Before this amendment, it was reading "Nairobi", but now it is very clear. We have said: "---substituting therefor the words "capital city of Kenya". Even if there is a change and the capital city is not

Nairobi---

The Temporary Deputy Chairman (Mr. Maore): What if the capital city is taken to Isiolo?

The Assistant Minister for Energy (Mr. Kiunjuri): If we take it to Isiolo, it will still be the same.

Prof. Olweny: Mr. Temporary Deputy Chairman, Sir, there is a big difference between "the capital city of Kenya" and "any place gazetted by the Minister". The capital city of Kenya can be moved at any time from here to Garissa depending on what the country wants. But the Minister can also gazette a place where the headquarters of a particular sector is to be. That is what I am proposing. We should not define it in the Act. That means that it will never be moved unless we bring an amendment to the House!

The Temporary Deputy Chairman (Mr. Maore): Prof. Olweny, if you were paying attention to the amendment we have just passed, they just said: "The capital city"; they have not said "Nairobi".

Prof. Olweny: There is a big difference between the capital city and what is here!

The Temporary Deputy Chairman (Mr. Maore): What is here is the "capital city", as amended. You are looking at the Bill and not the amendment.

Proceed, hon. Ochilo-Ayacko!

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, I believe that the capital city of Kenya must be described by law. So, it will require some law.

The Temporary Deputy Chairman (Mr. Maore): Yes.

Mr. Ochilo-Ayacko: But what Prof. Olweny is saying is: "where the Minister deems and gazettes". So, there is more flexibility in the proposal by Prof. Olweny, which may provide for the headquarters rather than waiting for legislation and bothering the House with the passage of legislation. So, I beg to support Prof. Olweny.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, mine is really a simple point. I am of the feeling that there are certain things which should not be enacted into law, for example, where a commission's headquarters should be located. I think that is a matter that will be decided by policy as and when the need arises. So, whether it should be in Nairobi or in the capital city, it is really not for the law. This should be a matter of policy, because anything can happen in Nairobi tomorrow. For example, the *AlQaeda* may enter here and we decide that now, the headquarters of this commission should go to Southern Sudan, where the oil is coming from. So, we should really leave it to policy. Let us not fix it by law. That is why I am supporting Prof. Olweny.

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Chairman, Sir. We have already passed an amendment to Clause 14. Is the hon. Member asking us to rescind that decision? If that is so, he should move that---

The Temporary Deputy Chairman (Mr. Maore): Yes, that was my argument. That is what I wanted to ask him. Actually, the argument is that, we have already resolved where the headquarters should be. The Minister has substituted "Nairobi" with "the capital city of Kenya". As it is, the capital city can be anywhere. It can be under a tree, on top of a mountain or in the bottom of the lake, as long as it is recognized in law.

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Chairman, Sir. By the time we were doing that, it was our fault that we had not taken into consideration the proposed amendment by Prof. Olweny. I do not know how we will remedy that issue. Could I be in order to ask the Temporary Deputy Chairman for guidance, because we had not debated the proposal by Prof. Olweny that the headquarters be fixed by way of gazettelement.

The Temporary Deputy Chairman (Mr. Maore): If we can pass the two amendments, we would actually have complicated a case which is already clear. The Minister has proposed that, instead of the word "Nairobi", which is specific, we should replace it with "the capital city of

Kenya". For example, in Brazil, we have Sao Paulo or Rio de Janeiro, which are very big cities. But the actual seat of the Government is Brasilia. So, it does not have to be in the biggest town. So, where you have described as the seat of Government or the capital city, that is where you have the headquarters of the commission, may be, for the ease of movement and facilitation of Government institutions.

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

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

(Clause 14 as amended agreed to)

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am really confused. We passed one amendment before and we have passed another one now. Does that mean that the first one dies and the second one takes precedence? Where are we?

The Temporary Deputy Chairman (Mr. Maore): No! The business of interpreting the laws that the House has passed is not upon it to do so. It lies elsewhere. I agree that there is a confusion, because the House has passed both amendments to the clauses deliberately, even after the Chair had clarified.

We will now move on to the next clause!

Mr. Weya: On a point of order, Mr. Temporary Deputy Chairman, Sir. Can we, therefore, rescind that amendment by the Assistant Minister?

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya, I think we need to move on to Clause 15 now.

Clause 15

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15(2) be amended by deleting the word "fifteen" and replacing it with the word "ten".

(Question of the amendment proposed)

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

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

Mr. Temporary Deputy Chairman (Mr. Maore): Mr. Weya has a further amendment to the clause.

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

THAT, Clause 15(2) be amended by deleting the word "fifteen" and substituting therefor the word "seven."

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

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, as you know, Mr. Weya is the Secretary to the Youth Group of Parliamentarians. Therefore, I have no objection to that amendment.

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

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

(Clause 15 as amended agreed to)

*(Clauses 16, 17, 18, 19, 20
and 21 agreed to)*

Clause 22

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 be amended by deleting the word "Board" wherever it appears and replacing it with the word "Commission."

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

Clause 23

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 be amended in subclause (3) by deleting the word "Board" appearing after the word "the" in the third line and replacing it with the word

"Commission."

*(Question of the amendment
proposed)*

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

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

The Temporary Deputy Chairman (Mr. Maore): Mr. Muturi has another amendment to the clause.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, at the request of the Departmental Committee on Energy, Communications and Public Works, I beg to move:-

THAT, Clause 23 be amended by inserting the following proviso-
"provided that the agents are from the Local Authority or the Ministry of Trade"

*(Question of the amendment
proposed)*

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

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

Clause 26

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 be amended by-

(i) deleting the word "fourteen" and substituting therefor the word "thirty";

(ii) inserting the following new proviso-

"Provided that the tribunal may entertain an appeal after the expiry of the thirty-day period if it is satisfied that there was sufficient cause for not filing it within that period"

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

Clause 27

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 be amended by deleting the number "100" wherever it appears and substituting therefor the number "1000".

*(Question of the amendment
proposed)*

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

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

The Temporary Deputy Chairman (Mr. Maore): Mr. Weya has a further amendment.

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

THAT, Clause 27 be amended by inserting the following new subclause immediately after subclause 4-

"the commission shall produce a booklet with requirements needed for energy sector investment."

The reason why I want this subclause included in this Bill is because we want to encourage investment in this country. An investor will come and know exactly what he needs to be able to abide by the laws of Kenya and be licensed to invest in the energy sector without these things being kept under the desk in the Ministry. So, this will ensure openness and transparency.

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I agree with the hon. Member. But this is a matter of administration. We are passing an Act here. The hon. Member is asking us to put a matter of administration in the statutes.

Mr. Temporary Deputy Chairman, Sir, therefore, I would beg that we let this matter be addressed by the regulations.

Therefore, I oppose the amendment.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, these are practices now in most energy commissions all over the world. I would request this House to allow openness by enabling the country to produce a booklet, so that when an investor comes to this country, he will just check whether he has all the requirements needed or not. If the Government objects to license him, it must have reasons for that. So, I would like this to be included in the Bill for clarity of investment in the energy sector in this country.

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

(Clause 27 as amended agreed to)

(Clauses 28 and 29 agreed to)

Clause 30

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 30(1) be amended by inserting the following new paragraph-
"(e) the economic and energy policies in place from time to time".

*(Question of the amendment
proposed)*

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, on behalf of the Departmental Committee on Energy, Communications and Public Works, I beg to move:

THAT, Clause 30(1) be amended by inserting the following new paragraph-
"(k) provided that the Commission will take into consideration the achievement of national strategic goals formulated for the energy sector from time to time.

Looking at what is proposed to be inserted, I feel that in exercise of my limited discretion in matters of public policy, this amendment does not make sense. I think if we made it a proviso, it would make a different provision.

Mr. Temporary Deputy Chairman, Sir, I do not know whether the Committee discussed it with the Minister or not.

The Temporary Deputy Chairman (Mr. Maore): Now, you are moving an amendment which you are not sure of. This makes it difficult for the House to debate it.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I am saying that I thought the Minister understands it better than I do. I want to withdraw the amendment I have just moved.

(Proposed amendment withdrawn)

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

(Clause 30 as amended agreed to)

*(Clauses 31, 32, 33, 34 and
35 agreed to)*

Clause 36

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 36(1) be amended by deleting the word "evoke" and substituting therefor the word "revoke".

(Question of the amendment proposed)

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

THAT, Clause 36 be amended

(i) in subclause (5) by inserting the following new proviso-
"provided that the revocation and suspension of licences and permits is not in
contravention of any written law.

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I have no objection to this amendment.

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

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

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

THAT, Clause 38(2)(a) be amended by inserting after the word "electrician" the
words "registered under the Institute of Engineers of Kenya".

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I have no objection to this amendment.

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

(Clause 38 as amended agreed to)

(Clauses 39, 40, 41 and 42 agreed to)

Clause 43

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

THAT, Clause 43 be amended by inserting the following new paragraph-
"(e) affordable to all consumers"

(Question of the amendment)

proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, if you look at Clause 43(a)(b)(c) and (d), you will see that if we accept this amendment it will negate the spirit of (a)(b)(c) and (d), and will water down the clause. I do not think that what the amendments wants is implementable anywhere in the world. It is fake and cannot be enforced.

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, it is the responsibility of the Government to make sure that electricity is affordable to most consumers. Some countries even fix a certain percentage to be enjoyed by the producer of power and another one to be enjoyed by the consumer of it.

Mr. Temporary Deputy Chairman, Sir, so, if the Commission is supposed to make sure that there is fairness, it will be its responsibility to make sure that electricity is affordable to most of our voters. So, I support the amendment proposed by Mr. Muturi.

The Minister for Energy (Mr. Murungi): Mr. Temporary Deputy Chairman, Sir, it is true that it is not possible to fix a rate which will be affordable to all consumers. This is because "all consumers" is not defined. Secondly, if you look at Clause 43(4), you will see that the Commission is directed to fix a just and reasonable tariff. This should take care of the concerns about affordability, which are being raised by the hon. Members.

Mr. Temporary Deputy Chairman, Sir, so, I wish to oppose the amendment.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I think this is good for politics, but it is not good for law, that you actually make the Government fix a price that is affordable by "all consumers". This is communism and should not be allowed! I beg to oppose.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I said that I brought this amendment on behalf of the Committee. It is only fair that this proposed amendment be withdrawn. I hereby beg to do so.

(Proposed amendment withdrawn)

(Clause 43 agreed to)

*(Clauses 44, 45, 46, 47, 48, 49,
50, 51, 52, 53, 54, 55, 56, 57,
58, 59 and 60 agreed to)*

Clause 61

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 61(1)(a) be amended by inserting the following new proviso:-
"Provided further that the consumer has failed to pay the charges of energy consumption due to the licensee for the supply of electrical energy to the specific premises in respect of which supply is demanded and not in respect of any other premise".

(Question of the amendment proposed)

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

*(Clause 61 as amended
agreed to)*

*(Clauses 62, 63, 64
and 65 agreed to)*

Clause 66

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

THAT, Clause 66 be amended:-

(i) in subclause (1) by deleting the word "electrification" appearing immediately after the word "Rural" and substituting thereof the word "Energy"

(ii) in subclause (2) paragraph (d) by deleting the words "explore least cost supply options (including but not limited to small hydro and hybrid systems comprising renewables and oil fired components, solar photovoltaic and wind power systems)" and substituting therefor the words "promote use of renewable energy sources including but not limited to small hydros, wind, solar, biomass, geothermal, hybrid systems and oil fired components"

The reasons for the above amendment are self-explanatory.

*(Question of the amendment
proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, we oppose this amendment because we have various other sources of energy which include wind and biomass. At the same time, the amendment is taken care of by Clause 67(d).

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I have looked at the proposed amendments by the Minister and I think it takes care of the amendment.

Mr. Temporary Deputy Chairman, Sir, therefore, I withdraw my proposed amendment.

(Proposed amendment withdrawn)

(Clause 66 agreed to)

Clause 67

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 67(2)(d) be amended by deleting the words, "explore least cost supply options (including but not limited to small hydro and hybrid systems comprising renewables and oil fired components, solar photovoltaic and wind power systems)" and substituting thereof with the words "promote use of renewable energy sources including but not limited to small hydros, wind, solar, biomass, geothermal, hybrid systems and oil fired components".

(Question of the amendment proposed)

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

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

(Clause 67 as amended agreed to)

Clause 68

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 68 be amended by deleting subclause (4).

(Question of the amendment proposed)

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

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 68 be amended:-

(a) in subclause (1) by deleting the word "four" appearing in paragraph (d) and substituting therefor the words "a minimum of four and a maximum of eight";

(b) in subclause (4):-

(i) by deleting the word "comprise" after the word "shall" and substituting therefor the words "be from, and represent, each province or, if only four members are appointed, every member shall represent two provinces each";

(ii) by deleting paragraphs (a) and (b);

(c) in subclause (5) by deleting the words "as a member" and substituting therefor the words "as a chairperson under subsection (1)(a) or member under subsection (1)(d)".

Mr. Temporary Deputy Chairman, Sir, the reasons for the proposed amendment are as follows: In the mother Bill, it was proposed that four members of the Board be appointed. I am suggesting that, if four members are to be appointed, then they should represent two provinces each. If a maximum of eight is appointed, then each should represent one province. That agency will be sharing out national resources. It is, therefore, good if it represented geographical and other diverse interest groups all over the country.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Maore): Could the Assistant Minister make some law and politics?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I would look at it in a different way. When we talk about provinces and regions, it is true that in this country, every province has more than one tribe. That should be the problem---

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, I think the hon. Member is proposing representation of provinces. Provinces are constitutional entities, but tribes---

The Assistant Minister for Energy (Mr. Kiunjuri): That is what I am saying. The fact that

he is saying it we should go provincial should not worry us at all. That is because no single province is dominated by a particular community. It is a good proposal and we support it.

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

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

(Clause 68 as amended agreed to)

(Clause 69 agreed to)

Clause 70

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 70 be amended by:-

(i) deleting subclause (1) and substituting thereof the following new subclause:-

"The Minister may, on recommendation of the Authority, appoint a Chief Executive of the Authority from a list of three names of persons submitted by the Board through competitive selection"

(ii) inserting the following new subclause:-

(2) The person appointed under subsection (1) shall be the chief executive of the Authority and, subject to the directions of the Board, be responsible for the day-to-day management of the Authority".

(iii) renumbering subclause (2) as subclause (3).

(Question of the amendment proposed)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, just for clarification, it is not clear whether it is an authority, commission or board. I can see a lot of repetition. We have sentences such as: "Recommendation of the Authority, Chief Executive of the Authority and submitted by the Board". I am not sure which body we are dealing with.

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, can you clarify that?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, it is Rural Electrification Authority. The mandate will be charged on the Rural Electrification Authority.

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

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

(Clause 70 as amended agreed to)

Part IV

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the title of part (IV) be amended by deleting the words, "and natural gas" from the title of this part.

(Question of the amendment proposed)

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

(Part IV as amended agreed to)

(Clauses 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88 agreed to)

Clause 89

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 89 be amended by deleting the words "twenty-one" and substituting thereof with the word "thirty".

Mr. Temporary Deputy Chairman, Sir, if you look at Clause 89, we are deleting "twenty-one" and inserting "thirty". That will give the people ample time to lodge appeals.

(Question of the amendment proposed)

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

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

(Clause 89 as amended agreed to)

(Clauses 90 and 91 agreed to)

(Mr. Omingo stood up in his place)

The Temporary Deputy Chairman (Mr. Maore): Order, Mr. Omingo!

Clause 92

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 92 in the proviso of paragraph (a), be amended by inserting the words "and in any event not later than sixty days" after the word "practicable" appearing on the second line.

In case of any revocation, this will give whoever is applying for the licence enough time.

(Question of the amendment proposed)

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

(Clause 92 as amended agreed to)

(Clauses 93 and 94 agreed to)

Clause 95

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

THAT, Clause 95(2) be amended by inserting the following new proviso-
"provided that no person diverts for sale in Kenya, goods destined for other markets".

(Question of the amendment proposed)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, it is a good proposal although it is taken care of by the Customs and Excise Act. However, I do not see any problem with us having it here.

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

(Clause 95 as amended agreed to)

(Clauses 96 and 97 agreed to)

Clause 98

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 98(1) be amended-

(i) in subclause (1) by deleting the comma at the end of the clause and inserting the words "and in conformity with the relevant statutes touching on environment, health and safety standards" immediately after the word "authorities" appearing on the fifth line;

(ii) in subclause (2) by inserting the following new proviso-

"provided that any person engaged in the transportation of petroleum and petroleum products shall have an oil clean-up plan in compliance with the national oil policy".

It is really self-explanatory. It deals with issues of environment, health and safety standards.

(Question of the amendment proposed)

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

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

(Clause 98 as amended agreed to)

(Clauses 99 and 100 agreed to)

Clause 101

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I beg to move:-

THAT, Clause 101(3) be amended by inserting the words "and Outer Continental
Shelf" immediately after the word "zone" appearing on the second line.

We want to make sure that there is no loophole and the law is watertight.

*(Question of the amendment
proposed)*

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

(Clause 101 as amended agreed to)

Clause 102

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir,
I beg to move:-

THAT, Clause 102 be amended-

(i) in paragraph (c) by deleting the words "government departments and" appearing
after the word "to" appearing on the first line;

(ii) by inserting the following new paragraph (w)-

"(w) determining the retail prices of petroleum and petroleum products;

(iii) by renumbering paragraph (w) as (x)

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, note that you have your own
amendment. So, contribute and then move your amendment.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I wanted to give a clarification on this
one. Since we had agreed with the Minister that we are accepting the amendment he has moved
because this is the legal language---

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, you have proposed an

amendment to Clause 102.

Mr. Ojode: Yes, that is true, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Maore): Is that what you are moving?

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I am withdrawing my amendment because this is a legal language. However, I would like to request for---

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, I think you are jumping the gun. When we call upon you, you will say the necessary.

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

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

Prof. Olweny: Mr. Temporary Deputy Chairman, Sir, I wanted to propose an amendment to Clause 102, but I have to withdraw it now. It was in connection with the amendment I had proposed to Clause 5, which was defeated by the Government. It is, therefore, of no consequence now.

*(Proposed amendment
withdrawn)*

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, now you can come to yours and say what you wanted to say.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I am a very honest person. Once we agree with the Government, I will accept what we agreed on.

We agreed with the Assistant Minister that we have this as a legal language. I agree that we have this as the legal language, and I withdraw my amendment.

The Temporary Deputy Chairman (Mr. Maore): That is enough!

Mr. Ojode: It is not enough, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Maore): After you withdraw, there is nothing else to explain.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I have withdrawn, but I wanted to request the Minister to have a sanction because once his orders are defied, then he will not have anything to use. So, what I am saying is that we will renumber (w)(i) and (w)(ii), which I had already put there, to read as follows:

"THAT, a person convicted of an offence under this section shall be liable to a fine not exceeding Kshs1 million or the withdrawal of the operating licence or both."

That is the rider which I want to put to the Minister in order to have powers.

The Temporary Deputy Chairman (Mr. Maore): Had the Assistant Minister seen the amendment?

Mr. Ojode: Yes, Mr. Temporary Deputy Chairman, Sir. He is not going to object to that. He is a gentleman. He needs powers.

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, can you concede to the contents you had agreed on?

The Assistant Minister for Energy (Mr. Kiunjuri): Yes, Mr. Temporary Deputy

Chairman, Sir, he has accepted to withdraw the first part of the amendment and we have no objection to the second part.

The Temporary Deputy Chairman (Mr. Maore): So, we agree, as a House, that Mr. Ojode has withdrawn the first item and maintained the other one, which the Assistant Minister has no objection to. Therefore, I will put the Question.

(Proposed first part of the amendment withdrawn)

(Question of the amendment proposed)

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

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

(Clause 102 as amended agreed to)

Clause 103

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 103 be amended-

(a) in subclause (1) by-

(i) deleting the words "on the advice of the commission" appearing immediately after the word "shall" on the first line;

(ii) inserting the words "bio-diesel, bio-ethanol, charcoal, fuel wood" immediately after the word "biomass" appearing on the third line;

(b) in subclause (2)-

(i) paragraph (b) by inserting the words "biomass, solar, wind, small hydros, municipal waste, geothermal and" after the word "of" appearing on the third line;

(ii) paragraph (c) by inserting the words "including biofuels" after the word "production" appearing on the second line;

(iii) by inserting the following new paragraphs-

"(f) promoting international co-operation on programmes focusing on renewable energy sources";

"(g) harnessing opportunities offered under clean development mechanism and other mechanisms including, but not limited to, carbon credit trading to promote the development and exploitation of renewable energy sources;

"(h) promoting the utilisation of renewable energy sources for either power generation or transportation"

(Question of the amendment proposed)

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

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

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

THAT, Clause 103 (2) be amended by inserting the following new paragraphs immediately after paragraph (e)-

"(f) promoting co-generation of electric power by sugar millers and sale of such electric power through the national grid directly to the consumers"

(g) promoting the production and use of gasohol and biodiesel"

The Temporary Deputy Chairman (Mr. Maore): The amendment is on page 587?

Prof. Olweny: Mr. Temporary Deputy Chairman, Sir, I had adequately explained earlier, but I will repeat. Sugar millers have enough capacity to produce electricity to supply to the national grid. That will give us additional electricity. It is as simple as that. That will give us additional income. It will diversify the sugar industry. We also have ethanol which can lower the cost of fuel.

The Temporary Deputy Chairman (Mr. Maore): Prof. Olweny, we are on Clause 102!

Prof. Olweny: We are on Clause 103.

The Temporary Deputy Chairman (Mr. Maore): We want you to argue out your case.

Prof. Olweny: That is what I am doing.

The Temporary Deputy Chairman (Mr. Maore): Have you finished?

(Question of the amendment proposed)

Proceed, Mr. Assistant Minister.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, we have to take care of the region that produces sugar. Equally, we are taking care of the pastoralists through biomass. Therefore, we have no objection to that amendment.

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

(Clause 103 as amended agreed to)

The Temporary Deputy Chairman (Mr. Maore): Mr. Ojode, do you have any amendments?

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, which one?

The Temporary Deputy Chairman (Mr. Maore): You had risen and I thought you had an amendment. If there is none, then we should continue.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I do not have any amendment!

Clause 104

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 104 be amended:-

- (i) in subclause (1) by deleting the words "on the advice of the Commission" appearing immediately after the word "shall";
- (ii) in subclause (2) by inserting the following paragraph:-
- "(j) making it mandatory, in collaboration with Kenya Bureau of Standards, the importation of energy efficient but cost effective technologies."

(Question of the amendment proposed)

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

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

(Clause 104 as amended agreed to)

Clause 105

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, I have not been called out for my amendment on Clause 105.

The Temporary Deputy Chairman (Mr. Maore): If you were not called out for any reason, we shall take responsibility. Just hold on. What page?

Mr. Weya: It is on page 586! Clause 105.

The Temporary Deputy Chairman (Mr. Maore): You also need to be alert. There were some cancellations, omissions and amendments. That is why we have overlooked it.

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

THAT, Clause 105(1) be amended by inserting the words "and electrical appliances" immediately after the word "buildings".

Mr. Temporary Deputy Chairman, Sir, it is just to add another word in the same paragraph to take care of electrical appliances.

The Temporary Deputy Chairman (Mr. Maore): You are introducing something?

Mr. Weya: Yes. I want to insert the words "electrical appliances" after the word "buildings". It is at the bottom of page 586.

(Question of the amendment proposed)

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I remember that even in our Committee, we had put the words, "electrical appliances".

The Temporary Deputy Chairman (Mr. Maore): I agree, but the argument is: There were some omissions which have been corrected in a letter that we have. That is on page 587. We are amending Clause 103 and not Clause 105. So, it is a mix-up. Could you enlighten the House?

Mr. Weya: Mr. Temporary Deputy Chairman, Sir, in many countries, the efficiency of electrical appliances that are imported into the country are monitored by commissions. That way, only effective and efficient electrical appliances are allowed in those countries. In fact, they are rated in some countries. They have one, two or even five star. So, I think those words should be added there.

The Temporary Deputy Chairman (Mr. Maore): Mr. Assistant Minister, do you have any objection?

The Assistant Minister for Energy (Mr. Kiunjuri): No objection, Mr. Temporary Deputy Chairman, Sir.

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

(Clause 105 as amended agreed to)

(Clauses 106 and 107 agreed to)

Clause 108

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 108 be amended by inserting the following words "hereinafter referred to as "the tribunal", immediately after the word "Tribunal."

(Question of the amendment proposed)

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

(Clause 108 as amended agreed to)

(Clause 109 agreed to)

Clause 110

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 110 be amended:-

(i) in subclause (2) by deleting the word "Acct" appearing on the first line and substituting thereof with the word "Act".

(ii) in subclause (3) by deleting the words "twenty-eight" appearing immediately after the word "at least" on the fourth line and substituting thereof with the word "forty".

(Question of the amendment proposed)

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

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

(Clause 110 as amended agreed to)

Clause 111

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 111 be amended:-

(a) in subclause (1) by:-

(i) deleting the words "upon advice of the Commission" appearing immediately after the word "shall" on the first line;

(ii) inserting the following new paragraph:-

"(d) formulation and coordination of a disaster preparedness plan for the energy sector";

(iii) renumbering paragraphs (d) and (e) as (e) and (f);

(b) in Subclause (3) by deleting the words "provided that such directions shall not unduly interfere with the performance of the functions and exercise of powers of the Commission under this Act" appearing immediately after the word "Commission" on the third line.

(Question of the amendment proposed)

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

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

(Clause 111 as amended agreed to)

(Clauses 112, 113, 114, 115 and 116 agreed to)

Clause 117

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 117(1) be amended by inserting the words "or outer continental shelf" immediately after the word "zone" appearing on the eighth line.

(Question of the amendment proposed)

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

(Clause 117 as amended agreed to)

(Clauses 118, 119, 120, 121, 122, 123 and 124 agreed to)

*(First and Second Schedules
agreed to)*

Third Schedule

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, paragraph 10(1) of the Third Schedule be amended by inserting the words "arising under this Act" immediately after the word "sector" appearing on the second line.

*(Question of the amendment
proposed)*

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

*(Third Schedule as amended
agreed to)*

Fourth Schedule

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, paragraph 1(2) be amended by deleting the word "Executive" immediately after the word "the" appearing on the second line.

*(Question of the amendment
proposed)*

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

(Fourth Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

[The House resumed]

[Mr. Speaker in the Chair]

**REPORTS, CONSIDERATION OF
REPORTS AND THIRD READINGS**

THE ENERGY BILL

Mr. Maore: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Energy Bill and approved the same with amendments.

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

The Assistant Minister for Health (Dr. Kibunguchy) seconded.

(Question proposed)
(Question put and agreed to)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to move that the Energy Bill be now read the Third Time.

The Assistant Minister for Education (Mrs. Mugo) seconded.

(Question proposed)

The Minister for Energy (Mr. Murungi): Thank you, Mr. Speaker, Sir. I would like to thank hon. Members from both sides of the House for supporting this important Bill. The Bill provides us with very powerful legal instruments of providing affordable energy services to our people. As we have said, our policy in the Ministry this time round, is to provide electricity and other forms of energy to all the 210 constituencies of this country. So, I wish to thank hon. Members for empowering us to do so. We will do so through grid electricity and where we cannot reach, we will use other forms of energy such as solar, hydro and biomass. I am very happy that we are also considering generation from sugar residue.

Mr. Speaker: We will not open debate on this Bill. I will give hon. Machage the last chance.

The Assistant Minister for Health (Dr. Machage): Thank you, Mr. Speaker, Sir. I would like to congratulate the Minister for Energy for the passing of this important Bill. I, however, will request him to move expeditiously and pay attention to the stalling of the Rural Electrification Programme (REP) which has been ongoing. We know he has already given out contracts and so he should flex his muscles.

(Question put and agreed to)

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

Mr. Speaker: As we move on to the next Bill, I would like to take this opportunity to congratulate the Chairman of the Committee for the brilliant job he has done.

(Applause)

THE HIV AND AIDS PREVENTION

AND CONTROL BILL

Mr. Maore: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the HIV and AIDS Prevention and Control Bill and approved the same with amendments.

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

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Speaker, Sir, I beg to move that the HIV and AIDS Prevention and Control Bill be now read the Third Time.

The Assistant Minister for Education (Mrs. Mugo) seconded.

(Question proposed)

Mr. Maore: Mr. Speaker, Sir, I also commend the Assistant Minister for the able manner in which he has navigated this Bill. However, let us not let down our guard, as a nation, relying on statistics that the Ministry is not in control of, especially with regard to the prevalence of the HIV/AIDS. These statistics might mislead us to let down our guard. HIV/AIDS is a killer disease, which we cannot afford to ignore.

(Question put and agreed to)

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

MOTION

ADOPTION OF 1999/2000 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the Year 1999/2000 laid on the Table of the House on Thursday, 26th October, 2006.

(Mr. Omingo on 5.12.2006)

*(Resumption of Debate interrupted
on 5.12.2006)*

Mr. Speaker: Who was on the Floor of the House when debate on this Motion was interrupted? Mr. Omingo, were you still moving the Motion? How much time was left for you to conclude moving the Motion?

Mr. Omingo: Mr. Speaker, Sir, I do not intend to take longer than necessary. The Committee came up with two reports, 1998/1999 and 1999/2000. The issues that were raised in

both financial years were more or less similar. However, there are two issues I would like to raise before I conclude, so that I allow hon. Members to contribute to this Motion.

Mr. Speaker, Sir, as Parliament, we need to stand up to be counted. It is now in the public domain that Continental House had a query in the Public Accounts Committee (PAC) Report. I believe that action should be taken on this issue. What was worrying was that the cost of renovation of that building was actually advised against by the technocrats from the Ministry of Roads and Public Works. Against their advice, we continued to renovate Continental House. I know that my colleagues in this House also appreciate the fact that, even though those offices are not habitable, we spent just about the cost of the building to renovate it. That is not reflecting very well on Parliament. Parliament needs to get value for its money. Our recommendation was that we need to evaluate that and see whether Parliament got value for money. Parliament should act as an example to other Ministries and departments of Government.

Mr. Speaker, Sir, there was also a serious matter, which went unattended to in the Ministry of Education. In the years 1991 to 1999, the Government paid in excess of Kshs100 million to contractors who were renovating universities and colleges. Nobody raised a finger. That shows how we have put our money to waste. If we tailored our jackets to fit the sizes of our bodies, we would not require any donor funding. When we hand out Kshs100 million to a contractor and we fail to follow up the person who paid the money, it makes the avenue of corruption very amiable. People continue perpetrating acts of corruption, because the cost of engaging in it is extremely low; in fact, there is no risk associated with it.

Mr. Speaker, Sir, as I wind up, I request hon. Members to pass this Motion. I would like to ask the Government to implement each recommendation if we want to fight graft and stop the waste of Government resources. We need to tailor our jackets to the size of our bodies. We need to live within our means.

Mr. Speaker, Sir, with those few remarks, I beg to move and ask Mr. Arungah to second the Motion.

Mr. Arungah: Thank you, Mr. Speaker, Sir, for this opportunity to second this Motion. I will start by commending the PAC for a job well done. It is not easy to produce two volumes of reports in one year. I take this opportunity to thank the hon. Members of that Committee for the job they have done.

I also hope that this will be the last Parliament to discuss reports of occurrences that happened two, three, four or even ten years ago. It is my sincere hope that after this Parliament is through with these reports, thereafter, all the reports that shall be discussed will be current.

Mr. Speaker, Sir, the Government has a responsibility to provide services to its people. The Government does not just get resources from nowhere, but gets them from taxing its citizens. It is unfortunate that it is in the area of collection of taxes where we lose a lot of money. There has been obvious laxity as has been shown in this Report on the part of the Government when it comes to collecting revenue. I will address that issue later.

Secondly, we know that a lot of money is lost in the process of procurement. It is the responsibility of Parliament to ensure that the Government fulfils its responsibility of allocating the resources of the country, and ensuring that these resources are properly utilised. If we had a Government made up of angels we would not need Parliament. Therefore, I find it very painful, as an hon. Member of this House, to come here, year in, year out, and start grumbling like every person on the streets. I believe that this Parliament has the power and the capacity to ensure that the Executive does the job it is supposed to do. We are getting a lot of malpractices in these reports.

Mr. Speaker, Sir, I hope that in the near future, we will put a law in place. I am aware that there is a proposed Fiscal Analysis and Appropriations Bill, which will provide that any Ministry that will not account for the monies it shall be given will have its Vote impounded by this House

using powers that it will be given by the proposed law. Such a Ministry will have to answer for its malpractices before any additional money is given to it. Unless the Executive knows there will be sanctions against it, it will do exactly what it wants, knowing that it will present a report to Parliament ten years later and no action will be taken.

Mr. Speaker, Sir, I will not go into the specifics of the Report as contained in the Volume for the year 2000/2001 and 2001/2002. But I will address two areas; one is the area of revenue collection, and I am talking about Kenya Revenue Authority. One area where the Kenya Revenue Authority is losing money is through the diversion of goods which are meant for export into the local market without payment of the necessary taxes. This is an issue that is very well known to the Executive, but I am not convinced that they have taken the adequate measures to stump out this vice.

It is obvious that when goods come into the port of Mombasa, there is a requirement for bond which is cancelled after the goods leave this country. But we know that the trucks are dispatched and the people who are supposed to escort these lorries with the documents actually travel two or three days later. I know of some specific cases where documents leave five days later just to be stamped in Mariakani, Mlolongo all the way to the border, and without the actual verification that the goods have actually left the country. The Government is aware of this and I am not convinced that they have done enough to address this issue.

Mr. Speaker, Sir, I also know that those people who are bringing in goods through the port of Mombasa can decide on which goods are going to be verified and which ones will not. There is a fee, and this is common knowledge within Customs, that if you pay a fee of Kshs20,000, your container will not be subject to verification, it will not be subjected to the X-ray machine which I hear has been recently introduced. The Government is aware of this, but I am not convinced that any measures have been taken to rectify the situation. There are those people who purport to pay their taxes via cheques, which are later returned. The Customs people keep these cheques and the last things they do is to go court. But with our court system, everybody knows what happens and so nobody takes any notice.

Mr. Speaker, Sir, I was recently in Mombasa and I saw a beautiful road that had been constructed. My reaction was that in another two or three years there will be no road because we have allowed overweight vehicles to use those roads. We have the capacity to ensure that the trucks that carry the necessary axle load are allowed into our roads. The Government has the capacity to do that, but they have done nothing. I do not see why they bothered to put weigh bridges away from the port when they could simply put a weigh bridge in the port of Mombasa and ensure that no truck that is overweight leaves the port. This is not hidden to Government, but perhaps because they have given this leeway for some people to get a few bucks.

Right now, if you went to Mariakani, there will be over 100 trucks waiting to go on to a weigh bridge, not necessarily to be weighed, but they are waiting for the right officer to come on duty, to pay the Kshs10,000 or Kshs20,000 depending on how much overload they have so that the load is carried. In the meantime, the money that is being used to make those roads will not be in existence in a few years from now. So, these are issues that are known to Government and yet, nothing is being done. So, I am not satisfied, as a Member of this House, that the Government has taken the right measures. The attitude is that, let us go ahead and do what we want to do, nobody will know what is going on, and in any case, it will come to light ten years later. By that time, I am sure, for example, hon. Michuki will be away looking after his goats and he will not be anywhere in the scene. So, by the time this report reaches this House, he will be long gone and I do not think anybody will want to disturb an old man enjoying peace. There are things that are being done deliberately because it is known that by the time this report---

The Minister of State for Administration and National Security (Mr. Michuki): On a

point of order, Mr. Speaker, Sir. Is the hon. Member not misleading this House by suggesting that I own goats when he cannot even substantiate? I do not have goats!

Mr. Arungah: Mr. Speaker, Sir, I should have said he will be very busy taking care of his hotel at Windsor. I am sorry.

Mr. Speaker: Why do you figure out he will not be here?

Mr. Arungah: Mr. Speaker, Sir, I know that in ten years' time, I do not think it will be possible for hon. Michuki to be in the House.

(Laughter)

The Minister of State for Administration and National Security (Mr. Michuki): Mr. Speaker, Sir, could the hon. Member withdraw that remark, given that he cannot determine my destiny?

Mr. Arungah: Mr. Speaker, Sir, I withdraw and apologise.

(Laughter)

Mr. Speaker, Sir, the other area where we are losing money is that of procurement.

Mr. Sudi: On a point of order, Mr. Speaker, Sir. Having seen the popularity of this Motion and there being no Members to contribute, and we are repeating ourselves, would I be in order to ask that the Mover be now called upon to reply?

Mr. Speaker: Look, we have not proposed the Question. Wait until it is proposed. He is just seconding.

Mr. Arungah: Thank you, Mr. Speaker, Sir, for intervening to allow me to proceed.

Mr. Speaker, Sir, I was saying that the other area where the Government is losing money is through the process of procurement. I can say that this House, as I said before, has the capacity not to sit back and continue grumbling, but we can do something about making sure that the people involved in procurement do not get away with the crimes that they seem to be getting away with at the moment. I will give you an example of what I have in mind.

This afternoon, we were told that there is a road that is being built in my area. The road is 30 kilometres long. The contractor has been given Kshs109 million just to put murrum. The specifications are that the road is supposed to be 6 metres wide, 30 kilometres long and he has to put a layer of 15 mm of gravel. I have done a similar road inside my constituency. The cost of that road is Kshs500,000. Here is a contractor who has been given Kshs3.3 million to do the same kilometres that I am able to do in Khwisero for Kshs500,000. The reason is that when we went to tender, this person quoted the lowest and that procurement procedures were followed. Nobody bothers to find out even if the lowest quoted X amount of money, who else is available that can do that job. Are we getting value for that money? We know of cases where you have three or four people with the same identity using three different names to quote, and simply when the lowest is given, he withdraws and we end up giving the same to the highest. This is how this country has lost money. We have so many billionaires and so many paupers in this country. We have the means to do something about that as a House.

I know of a case where a taxpayer was supposed to have given up to Kshs2 billion to the Exchequer. The assessment was made, the person agreed in writing that the Kshs2 billion was due and payable, but somehow the same person went to court to restrain KRA from collecting the same amount of money. When the client went to court to restrain KRA from collecting the Kshs2 billion, up to this minute, the Commissioner-General has not gone to court to challenge that court order. The money, Kshs2 billion, up to now, remains unpaid. You know what that amount means to the

economy of this country, Mr. Speaker, Sir.

Mr. Speaker: I do not know what it amounts to. It is too much.

Mr. Arungah: Mr. Speaker, Sir, if we are really going to address this issue of mismanagement, unless we do something about the office of the Attorney-General, Parliament will remain a talking shop and no action will be taken. Thieves will continue doing what they want to do. It is high time we took specific measures to send the message that those who dip their dirty fingers in the national coffers will be punished.

Mr. Speaker, Sir, with those few remarks, I beg to second.

(Question proposed)

Mr. Syongo: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion.

First of all, I would like to commend the Public Accounts Committee (PAC) for doing an excellent job.

Secondly, as hon. Arungah mentioned, we are debating a Report on transactions which took place six years ago. With modern technology, this is not really necessary. If we computerize our accounting system and the department in charge of internal audit and the Controller and Auditor-General's office, it will be possible for us to be debating, at least, transactions which took place only last year. The cost of improving our technical capacity to do a better job in a timely manner is a minor fraction of the amount of money that we lose. I would like to appeal to the Government to take the question of computerization of accounting and auditing systems seriously if we are to convince Kenyans that, indeed, we are serious about improving our efficiency and extending the value of the Kenyan Shilling paid by taxpayers in order to improve the services for our people.

If I may just use the example of the Ministry of Education: Construction of colleges and universities. For that service, contractors were paid Kshs100 million through Treasury Bills. On top of that amount of money, the contractors also gained by virtue of keeping the interest which was payable on the Treasury Bills upon maturity. As if that was not enough, the same Supplies' Bills were processed as pending bills and the contractors were paid for the same services. This amounted to double payment. In spite of this being brought to the attention of the Government, up to now, nothing has been done to recover the amount of money which was doubly paid.

Mr. Speaker, Sir, the culture of impunity should worry us. This is because these things happen, but nothing is done about them. How do we convince anybody that we are serious? When we were talking about Anglo Leasing, for example, we promised that we would pursue those who took the money and that we would even go overseas to get third parties outside Kenya's jurisdiction in order to recover our money. However, there are those people who have been proven to have taken money and are still in this Republic, and yet we cannot recover the money from them. Surely, what message are we sending to people? As Kenyans, we really need to be worried that the culture of impunity is entrenching itself.

Mr. Speaker, Sir, it worries us as lawmakers. Why should anybody keep on breaking the law? Why should we punish people who take a few shillings and when this kind of money was lost, nothing whatsoever was done to those who stole it? Facts are there. Prosecution can at least be attempted and we leave it to the courts to decide whether there is a case or not, but at least the Government should take action.

With those remarks, I beg to support.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Spika, shukrani kwa kunipa nafasi na mimi nichangie angaa kwa kidogo tu Ripoti hii ya Kamati ya Bunge inayosimamia matumizi ya pesa za Serikali.

Bw. Spika, sitaki kurudia yale ambayo nilisema jana isipokuwa kusesitiza kwamba haifai yale mambo ambayo huwa yamemulikwa katika ripoti zilizopita yanaendelea kumulikwa katika Ripoti hii mpya. Hiyo ni ishara ya kwamba matatizo huwa hayatatuliwi bali yanaendelea kuwoko pamoja na kazi yote ile ambayo Bunge huwa inafanya katika juhudi za kumaliza nchi yetu matatizo ya ufisadi.

Bw. Spika, niongezee ya kwamba wakati tulikuwa tunazunguka nchi hasa tukikagua miradi ya barabara, lilikuwa ni jambo la kushangaza kuona idadi ya pesa zinazopotea kupitia miradi ile kwa sababu kanuni za ujenzi hazifuatwi vilivyo. Tulikuta barabara imejengwa mwaka huu na baada ya miaka miwili, barabara hiyo inakuwa imejaa mashimo. Tukauliza: "Inakuwaje barabara haiwezi kumaliza hata miaka mitatu wakati tunajua ya kwamba kuna barabara kama ile ambayo ilijengwa na mateka wa Italiano mwakani 1945 wakati wa Vita vya Pili vya Dunia na barabara hiyo ilikuja kubambuka majuzi tu miakani ya sabini ama themanini? Hiyo ni barabara ambayo imekaa zaidi ya miaka thelathini ikiwa pale katika hali ya uzima. Lakini barabara za leo, unakuta inajengwa baada ya miaka miwili imebambuka na inataka kujazwa mashimo au inataka kuondolewa kabisa ijengwe upya.

Bw. Spika, lilikuwa ni jambo la kushangaza tulipokuwa tunawauliza wahandisi wa barabara: "Barabara ya kawaida inatakiwa ikae miaka mingapi"? Wahandisi walituambia: "Sisi hatuna habari". Tukawauliza: "Sasa kama muhandisi hana habari barabara inatakiwa ikae miaka mingapi ndio iharibike, nani atakuwa na habari?" Unakuta barabara zinajengwa kwa kutumia ufisadi wa hali ya juu. Wakati mwingine, unakuta barabara ambayo inatakiwa iwe na ukubwa wa lami tuseme inchi kama nne, badala yake inawekewa ukubwa wa nchi mbili na pamoja na kupunguzwa kwa ukubwa wa lami, malipo yanakuwa ni yale yale. Unakuta nchi imeingia hasara kubwa. Mabilioni ya shilingi yamepotea kupitia ufisadi wa aina ile.

Bw. Spika, jambo la kushangaza zaidi ni kwamba wahandisi wanaohusika na ufisadi huo wanaendelea kuwemo kazini mwaka baada ya mwingine, mpaka wanastaafu. Watu wanafanya kazi kinyume na kanuni zilizopo na kujipatia pesa kupitia ufisadi. Ijapokuwa jana ulisema kwamba ufisadi ambao haujathibitishwa na mahakama hauwezi kuitwa ufisadi, kama watu fulani wanaweza kusababisha nchi hii kupata hasara kubwa kiasi hiki halafu waendeleo kuhudumu katika nyadhifa zao mpaka wastaafu uzeeni, ni lazima kuwe kuna kasoro kubwa; kasoro ambayo inahitaji kurekebisha, kwa sababu nchi hii haiwezi kuendelea bila ya kuwepo kwa barabara na miundo msingi mingine inayohitajika.

Ni lazima tuzijenge barabara zetu vizuri na kuiokoa nchi hii kutokana na hasara inayosababishwa na utendakazi duni na hasara inayosababishwa na kutofanya vyema kwa uchumi. Tulitembelea sehemu za Eldoret, Ziwa Victoria na Chepterit ili tujione hali ya barabara. Tulipata kwamba, gharama ya ujenzi wa barabara katika sehemu hizo tayari ilikuwa imeshalipwa lakini hakuna barabara iliyokuwa imejengwa.

Ni jambo la kushangaza kwamba barabara zilikuwa zimelipiwa gharama zote za ujenzi lakini barabara hizo hazikuepo. Unashindwa kufahamu haya ni mambo ya aina gani. Hata unashindwa useme nini. Hata ni afadhali ile barabara inayojengwa kiholela na kupata mashimo baada ya miezi kadhaa kuliko barabara ambayo haipo, licha ya kwamba gharama ya ujenzi wake imelipwa, na hakuna mtu wa kuadhibiwa. Wakati mwingine unajua kwamba, kweli, tuko na shida.

Bw. Spika, sasa ningependa kuzungumzia suala la ofisi ya Mkuu wa Sheria. Kazi iliyofanywa na ofisi hiyo imeiletea nchi hii hasara isiyo na kifani. Serikali imepoteza mabilioni ya pesa wakati wa enzi ya Rais mstaafu, Daniel arap Moi, na wakati wa enzi ya Rais Kibaki, kwa sababu ya ushauri mubaya kutoka kwa Ofisi ya Mkuu wa Sheria.

Bw. Spika, wakati mmoja, tulipotembelewa na Mkuu wa Sheria, tulimtaka atueleze ni kwa nini ofisi yake haitoi ushauri muafaka kwa Serikali wakati wa kuandika mikataba. Pia, tulimtaka

atueleze ni kwa nini ofisi yake haitumii mawakili kortini kuiwakilisha Serikali pale Serikali au Wizara ya Serikali inaposhtakiwa, na kwa hivyo basi kusababisha Serikali kupoteza kesi na kulazimika kulipa kiasi kikubwa cha pesa kama fidia kwa mlalamishi.

Kwa sababu ya hasara kubwa iliyopatikana, tulimshauri Mkuu wa Sheria afikirie kujiuzulu ili kuteuliwe mtu mwingine ambaye atafanya kazi bora kuliko yeye. Sijawahi kuona mtu mkali kama alivyokua Mkuu wa Sheria siku hiyo. Aliwaka kama moto, na inaeleweka. Hakuna mtu ambaye anataka kuacha kazi. Lakini, ni lazima kila mtu afanye kazi kwa namna inayoleta faida, na siyo kwa namna inayoleta hasara mwaka baada ya mwingine. Bw. Spika, kazi ya Mkuu wa Sheria ni kuisaidia Serikali isipate hasara kutokana na maswala ya kisheria. Kama Serikali inapata hasara, mwaka baada ya mwingine, kupitia njia hiyo, licha ya kuwepo kwa Mkuu wa Sheria aliyefuzu vyema katika maswala ya kisheria, ni lazima ieleweke kwamba kuna kasoro ya utendakazi katika ofisi hiyo. Ni vigumu kujua jinsi ya kuirekebisha kasoro hiyo. Ni kwa kum---

ADJOURNMENT

Mr. Speaker: Order! Order! Mr. Wamwere, you will have 20 more minutes tomorrow.

Hon. Members, it is now time for us to interrupt our business. Therefore, the House is adjourned until tomorrow, Thursday, 7th December, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.