

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th August, 2007

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Agricultural Development Corporation for the year ended 31st, March, 2006 and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Agricultural Development Corporation (Garissa Irrigation Project) for the year ended 31st March, 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf
of the Minister for Agriculture)*

Annual Report and Accounts of Lands Limited for the year ended 31st March, 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf
of the Minister for Lands)*

Annual Report and Accounts of the Kenya National Library Services for the year ended 30th June, 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the
Minister for Gender, Sports,
Culture and Social Services)*

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf
of the Minister for Education)*

Annual Report and Accounts of the Agricultural Finance Corporation for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Agricultural Finance Corporation for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General

Annual Report and Accounts of the Kenya Plant Health Inspectorate Service for the year ended 30th June, 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf
of the Minister for Agriculture)*

The 15th Report of the Public Investments Committee on the accounts of State Corporations for the year 2007.

(By Mr. Muturi)

NOTICE OF MOTION

ADOPTION OF 15TH PIC REPORT

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

THAT, this House adopts the 15th Report of the Public Investments Committee on the accounts of State Corporations for 2007 laid on the Table of the House on Thursday, 9th August, 2007.

ORAL ANSWERS TO QUESTIONS

Question No.191

PROJECTS UNDERTAKEN BY KVDA\ ENNDA IN SAMBURU DISTRICT

Mr. Lesrima asked the Minister for Regional Development Authorities:-

(a) when Kerio Valley Development Authority (KVDA) and Ewaso Nyiro North Development Authority (ENNDA) were established and for what purpose; and,

(b) how many projects these Authorities have undertaken in Samburu District since their inception.

The Minister for Regional Development Authorities (Mr. Mohamud): Mr. Speaker, Sir, I beg to reply.

(a) (i) Kerio Valley Development Authority (KVDA) was established in 1979 by an Act of Parliament under Cap.441 of the Laws of Kenya. The Authority covers the following districts: Baringo, Koibatek, Keiyo, Marakwet, West Pokot, North Pokot, Turkana North and South and the western part of Samburu.

(ii) The Ewaso-Nyiro North Development Authority (ENNDA) was established in 1989 by an Act of Parliament, Cap.448 of the Laws of Kenya. The Authority covers Laikipia, Samburu, Marsabit, Wajir, Garissa, Mandera, Isiolo, Moyale, parts of Nyandarua, Nyeri and Meru districts.

(iii) The two authorities were established for the purposes of promoting socio-economic development through planning, co-ordination and implementation of development projects for the sustainable utilisation and conservation of the natural resources in their areas of jurisdiction.

(b) Kerio Valley Development Authority (KVDA) has initiated the following projects in Samburu District since its inception:

(i) An ongoing bee-keeping programme established in April 2000 where five registered bee keeping groups namely Loosuk, Pura, Malaso, Nkobeliane and Lolkunono in Kirissia Division were trained and given 20 Kenya Top Bar bee hives each at a total cost of Kshs500,000.

(ii) A tractor hire service based in Maralal Town has been availed for hire by farmers at a cost of Kshs1,300 per acre in Loosuk and other agricultural areas of Samburu West at a total cost of Kshs1,910,000.

In addition to the above, we want to start new projects in the following areas:

(i) A new project is currently under preparation to exploit the high mineral deposits in the Suguta Valley.

(iii) Three water pans will be constructed at a cost of Kshs2.4 million in this financial year.

(iv) Similarly, we will construct two boreholes at a cost of Kshs6 million.

The ENNDA has initiated the following projects in Samburu District since its inception.

(i) Installation of a pump for Kisima Water Supply in April 1998 at a cost of Kshs193,000.

(ii) Drilling and equipping of Lederero Borehole in 2002/2003 Financial Year at a cost of Kshs3.1 million funded by the Government of Kenya, in conjunction, with the African Development Bank (ADB).

(iii) Rehabilitation of Naisunyai Dam in Wamba Division at a cost of Kshs500,000.

In addition, ENNDA will undertake the following projects in this new financial year:

(i) Develop 25 water points to serve an estimated 60,000 people with their livestock at a cost of Kshs58.5 million.

(ii) Undertake catchment conservation in the Lerroki Forest to build capacity for 5,000 people at a cost of Kshs28.5 million.

(Loud consultations)

Mr. Speaker: Order, hon. Members! The hon. Member and the Minister cannot communicate.

Mr. Lesrima: Mr. Speaker, Sir, it is a very long answer containing very little. Over the last 28 years for KVDA and over the last 18 years of existence of ENNDA, only less than Kshs10 million has been spent to develop Samburu District. We know that in other districts on an annual basis, they are spending about Kshs30 million to Kshs40 million sometimes for a single project. It is not the fault of the Minister, but I want to ask him the following question: What steps is he taking to create equity in distribution of resources in seven districts for KVDA and the other districts under ENNDA. Surely, a sum of Kshs10 million is too little for 30 years?

Mr. Mohamud: Mr. Speaker, Sir, from my answer, you will realise that there are 13 districts covered by ENNDA. They are vast and have a lot of problems in terms of development. So, the little resources that ENNDA was getting from the Government were being distributed fairly. However, I agree with the hon. Member that the amount of money allocated to this particular district has been inadequate. However, in this new financial year, we will provide more funds particularly for drilling of boreholes, sinking dams and rehabilitation of boreholes as well. This project will be funded by the African Development Bank (ADB) at a cost of Kshs2.7 billion for the whole region.

Mr. M.Y. Haji: Mr. Speaker, Sir, I am sure the hon. Minister will agree with the

Questioner that adequate development has not been undertaken by most of these authorities, particularly in Ijara Constituency. It is placed under Coast Development Authority (CDA). For the last 15 or 18 years, the only development that they have done was rehabilitation of a health centre for Kshs100,000. They are now constructing an office at a cost of Kshs2 million. Could the Minister revisit the issue of this authority, so that there is equitable distribution of resources to the area. Otherwise, Ijara should be transferred back to the northern part of this country?

Mr. Mohamud: Mr. Speaker, Sir, it is true that Ijara, like any other district in Coast Province, was under-funded. In fact, Ijara is now lucky because we have given it an office at a cost of Kshs3 million. During this Financial Year, we will initiate more development projects in the district to cater for the people of Ijara District.

Secondly, my Ministry is developing a policy for this Ministry. As you are aware, the Ministry of Regional Development Authorities is a new one. Before, we did not have any policies for these regional development authorities. With the new Sessional Paper that is before the Cabinet, which will later come to this House, and if the House passes it, then we will be able to get adequate funds from the Treasury.

Capt. Nakitare: Mr. Speaker, Sir, the Minister has answered this Question vaguely. The Kerio Valley Development Authority (KVDA) and the Tana and Athi River Development Authority (TARDA) were meant to establish dry-land farming for the purpose of growing fruits through irrigation. The Minister has not even indicated that.

This area is conducive for tissue cultured sugar-cane, which can grow and be harvested in less than 18 months. They have such a project from Spain. What is the Minister going to do to utilise this region, rehabilitate it and change people's culture from herding cattle into farming?

Mr. Mohamud: Mr. Speaker, Sir, herding is an important economic activity in this country. The hon. Member should not under-rate pastoralists and cattle rearing. However, the two development authorities that he talked about, initially were very vibrant, but after the re-organisation of the Government and especially the establishment of the Electricity Regulatory Board, most of the electricity generating equipment was transferred from these authorities to the new organisation. As a result, the two authorities suffered financially. Therefore, they were not able to perform some of the responsibilities like what the hon. Member has talked about, in terms of development.

As I said earlier, once a policy is in place for the regional development authorities, then we will be able to secure funds both from the Government and the private sector.

Mr. Rotino: Mr. Speaker, Sir, the Minister will agree with us that these authorities, namely, the KVDA and even Ewaso Nyiro Development Authority, have lost their vision. What is the Ministry doing to revitalise the vision that these authorities were meant to have? At the moment, very little is being achieved by these authorities and yet the Government is expecting them to raise Appropriations-In-Aid (A-I-A) to the Treasury. What is the Minister doing to revitalise these authorities, so that they can have meaning?

Mr. Mohamud: Mr. Speaker, Sir, the answer is very simple. We do not have adequate funds to revitalise these authorities. Once we get enough funds, we will fulfil our mandate.

Mr. Lesrima: Mr. Speaker, Sir, is the Minister aware that the Ewaso Nyiro River is drying up because of massive obstruction of water by the people around Mt. Kenya, which is the source of the river? This is leaving the pastoralists downstream to fight over water with monkeys and elephants. What action is the Minister going to take to protect this river from drying up? Otherwise, pastoralists will continuously move towards Mt. Kenya, which is the source of the river.

Mr. Mohamud: Mr. Speaker, Sir, it is true that the flow of the Ewaso Nyiro River was seriously affected. However, part of the Kshs2.7 billion that I have talked about, will be used to conserve the water at the source. We intend to have three big dams at the source of the river. One

should be somewhere at the foot of Mt. Kenya, another one at the Aberdares and another one at the lower part of the river.

The objective of constructing these big dams is to ensure that during the rainy season, they will collect adequate water. During the dry season, this water will be released slowly back to the river, so that it keeps on flowing up to as far as Habasweine, Dadaab and beyond. We also want to initiate a lot of conservation projects at the source.

Question No.409

DEATH OF CHILD IN KAPSABET
POLICE CELL

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

(a) whether he is aware that a four year old child, Brian Kimeli, was killed in a cell at Kapsabet Police Station on 16th June, 2003;

(b) what action has been taken against Ms. Eunice Jeptekin, who is suspected to have committed the offence;

(c) what disciplinary action has been taken against the police officers from Kabiyeet Police Post and Kapsabet Police Station who arrested both the child (Brian Kimeli) and his mother, Mrs. Philomena Chepkorir Samoei; and,

(d) since the mother of the deceased child was never charged with any crime, whether the Government could compensate her for the loss of her son and for the illegal arrest and confinement.

Mr. Speaker: This Question has been here how many times? Was there something---? Has the Question been here before, Mr. Sambu?

Mr. Sambu: Mr. Speaker, Sir, it was here in 2004.

Mr. Sambu: All right!

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

(a) Yes, I am aware that a four year old child, Brian Kimeli, died at Kapsabet Police Station cells on 16th June, 2003.

(b) Ms. Eunice Jeptekin was charged with the offence of murder under criminal case No.1388/2003. However, on medical examination at Kapsabet Hospital, the suspect was found to be of unsound mind and could not stand trial. Consequently, she was referred to Mathare Mental Hospital for treatment. The case is still pending before court.

(c) The then officer in charge of Kapsabet Police Station, Acting Inspector of Police Joshua Eskumo, together with his officers Messrs. George Olela, Francis Busienei and John Too were charged at the departmental level with the offence of negligence and for failing to ensure the safety of the child. However, further investigations were carried out by the officers' superiors, including interrogating the child's mother. It was established that there was insufficient evidence to put the officers on their defence.

However, I have ordered further investigations to determine whether the officers were negligent. Prompt action will be taken after the results of the investigations.

(d) Contrary to the hon. Member's claim that the mother of the deceased was not charged with any offence, she was charged with the offence of creating a disturbance which was likely to cause a breach of the peace. She was arraigned before the District Magistrate Court in Kapsabet on 15th October, 2003. The charge was under Kapsabet criminal case No.77 of 2003.

However, the complainant decided not to proceed with the case and both parties reconciled

and had the case withdrawn under Section 204 of the Criminal Procedure Code. The arrest and confinement of the suspect was meant to assist the police in their investigations and was, therefore, lawful. Since the matter is still pending in court, the issue of compensation does not arise at this stage.

Mr. Sambu: Mr. Speaker, Sir, as I said, this matter took place in 2003 and I brought a Question in 2004. This suspect, Ms. Eunice Jeptekin, had actually been arrested for another murder. The police officers were negligent in that, they ordered the mother of this little boy out and left the little boy with the mentally unsound suspect.

Nonetheless, she is being treated at Mathare Mental Hospital, when will this case be concluded, so that the mother of the deceased boy may file a case for compensation?

Mr. Munya: Mr. Speaker, Sir, the proceedings are usually handled by the courts and we are not in charge. So, I cannot be able to tell the hon. Member when the case will end. However, the case is proceeding and nothing can be heard until the proceedings are over and the court has made a judgement.

Mr. Billow: Mr. Speaker, Sir, it is unfortunate that a four year old boy had to be locked up with the mother in a police cell, simply because she was being charged for creating disturbance. It is now becoming common that everywhere you go, police are locking up children even much more younger than four years. Infants have been locked up in cells together with their mothers. This is contrary to, among other things, the Children Act, which was passed in this House.

Could the Assistant Minister, from the Floor of this House, direct the police and the security forces not to lock up children? It is illegal to lock up children in police cells.

Mr. Munya: Mr. Speaker, Sir, I share the sentiments of the hon. Member. However, in this particular case, if you look at the interrogation, because the mother was even interrogated when the police wanted to take action against the officers who had arrested her, you will find that she had been requested to leave the child with other relatives, but she refused. Indeed, she had even been asked to take a police bond so that she could report later, but she again refused. So, the police were not---

Mr. Billow: No!

Mr. Munya: You cannot say "no" because you were not there!

Mr. Sambu: On a point of order, Mr. Speaker, Sir. How could a widow, who knew very well that there was nobody at home refuse to take a police bond? Is the Assistant Minister in order to misled the House? I have been following up this matter all along. Is he in order?

Mr. Munya: Mr. Speaker, Sir, I do not know because I was not there, but I have read the proceedings and I have read the questions that she was asked. We are trying to be helpful in this matter and I do not think it is necessary for Mr. Billow to get agitated.

We want to be helpful in this matter and we are waiting for the proceedings in court to end. I personally do not think that it is good to have a child locked up in police cells. We have given instructions that if an adult is arrested, her child should be left with her relatives. If, it is a must that the kid should stay in the police cells, then a separate place should be found for the mother and the kid to stay. These are the firm instructions that we have given.

Personally, I sympathise with this particular case. We are waiting for the proceedings in court to end, so that the appropriate action can be taken.

Mr. Muite: Mr. Speaker, Sir, only last Saturday, I personally witnessed at Buruburu Police Station, eight kids aged between four and seven years being locked up with grown ups in the same cell. When I tried to intervene, the Officer Commanding Police Division (OCPD), Buruburu Police Station was extremely rude. When is the Ministry going to set up a board where members of the public can lodge complaints against the police for misconduct? These boards should be manned by civilians. When is the Ministry going to set up that sort of board?

Mr. Munya: Mr. Speaker, Sir, that is a good suggestion from the senior counsel. That is something we will consider. Right now, the Senior Assistant Commissioner of Police is in charge of complaints at police headquarters. Any complaints can be channelled there. The police and the Ministry are always ready to listen to any complaint against the police and take action. In this particular case, I will give orders to the police officers not to lock up children with adults. That is against the Standing Orders that regulate the Police Force. When they do so, it is not lawful.

Mr. Sambu: Mr. Speaker, Sir, the suspect is still in Mathari Hospital. It is not known when she will get well enough to undergo the two murder trials. Could the Government consider compensating this mother because we do not know when the suspect will be charged with murder, so that civil proceedings can start? Could the Ministry consider compensating her because she lost her child for no apparent reason at all?

Mr. Munya: Mr. Speaker, Sir, I have already said that we are not in charge of the proceedings in court. Therefore, we will wait until they are concluded, so that we can make an informed decision on this matter.

Mr. Speaker: Next Question.

Question No.427

REHABILITATION OF JOMO KENYATTA
SPORTS GROUND BY SIDA

The Question by Rev. Nyagudi is deferred to Wednesday, next week. Mr. Assistant Minister, is that all right with you?

The Assistant Minister for Local Government (Mr. Shaaban): Mr. Speaker, Sir, that is in order.

(Question deferred)

Question No.437

CONFIRMATION OF ACCREDITATION
STATUS OF LOCAL COLLEGES
AND PARENT UNIVERSITIES

Dr. Rutto asked the Minister for Education:-

(a) whether he is aware that there are many colleges which are purporting to offer degrees on behalf of foreign universities;

(b) whether he could confirm the accreditation status of these colleges and their parent universities; and,

(c) whether he could table a list of the above colleges and indicate how the Ministry has been checking on the standards of education these colleges are offering.

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

(a) I am aware that some colleges are purporting to offer degrees of foreign universities without the authority of the Commission for Higher Education. We are aware of this following complaints by students and parents who have from time to time, raised the issue with the Commission with the aim of knowing the status of the colleges which they have enrolled in or hope to enrol in.

(b) In view of these inquiries and public complaints, the Commission for Higher Education through the support of UNESCO is currently identifying colleges that may be offering these degrees in collaboration with foreign universities without authority. Those found to be offering degrees with an unaccredited universities will have their registration ripped off.

(c) At the moment, the Ministry does not have a comprehensive list of colleges that are purporting to offer these degrees. However, a number of colleges have applied to the Commission for Higher Education to collaborate with foreign universities and the status of the application is as follows: I have a list of 27 that are being considered.

The Ministry, through the Commission for Higher Education, made regulations which were gazetted on universities to guide offering of degrees as Rules of 2004 in order to control offering of degree programmes by colleges. These rules became operational in 2005.

Dr. Rutto: Mr. Speaker, Sir, the Ministry of Education has been very careless on this matter. The Assistant Minister has admitted that at the moment the Ministry does not have a comprehensive list of colleges. Many Kenyans have lost money through colleges of this kind. They send their children there and they get sub-standard education. When will the Assistant Minister ensure that the Commission for Higher Education is empowered enough to monitor this and quickly?

Dr. Mwiria: Mr. Speaker, Sir, the hon. Member is correct that there have been concerns about these institutions which were cheating Kenyans out of millions of shillings. This is the reason why we set up these rules in 2004 and they became operational in 2005. That is why we are investigating. Since the capacity for the Commission for Higher Education has been limited, last year, we got some support from UNESCO. I would like to assure the hon. Member that come next academic year we hope not to revisit this issue. Those institutions that are offering sub-standard education or are not registered will be deleted from the roster and parents will be informed.

Mr. Salat: Mr. Speaker, Sir, in our respective constituencies---

(Loud consultations)

Mr. Speaker: Order, hon. Members! What is it?

Capt. Nakitare: Mr. Speaker, Sir, is it in order for an Assistant Minister to walk in this august House dressed inappropriately? Did you notice Mr. Ndile coming in the House dressed in a T-Shirt?

Mr. Speaker: I am very disadvantaged because he is out of my sight.

(Laughter)

Proceed.

Mr. Salat: Mr. Speaker, Sir, before we set up new schools in our respective constituencies we have to go through District Education Boards (DEBs). The inspectors inspect them and bring a report indicating which schools or colleges, Kenyans should invest in. Before we allow these universities to operate and give degrees, why can the Ministry not give clearance, so that it can save Kenyans money? The Ministry should not sort the problem after these colleges have started operations. The problem should be sorted out at the initial stage.

Mr. Mwiria: Mr. Speaker, Sir, this is what we plan to do since the rules were gazetted. We will ensure that these colleges do not operate with an interim certificate. We will investigate before they even have that temporary permit. It is a good suggestion.

Mr. Muriithi: Mr. Speaker, Sir, could the Assistant Minister confirm to this House

whether or not we have manpower to ensure that these colleges will not be mushrooming? We read in newspapers that some colleges operate for four years and even award degrees. It is only then the Minister wakes up much later and declares them illegal. Could he tell us whether he will act or not? That is why most of our children are moving to Uganda where the education is of high quality.

Dr. Mwiria: Mr. Speaker Sir, there is no doubt that we will act. I would like to tell the hon. Member that the reason why a lot of our children are going to Uganda is not because the quality of education in all those institutions is any better. It is for other reasons. I agree with the hon. Member, that we will act. We will not wait for four years before we discover that these problems exist.

Mr. Karaba: Mr. Speaker, Sir, it is for the same reason that you will find that most students are going to Uganda to get degrees from universities which we do not know whether they are accredited or not. Could the Assistant Minister ensure that those degrees from Uganda which have been awarded after two years are proper degrees or if they are those ones which will earn them no jobs here in Kenya and outside?

Dr. Mwiria: Mr. Speaker, Sir, we are working with the Inter-Universities Commission of East Africa and the Commission for University Education in Uganda to have an idea of what kind of institutions our students are going to. However, we have said many times that although the Government has a responsibility to citizens, citizens themselves have a responsibility to know what kind of institutions they are paying school fees for. It is also up to Kenyans to assist the Government by ensuring that they do not support institutions that do not merit being called universities. So, it is a job that we all have to do. From time to time, the Commission for Higher Education releases names of universities that we should not send our children to, but some parents do not check this information. It is not easy, but I would like to call upon parents and students to always ask questions from the Commission for Higher Education before enrolling their children in universities. This is the only way that we can stem the problem before it gets out of hand.

Mr. Kimeto: Mr. Speaker, Sir, some colleges in Uganda might be operating as teachers training colleges. How will students from those colleges be employed when they come back home? Will they get the same job opportunities as their counterparts who opted to remain and study here?

Dr. Mwiria: Mr. Speaker, Sir, the matter of who gets jobs does not always have to do with the qualifications. There are other factors like connections and so on, that come in. People go to sub-standard universities in India and come here and get jobs because their parents are well-connected. So, it is a matter you leave to employers. The employers have to determine the quality of the degree. Sometimes they ignore it and employ less qualified candidates because they have a relationship with them.

Dr. Rutto: Mr. Speaker, Sir, part of the reason why we have this problem is because the Act that created the Commission for Higher Education has not been revised to strengthen the Commission in this task. Could the Assistant Minister tell this House when he will bring that Act to Parliament so that we can amend it and strengthen the Commission for Higher Education?

Dr. Mwiria: Mr. Speaker, Sir, these recommendations have already been made by the Universities Inspection Board. I cannot tell for sure, but I do not think it will be brought before the House in the next one month since we do not know when we will be asked to go home. Let us hope that we will be there next year to look at it.

Question No.448

TERMINAL DUES FOR FORMER
KTDC EMPLOYEES

Eng. Okundi asked the Minister for Tourism and Wildlife when the 28 former employees of Kenya Tourist Development Corporation who were working at the Homa Bay Tourist Hotel and were dismissed on 12th February, 1998, will be paid their terminal dues.

The Minister for Tourism and Wildlife (Mr. Dzoro): Mr. Speaker, Sir, I beg to reply.

(a) The Kenya Tourist Development Corporation paid all salary arrears to 22 employees of Homa Bay Hotel Limited as per the agreement signed on 11th February, 1998, which stated that an allowance of Kshs5,000 will be paid to all employees by 12th February and the balance within a period of 25 days.

The entire amount of Kshs704,363.20 was paid on 12th February, 1998. Any further claims, therefore, should be forwarded to us with the relevant documents and they will be addressed.

Mr. Speaker, Sir, as a Ministry, we want to go by the labour laws. So, when this document comes, we will be able to address the issue accordingly.

Thank you.

Eng. Okundi: Mr. Speaker, Sir, the information I have is very different from what the Minister has said. There is a full tabulation of the 28 people who were involved. This tabulation comes from Homabay Tourist Hotel, and the subject is final dues as at December, 1999. The amount is more than Kshs4 million. All things have been stated herein. It comes from them. However, if the Minister says that it has been paid, then I need to be informed in full detail against the papers I have here from those who are complaining, and who are now outside. So, really, I am not sure whether the Minister has given the true position in this particular matter.

Mr. Dzoro: Mr. Speaker, Sir, I do not want to appear to be against the information that the hon. Member has. I also have different information. So, he can come to our offices with whatever information he has, we can compare notes, because my Ministry does not intend to mistreat the former workers of Homabay Hotel Limited. This is a matter we need to settle because it has remained pending for many years now. I sympathise with the former employees, but we need to get proper documents. Otherwise, we will not only help but do what we can, as a Ministry, to make sure that this matter is resolved. So, may I take this opportunity to invite Eng. Okundi with all the information he has. I will sit down with my officers and resolve this matter in a proper manner.

Mr. Kajwang': Mr. Speaker, Sir, the hotel was sold off to a private person, and it has been rehabilitated after being closed for many years. The hotel is very good now. However, the Ministry must accept that if you dismiss people because you want to sell a facility, when you get the money, which they got from whoever bought it, the first liability should have been to pay the workers. Now the workers cannot let us drink tea anywhere in this country. Everywhere you go, whether it is in Nakuru or Mombasa, you find one of the former employees of Homabay Hotel, who knows that we come from there, and who asks us: "When will our terminal benefits be paid?" The matter dates back to 1998. It is not about salary arrears, but rather about terminal dues. Terminal dues include severance pay and all those other things contained in the labour law. Please, commit to do it, so that we are not harassed.

Mr. Dzoro: Mr. Speaker, Sir, I am not disputing what the hon. Member is saying. I am saying that, according to the records we have, there is an agreement that was signed between KUDHEIHA Workers Union, a representative of the workers' committee, KTDC and the District Labour Officer. I am also informed that 22 former workers signed the agreement. Are there more workers than the 22 who signed? Is there any additional information on the matter? So, I am appealing to the hon. Member to come to our offices, so that we can settle the matter in a proper manner. The hon. Member could be having documents which we do not have. So, we are willing to address this issue. That is why I am inviting the hon. Member to my office, so that we can settle it

in a nice manner. It is not my intention to see Kenyans suffer for many years without getting their pay. My Ministry is very alert to the matter. We, really, want to help the workers. So, I would like the hon. Member to come to our offices, so that we can see how the matter can be settled.

Mr. Speaker: Last question, Eng. Okundi!

Eng. Okundi: Mr. Speaker, Sir, I want to thank the Minister for the answer he has given. I take it that he has committed himself to settling the outstanding amounts due to the former workers, who are floating around throughout the country. I will go and discuss with him all the details regarding those who are involved, because I have their names here. I would like to beg him to ensure that the payment is made as quickly as possible. As you can see, we all want our people paid their rightful amounts of money, which is with the Ministry.

Thank you very much, Mr. Speaker, Sir.

Mr. Speaker: Very well! Let us go to the last Question on the Order Paper, by the Member for Aldai!

Question No.451

MEASURES TO MAKE THE FEMALE
CONDOM READILY AVAILABLE

Mr. Choge asked the Minister for Health:-

(a) whether she is aware that the unavailability and exorbitant cost of the female condom is one of the biggest impediments in efforts to reduce new HIV infections in the country; and,

(b) what practical measures she is putting in place to empower women in the fight against HIV by making the female condom readily available and at a price similar to that of male condoms.

Mr. Sambu:---(Inaudible)

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Speaker, Sir, before I reply, could you protect me from Mr. Sambu? He is making---

Mr. Speaker: Order! Order, hon. Members! The Assistant Minister wants me to protect him from Mr. Sambu. I do not think Mr. Sambu has said anything. Has he said anything? I order the two of you not to have a private discussion.

Proceed, Mr. Assistant Minister!

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

(a) I am aware that the female condom costs much more than the male condom in the private sector, chemists and pharmacists. Whereas a male condom costs about Kshs10, the female condom costs about Kshs200.

(b) My Ministry is endeavouring to empower women in the fight against HIV/AIDS, with the recognition that the HIV/AIDS prevalence is much higher in women than in men by virtue of their biological make-up. Hence, the Ministry introduced the female condom in the Ministry of Health essential commodities list. At the moment, female condoms are distributed alongside the male condoms to all health facilities in the country. For the year 2006, for example, 449,956 female condoms worth slightly less than Kshs90 million were distributed to public health facilities free of charge.

Mr. Choge: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer although he framed the Question and answered it in the way he wanted. Could he explain why he is misleading the House by saying that the female condom costs Kshs200 when it actually costs Kshs400?

Dr. Kibunguchy: Mr. Speaker, Sir, I speak with authority. I am not misleading the House. The authoritative information I have is that the female condom costs Kshs200.

Ms. Ndung'u: Mr. Speaker, Sir, Government financing has been dedicated to purchasing male condoms through the Kenya Medical Supplies Agency (KEMSA), which means that male condoms are not only available but are also accessible. It is only the UNFPA which has donated female condoms to the Government for distribution. Therefore, women are now being forced to buy male condoms, and so negotiate, instead of the Government providing female condoms for women to be able to negotiate for safe sex. Therefore, I would like the Assistant Minister to confirm when the Ministry will provide financing to KEMSA to purchase female condoms for distribution.

Dr. Kibunguchy: Mr. Speaker, Sir, I have said that the Ministry of Health has recognised that the female condom is an essential commodity. Again, as I have said, we have put it on the essential commodities list. So, it is being distributed to all our health facilities. I have just given the figures for last year. So, I do not know how the question by Ms. Ndung'u arises.

Mr. C. Kilonzo: Mr. Speaker, Sir, this issue touches on affirmative action, as far as women are concerned. A male condom is sold at Kshs10. A female condom costs Kshs200. That is 20 times more. The Assistant Minister has said that free condoms are available in Government clinics. But those clinics are closed very early. Do we expect somebody to drive around looking for a Government clinic to get a free condom? We want the prices to be the same. If a male condom costs Kshs10, then a female condom should cost the same! Could the Government consider zero-rating the female condom so that it could be affordable?

Dr. Kibunguchy: Mr. Speaker, Sir, obviously, the hon. Member wants to make it appear that everything should be equal. But, as we know, many things, including women dresses, are more expensive than men clothes. In any case, the cost of an item depends on how it is manufactured. So, in this case, the manufacturing and the packaging of the female condom is much more expensive. That is why the cost is that much.

Ms. Ndung'u: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister not to answer the question? The question was: Could the Ministry consider zero-rating the condoms? The issue of materials is not an issue. Could the Ministry zero-rate the female condoms? The Assistant Minister is not answering the question. Is he in order not answer the question?

Dr. Kibunguchy: Mr. Speaker, Sir, the Assistant Minister is answering the question. I have said that the female condom is free in our health facilities. What more can I say? It is free. We are not charging anything!

Mr. Kajwang: Mr. Speaker, Sir, the Assistant Minister is not getting the issue. The issue is not that they are free in clinics which we may not access. The issue is that you are charging some duty when we import them. Could you zero-rate them? Could you remove the duty, so that they could become a little cheaper than Kshs400. Is that not what she said?

Dr. Kibunguchy: I do not know what is cheaper than free. Really, I do not know what is cheaper than free! We are saying that they are free. Our health facilities are everywhere in this country. So, I do not know what we are talking about.

Dr. Ali: Mr. Speaker, Sir, since the male condoms are available everywhere, even in hotels--- There is also a lot of variety. Could the Assistant Minister also make sure that there are different varieties of female condoms available to all women? They should be available in lodges, hotels and bars!

Dr. Kibunguchy: Mr. Speaker, Sir, including mosques! I am hearing that in the background. Yes, that is something we will consider!

Mr. Speaker: That is enough for today. Last question!

Mr. Choge: Mr. Speaker, Sir, could the Assistant Minister consider, bearing in mind that

there are 6 to 7 million active women in Kenya, availing more condoms than the 500,000 he is availing now? Could the Assistant Minister avail 6 to 7 million condoms per year?

Dr. Kibunguchy: Mr. Speaker, Sir, I hope I heard him correctly. Those condoms are only used when somebody is having sex. I hope the hon. Member is not suggesting that those 6 to 7 million women are having sex every day.

(Laughter)

Mr. Speaker: Order! Order! I think the Assistant Minister needs some correction. Women do not make sex to themselves, but with men.

Dr. Kibunguchy: Mr. Speaker, Sir, I think that is where the dilemma is. The hon. Member did not mention men. He just said women.

An. hon. Member: You are a doctor!

Dr. Kibunguchy: Yes, I know that women cannot have sex with women.

(Loud consultations)

Mr. Speaker: Order, Order! That firmly marks the end of that story.
Next Order!

BILL

First Reading

THE CONSTITUTION OF KENYA
(AMENDMENT) BILL

*(Order for First Reading Read - Read the
First Time and ordered to be referred
to the relevant Departmental Committee)*

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[Mr. Chairman took the Chair]

THE TOBACCO CONTROL BILL

Mr. Chairman: Thank you, hon. Members! We are now in the Committee of the Whole of House. We are considering the Tobacco Control Bill. May I now call upon---

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

Order, hon. Members! May we have some order. Those who wish to withdraw, may do so quietly.

Mr. Minister, could you please move this?

Clause 2

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman Sir, after further consultations, we want to withdraw the amendment on Clause 2

Mr. Muturi: Mr. Chairman, Sir, I want to confirm that we have consulted the Assistant Minister and agreed that I withdraw my proposed amendment to Clause 2.

Mr. Chairman: But was it your amendment? Therefore, it is you who should have stood and withdrawn it. So, I would like you to do so.

Mr. Muturi: Sorry, Mr. Chairman, Sir. The reason I did not stand up is that there is a proposed amendment to be moved by Dr. Manduku. I thought we are in agreement with that.

Mr. Chairman: Well, in our record here, it shows Mr. Muturi and Dr. Manduku. So, Mr. Muturi, is this the same amendment?

Dr. Manduku: Mr. Chairman, Sir, I also would like to withdraw the amendment that I proposed.

Mr. Chairman: But this amendment is being proposed by three people!

Mr. Sungu: Mr. Chairman, Sir, this amendment had been proposed initially by the Minister as well as the Chairman of the Departmental Committee on Health, Housing, Labour and Social Welfare. However, there are subsequent amendments proposed to that amendment by Mr. Muturi and they have mutually agreed to withdraw them so that the Bill stands as it was before. So, we can now proceed on that.

Mr. Chairman: Very well! There is no question, therefore. The proposed amendment is withdrawn.

*(Mr. Muturi's proposed amendment
to Clause 2 withdrawn)*

Clause 3

Dr. Manduku: Mr. Chairman, Sir, after consultations, we agreed that we withdraw the amendments that we had proposed in Clause 3.

Mr. Chairman: So, you are withdrawing?

Dr. Manduku: Yes, Mr. Chairman.

Mr. Chairman: Very well! Dr. Manduku's amendment is withdrawn!

*(Dr. Manduku's proposed amendment
to Clause 3 withdrawn)*

Mr. Muturi: Mr. Chairman, Sir, it appears that the Clerk-at-the-Table is not taking us through the proper procedures. None of those two clauses, as per the Bill, has been proposed for adoption or even---

Mr. Chairman: You are right, Mr. Muturi. We should call the person who has proposed the amendment.

Mr. Sungu: Mr. Chairman, Sir, if the proposed amendments have been withdrawn, then all we need to do is to put the Question that they be part of the Bill and then we proceed to the next one. We need to dispose of them so that we go to the next one and also so that no amendment stands and the original Bill stands.

Mr. Chairman: Mr. Assistant Minister, could you move the amendment as it appears on the Order Paper?

Clause 2

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I beg to move:- THAT, Clause 2 of the Bill be amended in section in the definition of "public place" by inserting the words "open space or street which is accessible to members of the public" immediately after the word "conveyance".

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

Mr. Muturi: Mr. Chairman, Sir, as you may have seen in the Order Paper, I have proposed to move an amendment, but having withdrawn my proposed amendment in Clause 2, it, therefore, becomes unnecessary to have my proposed amendment here. I, therefore, withdraw it in favour of the amendment by the Minister.

(Mr. Muturi's proposed amendment to Clause 4 withdrawn)
(Clause 4 agreed to)

Clause 5

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I beg to move:- THAT, Clause 5 of the Bill be amended in sub Clause (1)-

- (a) by deleting paragraph (i) and substituting therefor the following new paragraph-
 - (vi) the Planning Secretary in the Ministry for the time being responsible for matters relating to planning;
- (b) by inserting a new paragraph immediately after paragraph (i) as follows-
 - (ia) The Director of Local Authorities;

(Question of the amendment proposed)

Mr. Muturi: Mr. Chairman, Sir, I do not know whether the Assistant Minister proposes that Clause 5 be amended as per the Order Paper as proposed by me or by Dr. Manduku or by

himself? So, if we just use phrases like this, we are going to have a law which is very complicated.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, I proposed that Clause 5 be amended as per the Ministry's amendment.

Mr. Chairman: Which is the Ministry's amendment?

The Assistant Minister for Health (Dr. Kibunguchy): They are on the Order Paper!

Mr. Chairman: I draw the attention of hon. Members to page 465 of the Order Paper.

Mr. Sungu: Mr. Chairman, Sir, I stand to support the Assistant Minister's amendment. As you may have noticed, Clause 5 deals with the establishment of the Board and the membership thereof. What the Assistant Minister has done is to add "the Planning Secretary in the Ministry for the time being responsible for matters relating to planning". Again, he has proposed that a new paragraph be inserted immediately after paragraph (i), that is, "the Director of Local Authorities".

Mr. Chairman, Sir, that means that the Assistant Minister is adding those people to be members of the Board, which is created by this Bill. I know that there has been an agreement. We have agreed that we will support this amendment.

Mr. Chairman: Mr. Sungu, you are supposed to speak on the Question that I have proposed, that is, the clause be amended as per the Order Paper, which is on page 465 and as moved by the Assistant Minister. So, you have supported the amendment?

Mr. Sungu: The amendment, Mr. Chairman, Sir.

Mr. Chairman: Right! Mr. Billow!

Mr. Billow: Mr. Chairman, Sir, I want a clarification from the Minister? Why the Ministry of Planning and National Development and yet this is a health matter? I do not understand why the Assistant Minister believes that it is important to have the Permanent Secretary, Ministry of Planning and National Development in the Board.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, if you look at the Bill properly, you will find that there is an element of finances. So, that is why we wanted a representative from the Ministry of Planning and National Development.

Capt. Nakitare: Mr. Chairman, Sir, I find this a little bit ambiguous. I would like clarification on why we need to have directors from local authorities.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, first of all, I would like to clarify that we are deleting the clause that proposes the Director of Planning. We are deleting "the Director of Planning".

Mr. Chairman, Sir, as you can see, most of the implementation of this Bill will fall under the local authorities. In fact, right now we are using the by-laws. The local authorities are putting together some regulatory measures about smoking in public places. That is why we would like the Director of Local Authorities to be part of this Board.

*(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)*

Dr. Manduku: Mr. Chairman, Sir, I wanted to move an amendment to Clause 5, but I have been passed.

Mr. Chairman: An amendment on what?

Dr. Manduku: On Clause 5, Mr. Chairman, Sir.

Mr. Chairman: No! I opened this for debate. It was exhausted and there was nobody who

wanted to contribute. So, as you rightly say, you have been passed. I, therefore, put the question.

Mr. Muturi!

Mr. Muturi: Mr. Chairman, Sir, mine is just procedural. I would like to confirm that I am withdrawing my proposed amendment to Clause 5 so that we carry the amendment by the Assistant Minister.

*(Mr. Muturi's proposed amendment
to Clause 5 withdrawn)*

(Clause 5 as amended agreed to)

Clause 6

Dr. Manduku: Mr. Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended by deleting the word "production" appearing in paragraph (a) and substituting therefor the word "growing".

Mr. Chairman: I want to draw the attention of hon. Members to page 467; that is what Dr. Manduku is reading.

Dr. Manduku, you can elaborate for hon. Members to understand why you are doing so. Do not just make a proposal.

Dr. Manduku: Mr. Chairman, Sir, the rational is on "growing" rather than "production".

Mr. Chairman: Say it again.

Dr. Manduku: Mr. Chairman, Sir, it is not "production". It is supposed to be "growing" of tobacco.

(Question of the amendment proposed)

Mr. Billow: Mr. Chairman, Sir, I want to object to this amendment because we are dealing with the Ministry of Health. Their main concern here is the production of tobacco, not the growing. Growing refers to the crops and that falls under a different portfolio.

Mr. Chairman, Sir, if you remember when dealing with Clause 3, the hon. Member withdrew all his amendments which aimed to change tobacco products to tobacco growing and so forth. In this regard, "growing" does not fit into this. We are talking of the whole process of manufacturing and so on. That is what production is about.

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, I want to plead with Dr. Manduku, we had discussions about this and thought it would suffice to exclude "growing" and deal with "production" and related issues, just in case he forgot it.

(Applause)

Mr. Sungu: Mr. Chairman, Sir, I stand to support Dr. Manduku's amendment. This is a negotiated Bill. If you look at the wording of Clause 6(a); "production and manufacture", actually, production is a duplication of manufacture. This is a multi-Ministry affair. The Ministry of Agriculture, the Ministry of Trade and Industry and the Ministry of Finance are all involved. Therefore, "growing" is part of it. In the Bill we are providing for alternative cropping. If there is going to be some control of this, then there must be some avenue in which we will provide for tobacco farmers.

I wish to support the amendment.

Mr. Chairman: Well, one more and then I put the Question!

Mr. Muturi: Mr. Chairman, Sir, even if one looks at the title of the Bill: Tobacco Control Bill, then you come to the issue of growing--- I think we are extending the functions of the Board to an area that, obviously, would be ill-equipped to handle notwithstanding the membership of the Board.

Mr. Chairman, Sir, it is enough that we have production. It reflects the general thrust of the Bill. I want to plead with Dr. Manduku to withdraw his proposed amendment. Like we have done with the rest, we have negotiated.

Dr. Manduku: Mr. Chairman, Sir, I think there is a bit of sense in doing so. Therefore, I withdraw the proposed amendment.

*(Dr. Manduku's proposed amendment
to Clause 6 withdrawn)*

(Applause)

Mr. Chairman: Very well. Mr. Muturi, you also had an amendment to this Clause!

Mr. Muturi: Mr. Chairman, Sir, I am also withdrawing my proposed amendment. I was only proposing to replace the word "Board" with "Committee".

*(Mr. Muturi's proposed amendment to
Clause 6 withdrawn)*

(Clause 6 agreed to)

Mr. Kajwang: On a point of order, Mr. Chairman, Sir. Just before you move to Clause 7, there was a proposed amendment on Clause 5 by Mr. Angwenyi. However, it was not called out when we discussed Clause 5. As we were dealing with the clause, several amendments were called out, so that we could deal with them. Before Mr. Angwenyi went abroad last week, he asked me to propose some of these amendments on his behalf.

Mr. Chairman: Mr. Kajwang, I regret that. However, as you know, we have already put the Question on Clause 5. Indeed, I can see Mr. Angwenyi's name is here. However, the Clerks-at-the-Table did not call the amendment. I agree with you, but having already voted on it, we cannot open debate again. I am very sorry about that, but it is already done with. I hope Mr. Angwenyi will understand.

Let us go on!

Clause 7

Mr. Chairman: Dr. Manduku, you have a proposed amendment on Clause 7!

Dr. Manduku: Mr. Chairman, Sir, I wish to withdraw the amendment I proposed.

*(Dr. Manduku's proposed amendment
to Clause 7 withdrawn)*

Mr. Chairman: Very well! Mr. M. Mutiso, do you have something on this Clause!

Mr. J.M. Mutiso: Mr. Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended by inserting a new sub-clause 7(2)(f) to read as

follows:-

"A solatium compensatory contribution of Kshs500 million or 20 per cent of annual profit after tax whichever is higher payable by any licensed cigarette manufacturers or importers in the country."

Mr. Chairman, Sir, this will be very important because the risks associated with tobacco and cigarette smoke are not determined. Therefore, when this framework is passed this grey-area will be much more transparent. We might end up having so many litigations as to the tobacco industry. To compensate for that, we are putting the safety of having a solatium contribution payable by any manufacturer or importer of cigarette to mitigate for those consequences.

(Question of the amendment proposed)

Mr. Chairman: Hon. Members, this is a new sub-clause. As you can see from the Bill, there is Clause 7(2), (a) up to (e). Therefore, Mr. M. Mutiso, wants to add sub clause (f) to read:-

"A solatium compensatory contribution of Kshs500 million or 20 per cent of annual profit after tax whichever is higher payable by any licensed cigarette manufacturers or importers in the country."

Mr. Sungu: Mr. Chairman, Sir, I wish to oppose that amendment. The effect of this 20 per cent contribution or Kshs500 million on the tobacco industry---

Mr. J.M. Mutiso: On a point of order, Mr. Chairman, Sir. I think the hon. Member is not clear about the proposed sub-clause. We have already done away with the quantum; the Kshs500 million and 20 per cent. Now, we are leaving that to be determined by the Tobacco Control Board. So, there is no quantum of the amount determined.

Mr. Chairman: Mr. Sungu still has the Floor.

Mr. Sungu: Mr. Chairman, Sir, I agree with that because the objective is not to punish the tobacco industry, but to put them on board so that we work together. I withdraw my objection.

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

(Clause 7 as amended agreed to)

Clause 8

Dr. Manduku: Mr. Chairman, Sir, I beg to move:-

THAT, Clause 8 of the Bill be amended-

(a) by deleting the word "him," appearing in Sub-Clause (1) and substituting therefor the words "such accounting officer";

(b) by deleting the words "authorized by him on his own behalf," appearing in paragraph (b) of Sub-Clause (3) and substituting therefor the words "personally authorized."

Mr. Chairman, Sir, I am moving this amendment because such accounting officer could necessarily not be a "him", but a "she" or a "her." Therefore, the word "him" should be deleted and substitute therefor the words "such accounting officer."

(Question of the amendment proposed)

Mr. Sungu: Mr. Chairman, Sir, I support that amendment. It is a matter of making the issue clear, so that it is gender sensitive. It does not change the Bill in any way.

*(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 8 as amended agreed to)

Dr. Manduku: On a point of order, Mr. Chairman, Sir. There was a further amendment (d). We have not done (d).

An hon. Member: It is included!

Dr. Manduku: Thank you.

Mr. Chairman: We finished that!

(Clauses 9, 10 and 11 agreed to)

Clause 12

Dr. Manduku: Mr. Chairman, Sir, I beg to move:-

THAT, Clause 12 of the Bill be amended by inserting the words "tobacco and" immediately after the words "policies on" appearing in paragraph (a).

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

Dr. Manduku: Mr. Chairman, Sir, I beg to move:-

THAT, Clause 14 be amended by deleting the words "Manufactured in Kenya" appearing in Sub-Clause (3).

Mr. Chairman: Would you like to elaborate your proposed amendment?

Dr. Manduku: Mr. Chairman, Sir, when tobacco is sold, companies do not necessarily have to indicate in every other package that it is manufactured in Kenya. That is why I am proposing to delete the words "Manufactured in Kenya."

(Question of the amendment proposed)

Mr. Billow: Mr. Chairman, Sir, I thought for the purpose of the Kenya Revenue Authority

(KRA) and tax collectors, it is important that on each packet they have to indicate "this is for export only," so that we avoid the same being returned to the local market. I think that is the main reason why it is here.

Mr. Chairman: Yes, it makes a lot of sense.

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, the reason I support the amendment is: When tobacco products are being exported out of this country, if you designate them as "manufactured in Kenya," or any jurisdiction, that may make them uncompetitive or disadvantaged vis-a-vis other best practices in the international market.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I would like to oppose this amendment for two reasons. First, it must be very clear that we are trying to fight illicit trade here. We know that illicit trade denies the Government revenue. So, if we write "manufactured in Kenya for export only," that will make it very difficult for illicit trade to thrive.

Mr. Chairman, Sir, for that reason, I would like to oppose that amendment.

Capt. Nakitare: Mr. Chairman, Sir, I support the sentiments of the Assistant Minister, because the words "manufactured in Kenya" are very restrictive. As you realise, probably, our farmers in Kenya, who grow tobacco, do not even benefit from this particular trade. A lot of it is imported into the country to be manufactured and then the products are exported. So, I concur with the Assistant Minister.

Mr. Chairman: So, you are opposing the amendment?

Capt. Nakitare: Yes, Mr. Chairman, Sir, I oppose the amendment.

Mr. Muturi: Mr. Chairman, Sir, I think we need to appreciate the point which is being made by the Committee, through Dr. Manduku. Mr. Chairman, Sir, there are arrangements by various tobacco companies. They come and do their packaging and all production processes here in Kenya. What Dr. Manduku is trying to do is this: Since we have products which are actually manufactured here for export, the moment we start labelling them "made in Kenya," we are actually exposing those companies to stop producing in Kenya. I know that there are those agreements, but we do not have to stamp the products. The KRA can have its staff in those factories, like they do, who will be checking on the export of the products only.

I, therefore, support the amendment.

Mr. Chairman: I would like to hear one more comment and then I put the Question.

Yes, Mr. Sungu!

Mr. Sungu: Mr. Chairman, Sir, allow me to inform the House about the actual situation in the tobacco industry. The tobacco factories are being forced to close elsewhere, including Uganda. They are now relocating to Kenya.

Mr. Chairman, Sir, there is also the illegal import of tobacco products into the country from China and other countries, including the Pallmans brand of cigarettes. Therefore, it is imperative that we indicate "manufactured in Kenya," so that we can determine what is done here, even if it is for export.

Mr. Chairman, Sir, this move is meant to protect Kenyans because we are going to be flooded with foreign products. It is very difficult to control these products when they are already in the country.

So, I oppose this amendment and hope that the Chairman of the Committee on Health, Housing, Labour and Social Welfare will agree with me.

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

Mr. Chairman: We have another amendment by hon. Kajwang, on behalf of hon.

Angwenyi.

Mr. Kajwang: Mr. Chairman, Sir, my amendment deals with punishment. As you can see, Sub-clause (4) says that a person who contravenes the provisions of this section commits an offence; that is, a person who commits any offence on packaging, shall commit an offence, and shall, on conviction, be liable to a fine of Kshs1 million or imprisonment for five years. My argument is that this is too high. I think the punishment is draconian for the offence. Imagine that we are no longer talking of even jailing people for small offences like assault because our jails are full.

Mr. Chairman: Mr. Kajwang, you went into explaining the rationale of the amendment without even moving it. Can you move it?

Mr. Kajwang: Mr. Chairman, Sir, on behalf of Mr. Angwenyi, I beg to move:- THAT, Clause 14 of the Bill be amended by deleting the words "one million" and "five years" appearing in sub-clause (4) and substituting therefor the words "five hundred thousand" and "three years" respectively.

Mr. Chairman, Sir, it will still be a very serious offence.

Mr. Chairman: We put "three years"?

Mr. Kajwang: We put "one year".

Mr. Chairman: What I have is different.

Mr. Kajwang: I am sorry; I read Clause 5 but I am talking about Clause 14. It is from Kshs1 million to Kshs500,000 and from five years to three years.

Mr. Chairman: Now explain why.

Mr. Kajwang: Mr. Chairman, Sir, the explanation is that Kshs1 million is a bit draconian. We will be making people who are not themselves manufacturers, people who are just traders and who may not be quite conversant--- The person we were targeting is the manufacturer, but as it is framed, it will even net some people who are not manufacturers themselves. I think we will be doing good for the country to reduce it to Kshs500,000, and three years, respectively.

(Question of the amendment proposed)

Capt. Nakitare: Mr. Chairman, Sir, considering the fact that we are dealing with punishment, we have not even dealt with the outcome of tobacco smoking to the people. Supposing a person dies of cancer that has been identified as related to tobacco smoking, what punishment do we mete out to the manufacturers?

Mr. Chairman: So, have you supported or opposed the amendment?

Capt. Nakitare: Mr. Chairman, Sir, I find it a little bit ambiguous. A million shillings is not---

Mr. Chairman: Capt. Nakitare, all I am asking is, do you support the proposed amendment?

Capt. Nakitare: Yes, Mr. Chairman, Sir.

Mr. Chairman: Very well!

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, we would like to oppose that amendment, because the people we are dealing with here in this Clause are the manufacturers or importers. We are not dealing with the individual person. So, I think Kshs1 million and five years are reasonable. Therefore, I would like to oppose that amendment.

Mr. Billow: Mr. Chairman, Sir, I want to oppose. I think it is clear that when smuggling is done into the country, it is normally by the manufacturers in collusion with the traders, because they want to boost their sales. I think the Bill is very clear. It is not exceeding Kshs1 million; so, let us leave it to the discretion of the courts. It is not exceeding five years or Kshs1 million. Based on

the person who is being charged, the courts can determine whether to fine them Kshs100,000 or not.

Mr. Chairman: Indeed, the Chair can give guidance. These are maximums, and not necessary what will be done. They are not excessive. They are not saying that someone will be jailed for five years, or will pay Kshs1 million. It is not excessive. I am sure Mr. Ochilo-Ayacko, who is a lawyer, will support that.

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, I do not support that. I would like to support the amendment. I believe that punishment should not be made draconian. Punishment should provide an opportunity for rehabilitation. If the figure Kshs1 million is put there, then the court may have to apply it, and we may end up putting people in jail who may not pay that kind of fine. So, I want to support this amendment.

The main reason is that the people who will be selling are agents. They are basically local people; they are not the manufacturers. So, it is the locals who sell to children. I am yet to find a situation where a manufacturer sells directly or retails. If we put it at Kshs1 million, we will be saying that retailers may have to be jailed for five years or fined Kshs1 million.

Mr. Chairman: This matter has been debated, and I think the Assistant Minister has already had a shot at it.

Mr. Sungu: Mr. Chairman, Sir, I have been deeply involved in this, and I have been in the Departmental Committee on Health, Housing, Labour and Social Welfare. I have been with the Ministry and the people proposing this amendment. The first thing I want to say is that we had actually agreed that we leave out this amendment.

Hon. Members: No!

Mr. Sungu: Mr. Chairman, Sir, we did that, but if they ignore it, that is another matter. The idea is to have a deterrent. What is Kshs500,000 to the British American Tobacco (BAT)? It is nothing!

An hon. Member: It is not BAT!

Mr. Sungu: Mr. Chairman, Sir, Kshs1 million is not much. If you look at all the amendments by Mr. Angwenyi, the net result of them is that we are going to make this Bill absolutely toothless, because there will be no punishment commensurate to the evil that tobacco is going to create here, yet they are making so much money. So, to put just Kshs1 million is nothing to them. They can pay it without blinking an eye.

Mr. Chairman: Mr. Assistant Minister, one more comment, because you have already said something on this matter.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I want to say one more thing. I think when we look at Clause 14, right at the beginning, it says:-

"No person shall manufacture, import or distribute."

It is very clear! We are talking about manufacturers or importers. We are not talking about individual small *dukawallas*!

Mr. Kajwang: Mr. Chairman, Sir, one word, because after listening to all these gentlemen, they seem to be targeting BAT. But just assume, for example, that a trader in Migori, at the border where I come from, or in Suba, which is also at the border, imports, maybe illegally, some cigarettes from Tanzania or Uganda, and wants to sell them in my village and then he is caught. You will fine that villager Kshs1 million, because that is what the law says. He may be fined Kshs1 million, that is what we are saying. Courts are tempted, sometimes, because we are trying we discourage, to really just fine Kshs1 million. So, for that kind of an offence, you should not jail somebody for five years. That is what we are trying to say.

Mr. Chairman: Order, hon. Members! I think you will all agree that we have dealt with this amendment sufficiently. So, I will now put the Question, and I want you to understand that the

Question is about the amendment proposed by Mr. Kajwang on behalf of Mr. Angwenyi.

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

Mr. Muturi: On a point of order, Mr. Chairman, Sir. As a matter of procedure, we have rejected the proposed amendment but we have not even approved the Clause.

Mr. Chairman: That is true!

(Clause 14 agreed to)

Clause 15

Mr. Muturi: Mr. Chairman, Sir, I beg to withdraw my intended amendment, because I am satisfied with the words as they are in the Bill.

*(Mr. Muturi's proposed amendment to
Clause 15 withdrawn)*

Mr. Chairman: Mr. Kajwang on behalf of Mr. Angwenyi!

Mr. Kajwang: Mr. Chairman, Sir, I am back to plead that some of these punishments are a bit too high. Look at Clause 15 before I propose what I want to say. It says: "No person shall sell---". This one targets the seller.

Mr. Chairman: Order, Mr. Kajwang! Just to be neat, why do you not, first of all, move the amendment and then give your justification or argument?

Mr. Kajwang: Mr. Chairman, Sir, on behalf of Mr. Angwenyi, I beg to move:-
THAT, Clause 15 of the Bill be amended by deleting the words "five hundred" and "three years" appearing in Sub-Clause (6) and substituting therefor the words "fifty" and "six months" respectively.

The Clause, as is it in the Bill, targets a person who sells tobacco. He may be a small shopkeeper or a kiosk owner. Of course, he is committing an offence by selling cigarettes to a young person. I am not suggesting that we should excuse him or her. He may not even know the age of that person because he may not have asked for the identification card. That is also an offence. But the punishment is very high. We should not be seen to be punishing our people so high. I am seeking that we reduce the punishment figures accordingly, as proposed.

(Question of the amendment proposed)

Mr. Billow: Mr. Chairman, Sir, I rise to object to that amendment. The object of this Bill is very clear; we want to protect the lives of our children and people. The Mover of the amendment is taking Sub-section 15(6) out of context. Clause 15(5) states:-

"No person shall manufacture or sell objects including sweets, snacks, and toys that resemble tobacco products or would reasonably appeal to persons under the age of eighteen years."

We have seen alcohol packed like sweets. We want to discourage that kind of thing. It is important that we leave that small fine that is already in the Bill as a deterrent.

So, I oppose the amendment.

Capt. Nakitare: Mr. Chairman, Sir, I stand to oppose Mr. Kajwang's contentions. We are

dealing with the issue of deterrence. There are many ways of smoking tobacco. There is *cannabis sativa*, which is actually a contraband of tobacco. These are the issues that we are trying to stress. When we enact a law that will make people abide by it, they have to fear it. We do not have to give them a soft ground.

Mr. Chairman: Thank you, Captain! I need to hear from Mr. Ochilo-Ayacko!

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, I wish to support this amendment. If you read Clause 15(5), it talks about products that resemble tobacco products. If we are talking about products that resemble tobacco products, we are definitely not talking about tobacco products. To raise the standard of punishment the way the original Bill captures it, is to punish people too harshly for merely imitating. If we reduce the punishment a bit, we will still be achieving the same purpose.

Mr. Sungu: Mr. Chairman, Sir, I beg your indulgence very shortly. The overriding principle here at Clause 15(1) is selling tobacco products to a person under the age of 18 years. The tobacco industry has deliberately targeted our children in schools. Over 13.5 per cent of our children are addicted to cigarette smoking in schools. This Parliament must make sure that we protect our children. It is all right for me to die because I am nearer the age of death. But our children have to be protected because there is the issue of addiction. The manufacturers of those products add lead and other products which make our children addicted to those products at that very early age. Therefore, the punishment must be commensurate with that.

Mr. Deputy Chairman: Okay! I think we have heard enough arguments. I want to put the question. But I want hon. Members to understand that the proposal is to delete the words, "five hundred thousand" and "three years" and substitute them with "fifty thousand" and "six months".

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

(Clause 15 agreed to)

Clause 16

Mr. Muturi: Mr. Chairman, Sir, as much as I had argued very strongly during the Second Reading of this Bill, because I was targeting the use of Kiswahili being forced on people who import cigarettes into Kenya from other jurisdictions, I have, nevertheless, been persuaded by the amiable Assistant Minister for Health. I, therefore, wish to withdraw my proposed amendment.

(Mr. Muturi's proposed amendment to Clause 16 withdrawn)

(Clause 16 agreed to)

Clause 17

Dr. Manduku: Mr. Chairman, Sir, I had proposed an amendment to Clause 17, but I wish to withdraw it.

(Dr. Manduku's proposed amendment to Clause 17 withdrawn)

(Clause 17 agreed to)

Clause 18

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

THAT, the Bill be amended by deleting Clause 18.

I wish to explain that the intention is to re-number paragraphs (ii) and (iii) and deleting paragraph (i).

Mr. Chairman: Just a minute, Mr. Muturi! The amendment I have here is talking about deleting the entire Clause 18. Are you proposing that Clause 18 be deleted? That is not what you said when you were explaining!

Mr. Muturi: Mr. Chairman, Sir, my proposal is to delete the entire Clause 18.

Mr. Chairman: That is what it is! Could you explain why?

Mr. Muturi: Mr. Chairman, Sir, as I argued during debate, those who smoke in the rural areas buy sticks. Therefore, to propose that nobody will sell any cigarettes in this country except in packages is really to punish the poor within our society, who smoke. Indeed, we might, by doing this, be forcing people to do what happens with beer drinkers. People started consuming the illicit ones. All I am trying to appeal to the Minister to support me is to allow smokers to buy cigarettes in sticks.

(Question of the amendment proposed)

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I am constrained to oppose this amendment for various reasons. One, this Bill is a product of consensus. We have discussed it again and again. We had agreed that we reduce the number of sticks in packets from 20 to ten.

Two, on those packets, there will be warning signs. If we sell cigarettes in sticks, whoever is buying the sticks will not have the benefit of the warning signs. In fact, later on, we will even have pictograms, like it is happening in other countries. If somebody does not have that packet, they will not be able to have the benefit of the warning signs and the pictograms.

Finally, it is also a way of discouraging our youth from smoking. Otherwise, if we sell cigarettes in sticks, then our young people will find it very easy to access cigarettes.

Mr. Chairman, Sir, for those reasons, I would like to oppose that amendment.

Mr. Chairman: Yes, Mr. Muite!

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

Mr. Chairman: Please, let us hear Mr. Muite!

Mr. Muite: Mr. Chairman, Sir, I would like to appeal to the hon. Member for Siakago, through you, to encourage the poor people in the countryside that he is so compassionate about and wants to protect, who buy the sticks, to spend their money either on themselves or on their families. The fact that they are poor is the more reason why the amendment should not carry the day.

(Laughter)

Mr. Sungu: On point of order, Mr. Chairman, Sir. With due respect to my very good friend, Mr. Muturi, and we have discussed this tremendously, Standing Order No.106(3) says in part:

"No amendment shall be moved which is inconsistent with any part of the Bill already agreed or any decision already made by the Committee---"

Mr Chairman, Sir, in the previous paragraph, we have already agreed that there will be packages and warnings. So, this amendment will have the effect of negating what we had agreed, as a Committee.

Mr. Chairman, Sir, I would like to plead, as much as I sympathise with my brother, that you overrule this amendment.

Mr. Chairman: Well, Mr. Sungu has a point. In fact, I thought that the point made by the Assistant Minister was convincing that if there will be a warning, then it will be on the

packet and not on the stick. How will the person who will buy a stick be warned? How will he be warned because he will just have bought a stick? Anyway, we have already---

Mr. Sungu, I do not think by selling a stick, you are contravening the law because the sticks will come from a packet that has a warning. Let us argue in a different way.

Could I hear Mr. Billow?

Mr. Billow: Mr. Chairman, Sir, I really want to support the ultimate objective of the amendment. The ultimate goal of this Bill is to create a tobacco-free environment. We can only do that if we discourage people from buying cigarette in one-piece sticks and, generally, avoid smoking in the long-term. So, I think we are helping them, not by helping them to afford, but by helping them to survive the effects of tobacco. So, I think we should oppose this amendment.

(Mr. Maore stood up in his place)

Mr. Chairman: I think you have already explained and you are now getting into trouble.

Mr. Maore: Mr. Chairman, Sir, I think we are having a problem of the spirit of this amendment between those who smoke and those who do not. Those who are into the habit of smoking do not look at the warning label that we are talking about. If it is in the packet, it is for the purpose of the manufacturers and the liabilities therein, if the fellow says that he never knew the effects of smoking. It is already in the packet. There is no smoker who has never seen how a packet of cigarette looks like. If we really have mercy on those poor Kenyans we are talking about, let us ban smoking altogether. However, to require them to sell them in packets, I think we are punishing the wrong people; the buyers. If they crave for the smoke, there is nothing they will not do.

Mr. Chairman: I thought that the warning was not targeting--- As you said, I am the Chair, however, I think that the warning is supposed to target those who smoke. You are arguing that it is only for the liability for the manufacturers. I tend to think that it is targeting--- The fact that some people ignore it does not mean that it should not be there.

(Applause)

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, those who have smoked--- I once used to be a smoker and I also know that the Assistant Minister is a smoker. When you are a smoker, you actually know the brand you want. You just go and ask for it. For your convenience, it should be affordable to you, if you choose to smoke. So, this kind of difficulty that is being created here is not useful to somebody who has the addiction. That person has already decided to take the dip and should be facilitated to do as he or she pleases.

I beg to support.

Mr. Kajwang: Mr. Chairman, Sir, the issue here is not about those who sympathise with smokers and those who do not. Those who have decided to smoke will do it even if you write about death as we now write; that the habit will kill you. They will still smoke. Therefore, we should not allow those who have decided to smoke to influence those who have not even learnt to do it or

decided to smoke. The issue here is punishing a person who is already converted to smoking.

Mr. Sungu: Children!

Mr. Kajwang: Mr. Sungu, could you, please, give me a moment? You may be fundamentalist about non-smoking. However, we have to protect human rights.

Those who have decided to smoke should be allowed to do so. However, that should not affect those who do not want to participate. The issues here is not about smokers and non-smokers. However, the issue here is not about smoking and non-smokers. If I have decided to smoke, please, allow me to

buy one cigarette if that is what I can afford and that is what I want. You will make people steal! I plead with you.

Capt. Nakitare: Mr. Chairman, Sir, we are dealing with punishment. We are also dealing with deterrence which will discourage people from smoking aimlessly. We are not saying that you should smoke at your own risk. We are trying to stop people from smoking and we are giving them areas of smoking. We know those who are addicted and those who say that they smoke because they are addicted---

Mr. Chairman: Capt. Nakitare, that is enough!

Capt. Nakitare: Mr. Chairman, Sir, I oppose the issue that hon. Kajwang has brought to the Floor of the House.

An hon. Member: That is his view!

Mr. Chairman: I have to put the Question now.

Mr. Billow: On a point of order, Mr. Chairman, Sir. We are being misled in this House. If you look at the clause, you will see that it very clearly says:

"No person shall sell cigarettes except in a packet or such other minimum number of cigarettes as may be prescribed."

The clause leaves that responsibility, as it may be prescribed, to the Minister or such authorized person--- I think it is wrong to mislead us. This issue is clear. Let us leave the powers to the Ministry to regulate numbers.

Mr. Chairman: I will put the Question, and if you want to make a decision on this issue, be ready to vote. I have given you enough time.

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

(Clause 18 agreed to)

(Applause)

Clause 19

Mr. Muturi: Mr. Chairman, Sir, regarding this amendment, having been persuaded by the Minister that the youth below 18 could easily go to a vending machine and buy cigarettes, I have decided to withdraw my amendment.

(Mr. Muturi's proposed amendment to Clause 19 withdrawn)

(Clause 19 agreed to)

Clause 20

Dr. Manduku: Mr. Chairman, Sir, I am withdrawing my amendment.

*(Dr. Manduku's proposed amendment
to Clause 20 withdrawn)*

Mr. Chairman: What about Mr. Muturi, regarding Clause 20?

Mr. Muturi: Mr. Chairman, Sir, I am also withdrawing my proposed amendment to Clause 20.

*(Mr. Muturi's proposed amendment
to Clause 20 withdrawn)*

(Clause 20 agreed to)

Clause 21

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I beg to move:- THAT, Clause 21 be amended by deleting sub-clause (6).

Mr. Chairman, Sir, sub-clause (6) deals with inserts and after deliberations, we realised that it would be very difficult for the manufacturer to put inserts in the packets and so I would like to withdraw that.

(Proposed amendment to Clause 21 withdrawn)

Mr. Chairman: All right. Any other? There is also Dr. Manduku.

Dr. Manduku: Mr. Chairman, Sir, in the same spirit, I withdraw the proposed amendment on Clause 21.

*(Dr. Manduku's proposed amendment
to Clause 21 withdrawn)*

Mr. Muturi: Mr. Chairman, Sir, once again, I have discussed with the Assistant Minister and it is fair that I withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 21 withdrawn)*

Mr. Muite: Mr. Chairman, Sir, was the Clause not amended by the Assistant Minister?

Mr. Chairman: But they have withdrawn!

Mr. Muite: I thought the Assistant Minister moved an amendment.

Mr. Chairman: I am sorry. I beg your pardon. I did put the Question on the Assistant Minister's amendment and it was approved.

(Clauses 21 and 22 agreed to)

Clause 23

Mr. Muturi: Mr. Chairman, Sir, once again, I have discussed with the Assistant Minister and Mr. Sungu who has a keen interest in this matter and they persuaded me to withdraw. I would like to withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 23 withdrawn)*

Mr. Kajwang: Mr. Chairman, Sir, I intended to put the amendment because it was targeting the small people, but since this one now targets the manufacturers, I withdraw my amendment.

*(Mr. Angwenyi's proposed amendment
to Clause 23 withdrawn)*

(Clause 23 agreed to)

Clause 24

Mr. Muturi: Mr. Chairman, Sir, I have discussed with the Assistant Minister and I wish to withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 24 withdrawn)*

(Clause 24 agreed to)

Clause 25

Mr. Chairman: Dr. Manduku!

Dr. Manduku: Mr. Chairman, Sir, I withdraw the amendment.

*(Dr. Manduku's proposed amendment
to Clause 25 withdrawn)*

Mr. Muturi: Mr. Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 25.

The reason is, we are now apparently banning all forms of advertisements and I think we will also be appearing to be discriminative by saying:-

"No person shall promote a tobacco product by means of an advertisement that depicts in whole or in part, tobacco products as package or brand element or one that evokes a tobacco product or element."

Mr. Chairman, Sir, this are very legitimate ways of doing business; advertisements. Provided that all the other warnings and precautions that have been prescribed in the previous clauses and others are observed by any person engaging in the business of production or sale of tobacco products have been complied with, I think we should not say that they should not involve themselves in any form of advertisements and promotions.

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I would like to very strongly oppose that amendment because advertisements normally target the young. We have said that the people who are already hooked on smoking, this will not matter. But the people who can be induced by certain advertisements - and we know how they are - some of them show that when you smoke then you are more handsome or this and that. I would like to oppose that because that is targeting the youth and it is the youth who would normally be attracted by some of these advertisements.

Mr. Muturi: On a point of order, Mr. Chairman, Sir. The Assistant Minister is responding to what is contained in Clause 23 about promoting in a misleading manner. It is covered in Clause 23 which we have already dealt with.

Mr. Chairman: But this is promotion by advertisement. That is what we are dealing with.

Mr. Billow: Mr. Chairman, Sir, I very strongly oppose this amendment. This is double speak by Mr. Muturi. Earlier on, we were told that those who smoke are already converted, they do not need to be told. So, why the advertisement? The reason why advertisements are done is to attract those who are not smokers and those who are not smokers are largely the youth. Therefore, I strongly oppose the amendment by Mr. Muturi.

Mr. Chairman: I thought even the manufacturers have even voluntarily stopped advertising. Are you trying to allow them to start advertising? Let us hear from Mr. Onyancha.

Mr. Onyancha: Mr. Chairman, Sir, I strongly oppose the amendment on the grounds that we would like to discourage people who have not gone into smoking to get into the smoking habit. So, I strongly oppose that amendment.

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, there are various forms of advertisement. Some are merely informative and others are persuasive and misleading. Therefore, my take on this Clause - I want to say that I am supporting the amendment - is that if a blanket ban of advertisement is imposed upon the trade of tobacco, then even the informative ones are precluded. I think that is negative and regressive. We are not advancing. If we have a board that prescribes the standards, the mode and the ethics involved in advertisements, then we do not need to ban it altogether.

Mr. Chairman: I will come to you gentlemen. Let me deal with the other two gentlemen first; Mr. Kajwang and Mr. Sungu.

Mr. Kajwang: Mr. Chairman, Sir, I would have understood if the Assistant Minister was talking about the electronic media which includes our televisions because that is what the youth watch.

Mr. Chairman: Yes, Clause 25(2) talks about electronic, print and any other form of communication.

Mr. Kajwang: I would have expected that he would restrict himself to electronic media because that one imposes advertisement on our children whether we like it or not. But we are going to stop people from reading magazines. Those importing magazines will be stopped and have to be checked if there is any advertisement on cigarettes. If you say any communications at all, then we are suggesting that we are banning smoking. I want us to be very clear. Do we want to ban smoking or do we want to discourage smokers interfering with non-smokers? We must know the gist of the Bill. That is why I support the amendment.

Mr. Sungu: Thank you, Mr. Chairman, Sir. The main objective is to protect our children. The heading of this part is "promotion", and we have actually already accepted all that.

Mr. Chairman, Sir, lifestyle advertising, which is also included here, is going to be deleted by this amendment. We are not an island! In fact, in America now, Walt Disney has now banned movies where stars are smoking because they are encouraging young people to go into smoking by making it look like it is something wonderful and they will win all the ladies if they smoke.

Mr. Chairman, Sir, I want to plead with this House that, this is the crux of the matter when it comes to this Bill. We should oppose this amendment!

Mr. Chairman: We have heard you! There is no doubt that if this is deleted, then we will go back to square one - advertising.

Mr. Nderitu: Thank you very much, Mr. Chairman, Sir. I want to tell my colleagues how I started smoking. I saw a man's picture on a packet of a cigarette riding a horse. I was very, very impressed! Then, I imitated that advert and here I am! I am a slave of cigarettes! So, I do not agree with the idea of advertising cigarettes.

(Applause)

Mr. Chairman: And you have heard it from the horse's mouth!

Mr. Nderitu: Yes!

(Laughter)

Yes, Mr. Waithaka!

Mr. Waithaka: Thank you, Mr. Chairman, Sir. I also oppose this amendment. Actually, when we say we are promoting, as one has rightfully said, those who are already slaves of smoking, like my friend, Mr. Nderitu, the hon. Member for Mwea, would not want any promotion or any advertisements because they are already enslaved by it. But if we allow advertisements, they are actually going to target our children and youth. That is what we are trying to discourage in this Bill.

(Applause)

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

(Clause 25 as amended agreed to)

Clause 26

Dr. Manduku: Mr. Chairman, Sir, I had a proposal to amendment Clause 26 but, after discussions, I beg to withdraw the proposed amendment.

Mr. Chairman: Thank you.

(Dr. Manduku's proposed amendment to Clause 26 withdrawn)

(Clause 26 agreed to)

(Clauses 27 and 28 agreed to)

Clause 29

Dr. Manduku: Mr. Chairman, Sir, I beg to withdraw the proposed amendment.

(Dr. Manduku's proposed amendment)

to Clause 29 withdrawn)

(Clause 29 agreed to)

Clause 30

Mr. Muturi: Mr. Chairman, Sir, I beg to withdraw the amendment. There is no point!

*(Mr. Muturi's proposed amendment
to Clause 30 withdrawn)*

(Applause)

Mr. Chairman: Thank you.

Proceed, Mr. Kajwang for Mr. Angwenyi!

Mr. Kajwang: Mr. Chairman, Sir, on behalf of Mr. Angwenyi, I beg to withdraw the amendment.

*(Mr. Kajwang, on behalf of
Mr. Angwenyi, withdrew
proposed amendment to Clause 30)*

(Applause)

(Clause 30 agreed to)

Clause 31

Mr. Kajwang: Mr. Chairman, Sir, on behalf of Mr. Angwenyi, I beg to withdraw the amendment.

*(Mr. Kajwang, on behalf of
Mr. Angwenyi, withdrew
proposed amendment to Clause 31)*

(Clause 31 agreed to)

(Clause 32 agreed to)

Clause 33

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, because we withdrew our amendment to Clause 2 which was talking about public places, we would also like to withdraw the proposed amendment on Clause 33.

*(The Minister's proposed amendment
to Clause 33 withdrawn)*

Mr. Chairman: Thank you, Mr. Assistant Minister!

Then, Mr. Muturi?

Mr. Muturi: Mr. Chairman, Sir, since I am aware that there is a proposed amendment by Mr. Kajwang, I wish to withdraw mine.

*(Mr. Muturi's proposed amendment
to Clause 33 withdrawn)*

Mr. Chairman: Right! I also have an amendment by Mr. Kajwang and after that, a further one by Mr. Ochilo-Ayacko.

Proceed, Mr. Kajwang!

Mr. Kajwang: Yes, Mr. Chairman, Sir. Mr. Chairman, Sir, I beg to move:-

THAT, Clause 33 be deleted and substituted therefor with the following:

"No person shall smoke in any enclosed public place".

Mr. Chairman, Sir, I am seeking to delete the entire section of Clause 33 because Clause 33 seems to list the areas that cigarette-smoking could be prohibited. My argument is that they are too many. There are many others which they may not have thought of. You can see that they are talking of restaurants, hotels, bars, railway stations, airports and airfields. They are talking of markets, whether they are open or shopping malls. They are even talking of stadia, if you look at part (q), as open as they may be, if you look at Nyayo Stadium or any other stadium. They are talking of court buildings. They are also talking about compounds of prisons, whether they are in prison farms or not. So, I think we cannot even imagine how many other places that are remaining. So, I was proposing one amendment; that we delete those classifications and we simply say:

"No person shall smoke in any enclosed public place".

If the qualification now becomes an enclosure, but an enclosure which is also a public place, do not smoke there. For example, do not smoke within Parliament Buildings. It will be an enclosed place. But if I was to go out in the parking, I should be allowed to smoke because it is still a public place, but open-air. I think what we were trying to do is to say: "Please, do not smoke to inconvenience non-smokers." But if we say: "Do not smoke in any public place, including the foyer and parking", essentially, we are soon going to say you cannot smoke at all! We will be banning smoking! So, my amendment is simply saying: "Please, ban smoking in enclosed areas! But do not ban it in all public places. You have not even thought of beaches. I come from an area with beaches. Beaches are also public places, but they are open-air. That is my amendment.

(Question of the amendment proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Chairman, Sir. I want to oppose this amendment. It clearly says that there should be no smoking in open places, except designated areas. So that, what will be, if it is this Parliament, then it will be upon Mr. Speaker to designate the smoking area. The parking may be an open space, but if my car is parked next to yours and you are smoking, then I become a passive smoker. Uhuru Park is an open place, but if I am sitting next to a smoker, I am being forced to smoke.

Mr. Chairman, Sir, I am urging hon. Members to be sensitive to the feelings of the people. When the City Council of Nairobi promulgated by-laws stopping smoking in open places, people were delighted! Polls taken showed that people were delighted! So, what we are telling smokers is: "Please, do not force us to smoke with you." We are just saying, let them go to the designated places, where they do not "terrorize" the rest of us, who are not smokers.

I oppose the amendment.

Mr. Raila: Mr. Chairman, Sir, we should just have the guts to say that we want to ban cigarette smoking completely and close all the tobacco factories in the country! People smoke in restaurants, bars, other eating places and residential houses. People go to bars to enjoy themselves. There are some people who can only enjoy their beer when they are smoking. If you do want to go to the bar, then just stay home. If you are going to ban people from smoking in bars, and even in your own residences, then why are cigarettes being manufactured? Let us have the guts to close down the British American Tobacco (BAT) factory then. I am not a smoker myself, but this amendment is very unreasonable.

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Chairman, Sir. Is it in order for Mr. Raila to argue against this amendment without looking at the last sentence, which says "---except in designated smoking areas"? So, even in bars, there will be designated smoking areas. So, is he in order to say that?

Mr. Chairman: That is either a point of argument or a point of information.

Mr. Raila: Mr. Chairman, Sir, the Assistant Minister has missed my point. The point I am raising is this: I am in my own residence, and I am being told that I must have some designated smoking areas. That sounds ridiculous!

Mr. Chairman: I will have Messrs. Billow and Ochilo-Ayacko and then I will go to the Government side.

Mr. Billow: Mr. Chairman, Sir, I think what this Bill seeks to do is to change our habits of indiscriminate smoking, be it in our homes, hotels, bars or anywhere else. That is the essence. We must be very clear. This amendment does not seek to ban smoking. It provides that you must move to a designated smoking area. If you go to hotels, or to bars, all over the world, you will find smokers' areas and non-smokers' areas. It happens everywhere. So, this is not strange. We should allow it.

So, I oppose the amendment.

Mr. Chairman: Let us have Mr. Ochilo-Ayacko and then Mr. Kombe!

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, the intention here is captured, but you can see that they have enumerated several places where smoking should not take place. This is not exhaustive. The proposal by Mr. Kajwang improves it. But then, when the Assistant Minister says in the last part of the amendment "---except in designated smoking places", in this Bill, there is no clause which is enjoining any person to designate a place as a smoking place. In other words, we may have a situation where smoking is banned in all these areas, but nobody is forced to designate a smoking area. So, if the proposal by Mr. Kajwang' goes through, and is read together with the amendment I am going to move, then people will be enjoined to provide designated smoking places.

In other words, you could be a smoker within Parliament Buildings, but since the law says you cannot smoke in a public place, and there is nobody who is compelled to provide for smokers within Parliament Buildings, you will have to run to the streets, or some other place, and smoke there. So, we have to balance these rights. We have to preclude people from smoking anyhow, and enjoin caretakers of public places to also provide for smokers, so that we have a balance in society.

Mr. Kombe: Mr. Chairman, Sir, the Bill is very much right. We ought to be sensitive. The smoker himself suffers one part, whereas the non-smoker sitting next to him suffers eight times. The Bill is, therefore, proper and I rise to oppose the amendment. If you want to smoke, go to a designated area, smoke there with your fellow smokers and suffer alone!

I oppose.

(Laughter)

Mr. Chairman: Yes, like I found some smokers out there in the streets, near a toilet, suffering alone!

Very well, I will have Messrs. Nderitu and Muite and put the Question of the amendment to vote.

Mr. Nderitu: Mr. Chairman, Sir, I do not think many people know what we are talking about. I started smoking way back in 1974. I smoke more than three packets of cigarettes every day. The Bill says very clearly where people should not smoke, and all of us should support it. Those who want smoking areas to be designated, should think twice. Today, when everybody is in a flight going to the United States of America, which takes more than eight hours, smokers do not smoke. If we could get into flights as many times as possible, then we will have more or less non-smokers in this world. The Bill is right.

I beg to oppose.

Mr. Chairman: Hon. Members, the more Mr. Nderitu speaks, the more I get inspired. Mr. Nderitu is a smoker. Surprisingly, non-smokers in this House are the ones who are seeking to protect smokers. Mr. Nderitu has no sympathy with smokers, despite the fact that he is himself a smoker! Why are non-smokers sympathetic to smokers?

Let us have Messrs. Muturi and Muite, then I put the Question of the amendment.

Mr. Muturi: Mr. Chairman, Sir, I think it is important that we appreciate all those are health concerns. However, it is also important to bear in mind the fact that the law operates within human beings. This amendment provides, among other places, quite apart from the residential houses--- You know, we must be careful. We do want to split families. A woman will run away and next, a policeman will come and find a man puffing a cigarette in his sitting room and will tell him: "You are now committing another offence of smoking in your house." Again, if you come to my office, and I happen to be a smoker, then you go out to complain that you found me smoking in the office--- Surely, there is no designated place. We want to designate smoking areas, but let us be reasonable, so that the law will be smooth to administer.

I beg to support.

Mr. Chairman: Hon. Members, I have given a lot of time on this amendment. So, let us have one last word on this amendment from Mr. Muite.

Mr. Muite: Mr. Chairman, Sir, we need to accept the policy of this Bill, which is to discourage smoking as much as possible. The policy is to make smoking as difficult as possible and, gently, push smokers to quit the habit. Once we accept that, that is the policy, then we shall stop arguing about the issue of where people should smoke. In fact, the only place where smoking should be permitted is in designated toilets, and not anywhere else!

(Laughter)

Mr. Sungu: Mr. Chairman, Sir---

Mr. Chairman: All right hon. Members. I think you will agree that I have given this matter sufficient time. Sorry, Mr. Sungu! Please, let us vote now! We have to finish this business. The proposal by Mr. Kajwang is to delete Clause 33 and substitute it with the following words: "No person shall smoke in any enclosed public place."

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

Mr. Chairman: There is a further amendment by Mr. Ochilo-Ayacko.

Mr. Ochilo-Ayacko: Mr. Chairman, Sir, now that the further amendment was intended to

improve Mr. Kajwang's amendment and it is not there, so, it cannot improve what is not there.

(Clause 33 agreed to)

(Clauses 34 and 35 agreed to)

(Mr. Ochilo-Ayacko's proposed amendment withdrawn)

Clause 36

Mr. Muturi: Mr. Chairman, Sir, I have discussed with the Assistant Minister and I am withdrawing my proposed amendment.

(Mr. Muturi's proposed amendment to Clause 36 withdrawn)

(Clause 36 agreed to)

Clause 37

Dr. Manduku: Mr. Chairman, Sir, I beg to move:

THAT, Clause 37 of the Bill be amended by deleting the word "libelling" appearing in Paragraph (b) of Sub-clause (1) and substituting therefor the word "labelling".

(Question of the amendment proposed)

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

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

(Clause 37 as amended agreed to)

(Clauses 38, 39, 40, 41, 42, 43, 44, and 45 agreed to)

Clause 46

Mr. Chairman: I now call upon, Mr. Muturi to move his amendment.

Mr. Muturi: Mr. Chairman, Sir, I have reconsidered my proposed amendment. I have discussed it with the Assistant Minister. It is a matter of procedure that happens in court and therefore, I am withdrawing it.

(Mr. Muturi's proposed amendment to Clause 46 withdrawn)

(Clause 46 agreed to)

(Clause 47 agreed to)

Clause 48

Mr. Muturi: Mr. Chairman, Sir, I wish you read all of them because I intend to withdraw my proposed amendments to Clauses 48 and 49

Mr. Chairman: Yeah! But you have to wait until we reach there. I know you do not want to be repeating yourself. But you have to, so that we are neat. Since you had already put them on record, we must clear them in that order.

(Clause 48 agreed to)

Clause 49

Mr. Muturi: Mr. Chairman, Sir, I withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 49 withdrawn)*

(Clause 49 agreed to)

Clause 50

Mr. Muturi: Mr. Chairman, Sir, I wish to withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 50 withdrawn)*

(Clause 50 agreed to)

(Clause 51 agreed to)

Clause 52

Mr. Muturi: Mr. Chairman, Sir, this just applies to form. I, therefore, wish to withdraw.

*(Mr. Muturi's proposed amendment
to Clause 52 withdrawn)*

(Clause 52 agreed to)

Clause 53

Mr. Muturi: I also wish to withdraw this amendment.

*(Mr. Muturi's proposed amendment
to Clause 53 withdrawn)
(Clause 53 agreed to)*

Clause 54

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

THAT, the Bill be amended by deleting Clause 54 and substituting therefor the following new Clause-

54 In any proceedings under this Act, any evidence sought to be adduced by either party to the proceedings, shall be admissible if adduced in accordance with the provisions of the Evidence Act and other enabling rules of the evidence for the time being in force. This is not part of the amendment". That is a matter of procedure!

Mr. Chairman: But you have to elaborate a bit, so that Members could understand what you want to achieve.

Mr. Muturi: Mr. Chairman, Sir, sorry! I am supposed to withdraw that. It is a general penalty.

*(Mr. Muturi's proposed amendment to Clause 54 withdrawn)
(Clause 54 agreed to)*

Clause 55

Mr. Chairman: Mr. Angwenyi! Mr. Kajwang!

Mr. Kajwang: It is for hon. Angwenyi.

Mr. Chairman: Mr. Kajwang, actually, Clause 55 as per our record, shows that you wanted to amend it. But when we look at Clause 55, it reads: "Offenses under this Act shall be cognisable offenses". What do you want to amend more?

Mr. Kajwang: There was a mistake.

Mr. Sungu: It was overtaken by events!

Mr. Chairman: I am told that the intention was to amend Clause 54. But it is stated "54". So, it was an error by whoever wanted to amend. It was not by Mr. Kajwang. It was by whoever wanted to amend.

(Clause 55 agreed to)

(Clauses 56, 57, 58 and 59 agreed to)

Clause 60

Mr. Muturi: Mr. Chairman, Sir, I am withdrawing my proposed amendment.

*(Mr. Muturi's proposed amendment
to Clause 60 withdrawn)*

(Clause 60 agreed to)

(Clauses 61 and 62 agreed to)

New Clause

Mr. Muturi: Mr. Chairman, Sir, we agreed on this one too. It was consequential. The word "Board" was to be replaced with the word "Committee". We had agreed with the Assistant Minister that the word "Board" be retained. I, therefore, withdraw my proposed amendment.

*(Mr. Muturi's proposed amendment
to the New Clause withdrawn)*

Schedule

Mr. Chairman: Mr. Muturi, do you want to amend something there?

Mr. Muturi: Mr. Chairman, Sir, again, this is consequential. I wanted the word "Board" to be replaced by the word "Committee". I am, however, withdrawing my proposed amendment.

*(Mr. Muturi's proposed amendment
to the Schedule withdrawn)
(Schedule agreed to)*

Title

Mr. Chairman: Mr. Muturi!

Mr. Muturi: Mr. Chairman, Sir, it just shows that I thoroughly studied this Bill. I have discussed with the Assistant Minister and we have agreed that the title be retained as it is. I, therefore, wish to withdraw my proposal.

*(Mr. Muturi's proposed amendment
to the Title withdrawn)*

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Tobacco Control Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF

REPORT AND THIRD READING

THE TOBACCO CONTROL BILL

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Tobacco Control Bill and approved the same with amendments.

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

The Minister for Finance (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

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

The Assistant Minister for Transport (Mr. Githae) seconded.

(Question proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I just wanted to say that contrary to what has been reported that this Bill would not be considered, it has, indeed, been considered. Again, contrary to what has been reported, that we are trying to ban the smoking of tobacco, that has not been done. We have only controlled the places where smokers can smoke so that they do not inconvenience non-smokers.

Mr. Temporary Deputy Speaker, Sir, I have never smoked a cigarette in my life and---

The Temporary Deputy Speaker (Mr. Poghio): We are not reopening debate on this matter. It is not time for debate!

The Assistant Minister for Transport (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, we would like, really, to record our thanks to the House for passing this Bill. The Government now has the instrument with which to protect the health of our people. It is important that we record our thanks and appreciation to one of us here, hon. Gor Sungu, for moving the debate on this matter and moving the Government to act on what was long overdue.

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, very briefly, I would like to appeal to the Government that we have got very many statutes in our law books. However, when it comes to enforcement, our score-card is not very impressive. Let us begin to enforce the laws that we pass here. Let us begin with this Act which we have just enacted. Let the penalties and the enforcement mechanisms be applied in full so that our people can get the benefit of this legislation.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I actually have an interest in this matter because I come from a tobacco- growing area. With the passage of this Bill, I hope that the various local authorities that had attempted to impose restrictions, will now be guided by this Bill, which has been thoroughly scrutinised by this House.

I beg to support.

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I just

want to record the thanks, perhaps, from this side of the House, in terms of the bi-partisan support that has been shown on this national issue. I also want to request that, perhaps, we should extend the same to all other issues affecting this nation. That way, we shall be serving Kenyans.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank the Minister for Health and, particularly this Assistant Minister, and all the technical staff. I want to thank the Government, Members of this honourable House and the Chair for allowing this matter to come to a conclusion.

I thank God also.

(Applause)

*(Question put and agreed to)
(The Bill was accordingly read
the Third Time and passed)*

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

QUORUM

Mr. Weya: On a point of order, Mr. Temporary Deputy Speaker, Sir. We do not have a quorum in the House to enable us go to the Next Order!

An hon. Member: There is!

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Weya, have you been counting?

Hon. Members, at any time, any one of you can raise the issue of quorum! The hon. Member has brought it to my attention. I will, first of all, find out to make sure that there is---

*(The Clerks-at-the Table counted
hon. Members present and confirmed
lack of quorum)*

Well, I am told that there is no quorum! Ring the Division Bell!

(The Division bell was rung)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, we now have a quorum! You may take your seats!

Next Order!

BILL

Second Reading

THE STATUE LAW
(MISCELLANEOUS AMENDMENTS) BILL

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Statute Law (Miscellaneous Amendment) Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the object of this Bill is in keeping with the tradition of tabling one Bill consisting of various amendments to Statute Law with the sole object of updating it to remove anomalies and bring it in line with the present needs.

The Bill is an omnibus Bill which proposes amendments to the various Acts which do not warrant individual amendments. They will include the following: The revision of the Laws Act (Cap.1); which this Bill proposes to amend in order to facilitate the expeditious printing and publication of revised laws of Kenya. It also seeks to authorise publication of revised laws in electronic form in keeping with this electronic age in addition to the hard copies currently required by the Act. This amendment is desirable.

Mr. Temporary Deputy Speaker, Sir, this Bill also proposes to amend the National Assembly and Presidential Elections Act (Cap.7) to remove the requirement of personal service of election petitions on the---

QUORUM

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are discussing a very important piece of legislation and there seems to be no quorum in the House.

The Temporary Deputy Speaker (Mr. Poghio): Well, this time I do not even need to do any counting! I can see from here that we have no quorum. Ring the Division Bell!

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, due to lack of quorum, this House is adjourned until Tuesday, 14th August, 2007, at 2.30 p.m.

The House rose at 5.37 p.m.