

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 29th November, 2001

The House met at 2.30 p.m.

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

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.675*

#### RELEASE OF BODIES FOR REBURIAL

**Mr. Muchiri** asked the Minister of State, Office of the President, whether he could consider releasing the bodies of Dedan Kimathi, Nahashon Isaac Njoroge Njenga, Hezekiah Ochuka and P. Okumu to the relatives of the deceased for reburial.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Minister of State, Office of the President is not in? We shall come back to that Question later on!

Next Question!

*Question No.701*

#### ISSUANCE OF IDENTITY CARDS IN NYERI

**Mr. Wamae**, on behalf of **Mr. Muya**, asked the Minister of State, Office of the President:-

(a) whether he is aware that very few people have been issued with national identity cards in Nyeri District due to lack of films and application forms; and,

(b) when the last time the District was issued with films was and, why those seeking ID cards are charged Kshs50 and yet they provide their own photographs.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Minister of State, Office of the President is still not in? We shall come back to that Question later on!

Next Question!

*Question No.683*

#### INTERNATIONAL TREATIES RATIFIED BY KENYA

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Gatabaki is not in? We shall come back to that Question later on!

Next Question!

*Question No.678*

#### PAYMENT OF BENEFITS FOR SACKED EMPLOYEES

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Murungi is not in? We shall come back to that Question later on!

Next Question!

*Question No.627*

## ELECTRICITY PROJECTS IN KITUTU CHACHE

**Mr. Angwenyi** asked the Minister for Energy:-

(a) how much money, if any, has been set aside for rural electrification in Central Kisii District for the last three years; how much of it was spent, and on which projects;

(b) how much of that money was intended for projects within Kitutu Chache Constituency; and,

(c) how much the Ministry plans to set aside for projects in Kitutu Chache Constituency in 2001/2002, 2002/2003 and 2003/2004.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Minister for Energy is not in? We shall come back to that Question later on!

Next Question!

*Question No.717*

## TARMACKING OF CHANGOI-NUKYAT ROAD

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kitur is not in? We shall come back to that Question later on!

Next Question!

*Question No.692*

## ILLEGAL PLOT ALLOCATIONS IN MARAGWA

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. P.K. Mwangi is not in? We shall come back to that Question later on!

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Yesterday we faced the same situation and the Chair made some very stiff statements about the matter. We were given an assurance by the Deputy Leader of Government Business that the Ministers would, henceforth, be here to answer Questions. There is a repetition of what went on yesterday. It is even under these circumstances that the same Government is asking us to extend the sitting hours until 8.30 p.m. What do we do? Can we really go on like this?

**The Temporary Deputy Speaker** (Mr. Imanyara): Let us do the traditional thing, and go through the list for the second time.

Mr. Muchiri's Question for the second time!

*Question No.675*

## RELEASE OF BODIES FOR REBURIAL

**Mr. Muchiri** asked the Minister of State, Office of the President, whether he could consider releasing the bodies of Dedan Kimathi, Nahashon Isaac Njoroge Njenga, Hezekiah Ochuka, and P. Okumu to the relatives of the deceased for reburial.

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I would like to apologise for not having been here to answer this Question when it was asked the first time.

However, I beg to reply.

The relatives of the deceased convicts; Dedan Kimathi, Nahashon Isaac Njoroge Njenga, Hezekiah Ochuka and P. Okumu are at liberty to petition His Excellency the President to release the bodies for reburial.

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the Assistant Minister refer to the freedom fighter, Dedan Kimathi, as a convict?

**The Temporary Deputy Speaker** (Mr. Imanyara): Out of order!

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, this Question has been raised in this House three times. Last year when it was raised in the House, the Minister said that if the family of the deceased could apply to the Minister for Health, the bodies could be released. Then 60 hon. Members of Parliament signed a petition to the

Minister, and a copy was sent to the Office of the President. Now the Minister is saying that the relatives of the deceased should petition His Excellency the President.

**Mr. Temporary Deputy Speaker, Sir,** this Question was deferred so that the Minister of State, Office of the President, could meet the President personally and ask him whether he was going to release the bodies of the deceased persons. Could the Assistant Minister tell us whether the Minister spoke to the President and whether he agreed or disagreed?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, there is no provision in law for me to do what the hon. Member is asking me to do. However, I still maintain that a petition, through the Minister in charge of Home Affairs and Heritage, should be forwarded to His Excellency by the relatives of the deceased persons. I am sure that will be considered.

**The Temporary Deputy Speaker (Mr. Imanyara):** Mr. Samoei, in an answer to the same Question in this House, they were given to understand that the application should be made to the Minister, and that was done. I think that is the issue Mr. Muchiri is raising, and you have not addressed it.

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, the petition was done by Members of Parliament. The provision in law, when somebody who has been convicted is hanged by the Prisons Department, is that it is the Commissioner of Prisons that has the final authority on where the body is to be buried. If the body has to be exhumed, the Ministry under which the Commissioner of Prisons is under, is the one that the petition should go through to get to His Excellency the President for consideration.

**Mr. Muchiri:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House when they have the petition which was addressed to the Minister?

**The Temporary Deputy Speaker (Mr. Imanyara):** Mr. Muchiri, you are saying that it was signed by Members of Parliament, but he is telling you that it should have been signed by members of their families. So, that is not a point of order.

**Mr. Munyasia:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell this House whether this is the first time ever, for the family of the late Dedan Kimathi to appeal to the President for the release of his remains? If it is not the first time, for what reasons in the past has such a petition been rejected?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I do not know for a fact whether this is the first time the family is appealing to the President for the release of the late Dedan Kimathi's body. But if the families of the persons in question apply and it is brought to the attention of the Minister concerned, I am sure I can make comments on what is going to happen from now onwards, but not what has happened in the past.

**Mr. Kihoro:** Mr. Temporary Deputy Speaker, Sir, Dedan Kimathi was executed on 18th February, 1957, and the country has been waiting for this freedom fighter to be buried appropriately and given national honour. There were also other freedom fighters like General Baimungi and General Kihugu wa Chui. Is the Government waiting for a petition so that it can give them the necessary honour that they deserve? Could the Government identify where the graves of these people are?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I am very sure that the Commissioner of Prisons, by law, should know where the graves of the persons who were hanged are. As for the petitions, I cannot give a guarantee here that the President is going to say "yes" or "no", but they will be considered.

**Mr. Githioni:** Mr. Temporary Deputy Speaker, Sir, that Question came to this House earlier this year and the Assistant Minister was supposed to consult other Government Ministries, so that he could come to the House with either a positive answer or a negative one. Could he tell us whether he consulted the relevant Government departments as to whether those bodies are going to be released for reburial or not? He should not hide under the pretext of consulting the Office of the Vice-President and Ministry of Home Affairs!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, when this Question came up earlier, it was directed to the Office of the President. I have now given guidelines on what the procedure should be. If that procedure is followed, I should be able to make a comprehensive answer whether the consideration is given or not.

**Mr. Murungi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that the Commissioner of Prisons knows where the grave of Dedan Kimathi is? When the same Question was asked in this House in 1994, the Government at that time said they did not know where the grave was. In fact, hon. Anyona provided some information that a wall had been built on top of the grave of Dedan Kimathi, and therefore, the exact location of the grave could not be known. Is the Assistant Minister in order to mislead this House that they know where the grave is?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I have said that the Commissioner of Prisons ought to know by law, where the graves of all the convicts who have been hanged are.

**Mr. Anyona:** Mr. Temporary Deputy Speaker, Sir, although we are talking about several people and we

are equally concerned about them in respect to the concerns of their families, this Parliament is concerned, as a matter of principal, about Dedan Kimathi. We want the grave of Dedan Kimathi definitely and positively identified and marked. Secondly, this Parliament and this nation want the body of Dedan Kimathi exhumed and buried in a manner which befits his contribution to the freedom struggle of this nation. When the Assistant Minister undertakes to confirm to this House that the Government will do exactly that--- Forget about the office of the Vice-President and the Minister for Home Affairs or the Office of the President. Dedan Kimathi is definitely more than this Government because he brought the freedom of this country. Could he confirm that this will be done?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, I do not want to argue with hon. Anyona. Dedan Kimathi could be anything but not more than this Government or any other Government for that matter. However, I will only undertake that once the procedure that I have laid out is followed, I will be able to comment on that issue.

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, these people were executed on conviction. It is obvious that there are thousands of other convicted persons in prison waiting to be hanged, but they have not been hanged for a number of years. Could this Government consider releasing those who have accepted Jesus Christ as their personal saviour?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Muchiri! That is another Question altogether!

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, could the Government consider releasing those people who are waiting to be hanged but they have not been hanged for a number of years?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, that is purely a prerogative of the [Mr. Samoei]

President and I do not qualify to make any comment about it.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to use the prerogative of the President as his authority in order to evade answering genuine questions, properly and legitimately brought to this House? Under what provision of the law would he be covered by what he is saying?

**The Temporary Deputy Speaker** (Mr. Imanyara): What is the point of order you are raising, Mr. Anyona?

**Mr. Anyona:** Is the Assistant Minister in order to avoid answering a question by hiding behind the prerogative of the President? Which rules give him that authority to invoke the prerogative of the President? We deal with the President of this country in his capacity as the President. Does he have the right to hide behind the prerogative of the President?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, the prerogative of mercy under which such people can be set free can only be exercised by the President. I cannot stand here and say that I am going to do this or that because it is not within the power of the Ministry. It is squarely within the docket of the President. If the President was here, he would have answered that question.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by Mr. Muya for the second time!

*Question No.701*

ISSUANCE OF IDENTITY CARDS IN NYERI

**Mr. Wamae** on behalf of **Mr. Muya**, asked the Minister of State, Office of the President:-

- (a) whether he is aware that very few people have been issued with national identity cards in Nyeri District due to lack of films and application forms; and,
- (b) when the last time the District was issued with films was and, why those seeking ID cards are charged Kshs50 and yet they provide their own photographs.

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I apologise once again for coming late. However, I beg to reply.

(a) I am not aware that very few people have been issued with national identity cards in Nyeri District because of lack of films and sometimes, application forms.

(b) The district was last issued with films on 11th October, 2001. Persons applying for identity cards for the first time are required to pay a fee of Kshs50, irrespective of whether or not they provide their own photographs.

**Mr. Wamae:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that for a long time

before 11th October, 2001, no films had been issued and many people who were due for the issuance of identity cards in Nyeri District did not get their identity cards because of lack of films?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, we had hitches early this year because of the provisions in our budget. The funds had been exhausted. However, in the 2001/2002 Budget, we were able to make a provision for funds to enable us carry out this exercise. I wish to inform the hon. Member that this exercise will be carried out without any hitches because we have the required money.

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, the problem of identity cards is not only confined to Nyeri, but to other parts of this country as well. It is an offence for one to walk in town without an identity card. If the Government cannot afford to provide films for the purposes of assisting in the issuance of identity cards and at the same time they continue to arrest people who have attained the age of 18 because of not possessing identity cards, is this not being very oppressive to the youth of this country? It is the Government which has failed to provide them with identity cards.

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, most of the time when persons apply for identity cards and they cannot be issued immediately because of one reason or the other, they are given temporary identification documents to show that they have applied for identity cards, and they have not been issued. Most of the time, the people arrested do not fall in the category the hon. Member is referring to. Most of the time, these are people who have identity cards and they have failed to carry them.

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, the problem of identity cards affects every region in this country. The law provides that once one attains the age of 18, he must acquire an identity card. But the law does not require one to carry an identity card. The police have been harassing our people for failure to produce identity cards. In view of this inadequacy of the supply of identity cards, could the Assistant Minister issue a statement from this House to the police officers not to harass Kenyans who do not carry identity cards?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, there is a reason why people are given [Mr. Samoei] identity cards, and specifically they are for identification. It would be useless to have identity cards if they do not serve the purpose for which they were issued.

**Mr. Wamae:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that most of those areas where films are not provided are in the Opposition? The purpose for that is to ensure that the youth do not have identity cards, so that they do not register as voters. This is part of a rigging process. Would the Assistant Minister confirm or deny that?

**Mr. Samoei:** Mr. Temporary Deputy Speaker, Sir, the fact of the matter is that nothing can be far from the truth than what Mr. Wamae has said. It is common knowledge that young people prefer to be associated with the young turks, who are in KANU. Majority of the people in the Opposition are old.

*(Laughter)*

**Mr. Katuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that young turks are found in KANU when the majority of the old turks are in KANU, and young turks are in the Opposition, like me?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order! Next Question, Mr. Gatabaki!

**Mr. Gatabaki:** Mr. Temporary Deputy Speaker, Sir, I wish to apologise for coming late. I was looking for the Minister for Foreign Affairs and International Co-operation to convince him to come and answer this Question.

*Question No.683*

#### INTERNATIONAL TREATIES RATIFIED BY KENYA

**Mr. Gatabaki** asked the Minister for Foreign Affairs and International Co-operation:-

- (a) how many international treaties Kenya has ratified since Independence; and,
- (b) which treaties they are and when they were ratified.

**The Assistant Minister for Foreign Affairs and International Co-operation** (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, I apologise for coming late. However, I beg to reply.

(a) Kenya is a party to 52 major international treaties, conventions, agreements, protocols and covenants concluded within the framework of the United Nations agencies (UN) and programmes. Kenya is also party to nine conventions, agreements and treaties concluded within the framework of the Organization of African Unity

(OAU). Besides these, there are other legally binding arrangements Kenya is party to within the framework of the UN and OAU and other multilateral organizations. Kenya is also a party to agreements of bilateral nature with individual institutions and countries.

(b) These treaties cover a wide range of subjects. They include:-

- Pacific Settlement of International Disputes,
- Privileges and Immunities, Diplomatic and Consular Relations,
- Human Rights, Refugees and Stateless Persons,
- Humanitarian Law,
- Education and Cultural Matters.
- Penal Matters and Legal Co-operation,
- International Trade and Development,
- Bilateral Assistance
- Transport and Communications,
- Law of the Sea,
- Commercial Arbitration,
- Outer Space,
- Disarmament; and,
- Environment.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Affey, I remember that Question was deferred to today so that you could table the treaties. You seem to be reading the same answer that caused the Question to be deferred.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, you are right, but I just want to bring it to the attention of the Chair and the House that it is very difficult to put a tag on the number of treaties a country is party to.

**The Temporary Deputy Speaker** (Mr. Imanyara): Are you saying that the undertaking you gave yesterday to produce this list cannot be met, or is it that you do not have records?

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, we have records. I will then request the Chair to give us more time to compile the treaties that we have. They are too many and bulky.

**Mr. Gatabaki:** Mr. Temporary Deputy Speaker, Sir, the Chair requested the new Minister for Foreign Affairs and International Co-operation, Maj. Madoka, to table the list today. He did confirm to the Speaker that he would table it. Could we ask for an unqualified apology from that Assistant Minister on behalf of his Minister for misleading this House and Kenyans, and being a nuisance?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Gatabaki, the word "nuisance" is unparliamentary. You must withdraw and apologise.

**Mr. Gatabaki:** Mr. Temporary Deputy

[**Mr. Gatabaki**]

Speaker, Sir, could we have an unqualified apology?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Affey, there was an undertaking by the Government to table this list. We must take the House seriously.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, in that case, may I then request the Chair to allow us to answer this Question on Tuesday next week?

**Hon. Members:** No! No!

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

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, when the Assistant Minister was answering or attempting to answer this Question, did you hear him mention that Kenya has signed 52 treaties and nine conventions? Could we have your guidance? Is the Assistant Minister trying to suggest that that figure is not accurate, and that this Government does not know how many treaties Kenya has signed? Is that what the Assistant Minister is saying?

**The Temporary Deputy Speaker** (Mr. Imanyara): This Question has been deferred to Tuesday next week.

*(Question deferred)*

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to ask that a young turk or a young thief answers this Question?

(Laughter)

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

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard my colleague, Mr. Gatabaki, refer to the Assistant Minister as being a nuisance. Could he be asked to withdraw and apologise for using unparliamentary language?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Munyasia, I think he did.

Next Question, Mr. Murungi!

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I apologise for coming late.

*Question No.678*

PAYMENT TO BENEFITS FOR SACKED EMPLOYEES

**Mr. Murungi** asked the Minister for Labour:-

- (a) if he is aware that eight long serving employees of Mandrix Distributors Limited, Nairobi, namely; Everline Ngatha, Freda Wanjiku, Richard Matata Musau, Wilson Kinyua, James Mathiora Nkumbuku, David Mngendi, Benard Kyalo and Alkangelo Kirimi Mberia, have been summarily dismissed by their employer because they joined the Kenya Union of Commercial Food and Allied Workers Union; and,
- (b) what urgent measures he is taking to ensure that the said workers are reinstated and paid adequate compensation for violation of their constitutional rights.

**The Assistant Minister for Labour and Human Resource Development** (Mr. Ethuro): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware of the summary dismissal of the eight employees by the management of Mandrix Distributors Limited. The dismissal was not as a result of trade union activism, but due to redundancy.

(b) I have taken urgent measures by convening a conciliation meeting between the employees and the employer. Consequently, all the affected employees, with the exception of Mr. James Mathiora who was reinstated and Mr. Kirimi Mberia who declined to collect his dues, have been paid their terminal benefits totalling to about Kshs49,000.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, this answer is grossly inadequate. It shows that the Assistant Minister has not done his homework. On 5th February, 2001, the managing director of Mandrix Distributors Limited called a meeting of all the workers who had joined the Kenya Union of Commercial Food and Allied Workers and asked them why they had joined the union. He also asked them to leave the union. When the workers refused to do so, they were all dismissed. Kenyan workers have suffered a lot of oppression and exploitation while working in some Asian firms in this country and yet this Government is not protecting our people. Could the Assistant Minister explain whether he has really investigated this matter or is he giving us an answer which some junior officers gave him without proper consideration?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to reassure the hon. Member that first and foremost, I came here ten minutes before time because I was ready to answer the Question, and I am glad he apologised. Before coming to this House I personally intervened to ensure that the answer that is being brought here was thoroughly investigated. So, I am giving a thoroughly researched and well documented answer when I say that the sacking had nothing to do with these employees joining the union. The Ministry of Labour and Human Resource Development has the responsibility of arbitrating between the employees and the employers. We normally encourage the employers to ensure that their employees have joined trade unions. The sackings that took place on 10th February were because of redundancy and the Ministry took action. A meeting took place one month later, and not all of them were sacked. Some were reinstated because of the intervention. We have done our homework.

**Mr. Anyona:** Mr. Temporary Deputy Speaker, Sir, redundancy is a legal process. The law provides for the causes of redundancy and what procedure is to be followed. Could the Assistant Minister tell us what caused this redundancy and what procedure was followed? Could he also confirm that the reason why they were sacked is not because they wanted to join the union? Could he also confirm whether or not they were members of the union?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, the redundancy clause is provided for in the Regulation of Wages and Conditions of Employment Act, Cap.229 of the Laws of Kenya. Terminal benefits are calculated on the basis of the salary in lieu of notice; days worked, leave due and severance pay. It was through the

meeting between the employer and my Ministry that we were able to calculate the dues that were applicable to the members. We have confirmed that these employees were not members of the union and they were not sacked because they joined the union.

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, this issue of termination of employment is very common in very many factories, especially in Nairobi. What is your Ministry doing to ensure that employees are not harassed and sacked simply because they are members of a union?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, the Ministry has inspectors who frequently go around inspecting these factories. If we get to know of any malpractice by the employers, instant action is always sought and taken. In addition to that, we normally encourage employees to join trade unions to look after their welfare.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, according to the Assistant Minister's answer, the terminal dues for Mr. Kirimi Mberia amounted to Kshs12,098. Mr. Mberia had worked for this Asian for 16 years and he says the terminal dues are calculated on the basis of days worked and severance pay. According to our calculations, Mr. Mberia should have been paid Kshs199,920. Is the Assistant Minister satisfied that the offer of Kshs12,000 for working for 16 years, which Mr. Mberia has rejected, is really adequate and fair in this circumstance?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to confirm that the figure of Kshs12,000 is not the total dues for Mr. Mberia. This is the balance of his dues after deduction of a loan that he had taken from his employer. I would encourage the hon. Member to ask Mr. Mberia to go and get the money at the Labour Office in Nairobi immediately before any further action is taken.

**The Temporary Deputy Speaker** (Mr. Imanyara): No, you cannot say that! Mr. Assistant Minister, he cannot go to the Labour Office when this House is there for him to ask the Question. Were the dues amounting to Kshs199,000, and is Kshs12,000 the balance?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, the dues were definitely more than the Kshs12,000. I do not have the exact figure here. Let me be absolutely honest here. What I know is that he had a loan of over Kshs35,000 that was deducted from his net dues.

**The Temporary Deputy Speaker** (Mr. Imanyara): Are you in a position to give us the net amount of money due to this person?

**Mr. Ethuro:** Definitely, Mr. Temporary Deputy Speaker, Sir. If the hon. Member says that he wants the exact amount and the deductions taken, I will be more than glad to provide that information.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, since the Assistant Minister does not really have these figures with him here, could he be given time to bring them next week?

**The Temporary Deputy Speaker** (Mr. Imanyara): But, Mr. Murungi, you did not ask for the figures. Mr. Assistant Minister, are you in a position to give him the figures, anyway?

**Mr. Ethuro:** I will bring the figures, Mr. Temporary Deputy Speaker, Sir. The only figure I do not have is the total calculation of the dues because there is a formula here, but I have the figures for the loan outstanding and the balance, and I will provide them to the hon. Member.

*Question No.627*

ELECTRICITY PROJECTS IN KITUTU CACHE

**Mr. Angwenyi** asked the Minister for Energy:-

(a) how much money, if any, has been set aside for rural electrification in Central Kisii District for the last three years, and how much of that was spent and on which projects;

(b) how much of that money was intended for projects within Kitutu Cache Constituency; and,

**[Mr. Angwenyi]**

(c) how much the Ministry plans to set aside for projects in Kitutu Cache Constituency in each of the Financial Years 2001/2002, 2002/2003 and 2003/2004.

**The Assistant Minister for Energy** (Mr. Sasura): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The budgetary allocation for rural electrification in Central Kisii District for the last three years was as outlined here below:-

1998/1999 - Kshs16.8 million

1999/2000 - Kshs19.6 million

2000/2001 - Kshs11 million

Out of an approved total budget of Kshs47.28 million, a total of Kshs19.83 million was spent on



implementation of the following projects: Chisaro School and Bonchari environs; Mobamba Coffee Factory, Nyaboterere Coffee Factory, Nyaturubo Coffee Factory and Nyosia Coffee Factory.

(b) Like all other Government budgetary allocations, the Rural Electrification Project funds are allocated to districts and not constituencies. The beneficiary projects, therefore, are selected on prioritisation and ranking of all REP projects in the district by the DDCs.

(c) The Government financial allocations, as said earlier, are made to the district and not constituencies. However, in the 2001/2002 Financial Year there is an approved budgetary allocation of Kshs11 million for Kisii Central District. The budgetary allocation for 2002/2003 and 2003/2004 Financial Years will be known when the budgets for these years are done and will be based on the available resources to the Government at that time.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, the amount allocated for the district over a period of four years was Kshs47 million. The Ministry has spent only Kshs19 million over three years, and all this in one constituency. Could the Assistant Minister tell us how much of this allocation was spent, and the years when it was spent? What criteria was used to determine which projects will receive this funding?

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, to begin with, I would like to correct the impression that they were raised in only in one constituency. This is because the expenditure of Kshs19.83 million was in Nyaribari Chache Constituency which is Mr. Angwenyi's constituency. I beg your pardon, Mr. Temporary Deputy Speaker, Sir.

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could you take these Ministers to a seminar to know our respective constituencies? I do not represent Nyaribari Chache Constituency.

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, I was just correcting myself that this was in Nyaribari Chache Constituency and not hon. in Angwenyi's constituency. However, in my answer to part 'b' of the Question, I said very clearly that these funds are allocated on district basis and not on constituency basis.

Secondly, it is true that a total of about Kshs47.28 million was allocated and about Kshs19.83 million has been spent. Some of the projects are still ongoing and part of this money will be used even in the next two years. So, we have not spent all the money.

**Mr. Sambu:** Mr. Temporary Deputy Speaker, Sir, we have been told that some of the rural electrification projects are funded by some donor agencies. Could we know whether any of these projects the Assistant Minister has mentioned are funded by a donor agency? Secondly, if it is a donor agency, which one is it and how much money has that donor agency set aside for these projects?

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, these projects are funded by the Government of Kenya (GOK), the Spanish Government and partly by STABEX funds. However, to give a breakdown of the expenditure on each project and the exact expenditure, I think I might take a longer time. Maybe I will need to table the list at a later date.

**Mr. Anyona:** Mr. Temporary Deputy Speaker, Sir, the question I want to ask has partly been asked by hon. Sambu. As we understand it, rural electrification is an entirely GOK funded project. If there is any donor funding, it comes as donor aid fund which becomes part of the Budget that this House approves, and not secret funding by the donor.

Mr. Temporary Deputy Speaker, Sir, in this particular case, the factories he has mentioned, Gesonso in Bonchari, Nyanturago and Nyonsia in Nyaribari Chache were both funded entirely by STABEX funds. That is the position. Could the Assistant Minister tell us where he spent that money? If he wants to dispute that fact, he should provide proof. This is because the projects he has quoted were funded entirely by STABEX funds plus many others.

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, the hon. Member mentioned Nyonsia and Nyanturago coffee factories only but I mentioned several others like Chisaro School, Bonchari, Mobamba and Nyaboterere factories. These are the places we spent part of the money. What he mentioned is only one of the projects.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I did say that there [Mr. Anyona] are many others. There is Kemera in Kitutu Masaba. There are many others and I know that. What I am saying is that they were all entirely funded by STABEX funds and not GOK funds. So, could you tell us where you spent the rest of the money?

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, I think you allowed me to table the list of the expenditures a bit earlier.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, I did allow you.

**Mr. Sambu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I requested for the tabling of the

list of the projects by the Assistant Minister. This is because being the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources, I know that many of the coffee factories were funded by the STABEX funds.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Sambu! He said that the list is very long and he sought the Chair's permission to table it.

**Mr. Sambu:** Mr. Temporary Deputy Speaker, Sir, then, could he, please, table the whole list for the Republic?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, could you table the list?

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

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister says these projects were funded and implemented because they were prioritised by the DDC. However, I do know that Kitutu Chache Constituency has got 40 tea factories and it produces 75 per cent of the coffee produced by Kisii Central District. So, you can see there is not any one factory in Kitutu Chache Constituency which has been funded and implemented out of all these projects. The DDC approved electrification of Nyaiwa, Megogi, Mwanicha, Marani, Kiomwoncha, Nyanchieko and Keira coffee factories and they have not been done for four years. Where did they spend the STABEX funds that could have been spent on these factories that I am talking about?

**Mr. Sasura:** Mr. Temporary Deputy Speaker, Sir, the factories mentioned by the hon. Member could have been listed by the DDC, but when it comes to implementation, they are done on priority basis; and, certainly we cannot do all these factories at the same time. All the hon. Member needs to do is to be patient and at a later date they will come under the implementation of priority projects.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question, Mr. Kitur!

*Question No.717*

#### TARMACKING OF CHANGOI-NUKYAT ROAD

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Kitur still not here? The Question is dropped.

*(Question dropped)*

Let us move on to the next Question by Mr. Kamande Mwangi!

**Mr. P. K. Mwangi:** Mr. Temporary Deputy Speaker, Sir, I beg to ask Question No.692.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kamande, you must first apologise for coming late.

**Mr. P.K. Mwangi:** Mr. Temporary Deputy Speaker, Sir, I apologise for coming late.

*Question No.692*

#### ILLEGAL PLOT ALLOCATIONS IN MARAGWA

**Mr. P.K. Mwangi** asked the Minister for Local Government:-

(a) whether he is aware of the hostile atmosphere amongst the traders of Gakoigo Market, Maragwa Division, caused by illegal allocation of plots within the market;

(b) if he could table the list of allottees and the full Council Minutes which authorised the allocation; and,

(c) if he could revoke the allocation since it does not comply with the planning and health standards of the market.

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

(a) I am not aware of any hostility amongst the traders at Gakoigo Market of Maragwa Division caused by illegal allocation of plots within the market.

(b) The list of the allottees is attached here and which I will table.

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

(c) The allocation was legally done after the plots had been properly planned with essential services such as roads *et cetera*. The planning complies with the planning and health standards. Since the plots were legally allocated, the question of revoking does not arise.

**Mr. P.K. Mwangi:** Mr. Temporary Deputy Speaker, Sir, the answer given by the Assistant Minister is quite misleading. I come from the area and whatever allocation has been done is illegal. Anything which does not comply with the law is illegal. Could he tell us in which papers and when was the advertisement of these allocations carried out? Secondly, could he table the advertisement?

**Mr. Hashim:** Mr. Temporary Deputy Speaker, Sir, there was no advertisement in any paper, but the proper procedure for allocation was conducted.

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir, if we understand the law correctly as it stands today regarding allocation of public lands, the Assistant Minister is required to advertise any available land for allocation, receive and consider applications and then do the allotment. At any rate, as we understand at the moment, there is a presidential ban on allocations of plots. Was that procedure which I have just described followed? Secondly, was it in contravention of the presidential ban?

**Mr. Hashim:** Mr. Temporary Deputy Speaker, Sir, the allocations were done before the presidential ban. They were done on 28th November, 1996.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, the hon. Member asked about advertising before the allocations. That is the question you are being asked.

**Mr. Hashim:** Mr. Temporary Deputy Speaker, Sir, the plots were not advertised but other procedures were properly followed.

**Ms Karua:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us of those other procedures which he insists were followed?

**Mr. Hashim:** Mr. Temporary Deputy Speaker, Sir, applications were received from interested persons, and the panel of Maragwa County Council went through them and the allocations were conducted.

**Mr. P.K. Mwangi:** Mr. Temporary Deputy Speaker, Sir, the allocation of these plots has contravened other people's interests. There is conflict of interests. I am requesting this Ministry to ensure that these plot allocations are revoked. Otherwise, there is no way we shall ever allow these people to construct their stores. This is because we know them. These are all KANU activists within Maragwa District.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. P.K. Mwangi! What is your question?

**Mr. P.K. Mwangi:** Mr. Temporary Deputy Speaker, Sir, my question is: Is the Assistant Minister prepared to send an investigation team to that area and revoke the allocations? Is he prepared to do that?

**Mr. Hashim:** Mr. Temporary Deputy Speaker, Sir, we are not prepared to send an investigation team to revoke the allocations, but we are prepared to send an investigation team to probe the matter, and the hon. Member is invited to join that team.

## QUESTIONS BY PRIVATE NOTICE

### CONTAMINATION OF NYONGARA RIVER IN DAGORETTI

**(Mrs. Mugo)** to ask the Minister for Environment:-

(a) Is the Minister aware that the waste product from Dagoretti slaughterhouse is directed to the neighbouring Nyongara river due to lack of proper waste disposal?

(b) Is he also aware that the waste poses serious health and environmental risk to Dagoretti residents and has also affected farmers downstream who depend on Nyongara river for subsistence farming?

(c) What action is he taking to address this problem to avert serious health risk which has caused untold suffering to the residents?

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mrs. Mugo not here?

**Ms Karua:** Mr. Temporary Deputy Speaker, Sir, Mrs. Mugo is in Arusha to witness the inauguration of the East African Legislative Assembly and I would request that the Question be deferred. I had earlier on communicated that to the Chair.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Question is deferred to next Wednesday.

*(Question deferred)*

TRANSPLANTING OF SEEDLINGS IN KIENI

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

(a) Is the Minister aware that there are over one million tree seedlings for transplanting in Kahurura, Gathiuru and Naromoru forest stations of Mt. Kenya Forest, Kieni East Division?

(b) Is he further aware that the seedlings risk going to waste because land for planting has not been prepared?

(c) What immediate steps will he take to ensure that the seedlings are transplanted during the current short rains?

**The Minister for Environment** (Mr. Kamotho): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there are 1,249,000 seedlings available in Kahurura, Gathiuru and Naromoru forest stations of Mt. Kenya Forest, Kieni East Division.

(b) I am not aware of the risk of the seedlings going to waste because land for planting has not been prepared. On the contrary, a total of 500 hectares of land under non-resident cultivation in the three stations is under preparation for planting in April.

(c) During the current short rains, the Ministry is utilising the plantable seedlings for in-filling the gaps of the previous seasons planting programmes. The balance of the seedlings will be utilised for the long rains in March/April, 2002 planting season, which would take care of all the seedlings in those stations.

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir, I am happy that the Assistant Minister has acknowledged that there are more than one million seedlings available for planting during this season. They were intended for this current season. Any good farmer will also know that you do not transplant seedlings when they have overgrown. The whole point of bringing this Question to this House was to highlight to the Minister that if those seedlings are not transplanted during this season, they will overgrow and will be useless in the next season. May I, before asking any other question, invite the Minister, through you, to accompany me so that he can witness what I have seen in these forests?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Dr. Murungaru! Mr. Minister, you may answer the question. Dr. Murungaru, you can send the invitation directly to the Minister after the question has been answered.

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir, these seedlings were intended for specific forest blocks within these three forests. Those forest blocks have not been prepared for planting because the local wananchi who had been expelled from the forests earlier on have not been allowed to go back and prepare the grounds for re-planting as non-residential cultivators. Could the Minister instruct his officers on the ground to allocate small plots to these non-residential cultivators so that they can prepare the ground and transplant these seedlings through this season, and not during the season of April when the seedlings have already overgrown?

**Mr. Kamotho:** Mr. Temporary Deputy Speaker, Sir, as I said, regarding the 1,249,000 seedlings, some of those seedlings are not ready. They are small and, therefore, those ones will not go to waste. The ones which are ready for planting are being used to fill in gaps which have been left out during the previous planting season. So, there is nothing that will go to waste. On the other hand, regarding the last question by the hon. Member, I think the responsibility of allocating small plots for cultivation is done by a local committee. I think as soon as arrangements are made, I am sure the local committee will be sensitized. They will be briefed on the time for preparation and planting of trees for the next season.

**Mr. Gatabaki:** Mr. Temporary Deputy Speaker, Sir, now that Mr. Kamotho has been removed from a very demanding Ministry to a less demanding Ministry, and considering the energy of the Minister, could he use that energy to ensure that the 170,000 acres of forest which were intended to be grabbed by his predecessor are not grabbed?

**Mr. Kamotho:** Mr. Temporary Deputy Speaker, Sir, I can assure Mr. Gatabaki that I will use my energies to ensure that the environment is properly protected.

*(Applause)*

I will invite the hon. Member to join me either in Githunguri or anywhere else in the Republic of Kenya for tree

planting and soil conservation. Regarding the excision of forests or whatever, I will take over from where my predecessor had left.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, the issue of tree planting in this country is crucial, and taking into consideration that Mr. Kamotho is now the Minister for tree planting and the whole environment, including cleaning the whole of this country, could I ask him to consider planting trees along all the highways from Mombasa to Kisumu, and from---

**The Temporary Deputy Speaker** (Mr. Imanyara): Planting trees on the highways!

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I am talking about planting trees along the highways, on both sides, to make this country look beautiful and also so that the eco-system and macro and micro climate changes. That also falls under his docket. Trees could be planted from all directions - from North to South - so that when you are flying, the whole country would look like a forest. If that is done, this country would be changed for the better. Could he do that? Panda miti kila mahali!

**Mr. Kamotho:** Mr. Temporary Deputy Speaker, Sir, I will not be able to plant those trees alone. I also expect Mr. Ndicho to invite me to Thika and we plant trees along Nairobi-Murang'a Highway and Thika-Garissa Highway. I am sure every other hon. Member will do likewise. Let us join hands.

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir---

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Murathe, do you want to raise a point of order? What is it?

**Mr. Murathe:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to trivialise such an important issue? The Minister should tell this House when he is likely to bring the Forestry Bill before this House.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Murathe!

Could you proceed, Dr. Murungaru?

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir, I am very happy with the current Minister for Environment for the enthusiasm with which he has approached the issue. I am sure that we are going to be better off for it. The Minister is now aware that there are seedlings which are going to waste. I have consulted extensively and intensively with the forestry officers on the ground. I have even visited the forest and seen the seedlings. I was born in a forest village, and I know something about trees.

**The Temporary Deputy Speaker** (Mr. Imanyara): Could you ask your question?

**Dr. Murungaru:** Mr. Temporary Deputy Speaker, Sir, may I ask the Minister to convene the committees immediately so that the allocation can be done? The plots on which the seedlings were to be planted actually lie in the parts of Mount Kenya Forest which have been earmarked for excision. I think planting the seedlings will assist very much not only in protecting our environment, but also in protecting our gazetted forests. Could the Minister ensure that the committees are formed immediately so that the seedlings can be planted during this season?

**Mr. Kamotho:** Mr. Temporary Deputy Speaker, Sir, I can assure the hon. Member that we will do exactly that and even more. I will soon be going round to launch the District Environment Committees. Every Member of Parliament is expected to sit in those committees, to sensitise the people on the need to preserve the environment. Secondly, I would like to ask Mr. Murathe to make sure that trees are properly planted around Ndakaini Dam. Also, he should protect Gatare Forest, which is in Gatanga Constituency, by ensuring that its land is not encroached on, and that trees are not felled unnecessarily.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well. Let us proceed to Ms. Karua's Question.

#### SUBSTANDARD EQUIPMENT IN KERUGOYA HOSPITAL MORTUARY

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that M/s Hi Tech were awarded a contract to renovate and expand Kerugoya District Hospital?

(b) Is he further aware that the said company has installed substandard equipment yet it has been fully paid for?

(c) What action is the Minister taking to ensure proper performance of the contract and the installation of proper equipment and to prevent award of further contracts to this company?

(d) How many other tenders has the company been awarded in the hospitals around the country in the last

two years and has its performance been satisfactory?

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

(a) I am aware that M/s Hi Tech Air Conditioning, Refrigeration and Technical Service were awarded a contract to renovate and expand---

**The Temporary Deputy Speaker (Mr. Imanyara):** Order, Mr. Assistant Minister! Have you provided Ms. Karua with the list?

**Dr. Wako:** Yes.

**The Temporary Deputy Speaker (Mr. Imanyara):** You should have provided her with a copy of the answer you are reading so that she may ask follow-up questions.

**Dr. Wako:** She has a copy of this document, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker (Mr. Imanyara):** So, let her ask the question then.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us what mechanism he has put in place to verify, for instance, that the condensing units that were supplied were not the type used in domestic refrigerators instead of units for industrial use and fit for a mortuary?

**Dr. Wako:** Mr. Temporary Deputy Speaker, Sir, before the units were installed, the technical personnel from the Ministry visited the hospital and certified that the units were industrial type with a capacity of 1.5 kilowatts, which is enough for refrigeration of the 22 chambers.

**Dr. Kulundu:** Mr. Temporary Deputy Speaker, Sir, it is possible that at the time of

[**Dr. Kulundu**]

installation, the right equipment was installed but, subsequently, removed and taken elsewhere and some domestic appliance installed in its place. I think that is the essence of Ms. Karua's question. What mechanism has the Assistant Minister put place to ensure that, that did not happen?

**Dr. Wako:** Mr. Temporary Deputy Speaker, Sir, as far as the Ministry is concerned, just before this Question was put on the Order Paper, we sent a technical person to Kerugoya District Hospital, who actually visited and certified that the unit we are talking about, which was brought in from a German company called "Heco", looks like a domestic unit but has a power capacity equivalent to 1.5 kilowatts, which is enough for the refrigeration needs of the mortuary.

**Mr. Kibicho:** Mr. Temporary Deputy Speaker, Sir, normally standard mortuary equipment serves its purpose well. If bodies in a mortuary emit bad smell, it means that the equipment at the mortuary is substandard. Could the Assistant Minister ensure that the equipment at that mortuary is removed since it allows bad smell to come out? That equipment was brought in after the World Health Organisation official intervened, only for authorities to bring in equally substandard equipment.

**Dr. Wako:** Mr. Temporary Deputy Speaker, Sir, actually, smell is emitted from the mortuary. Our technical personnel visited the mortuary. I have been to Kerugoya District Hospital in the company of the area Member of Parliament. I knew of the situation at that mortuary before the purchasing of the said equipment was recommended. I believe that we have improved the situation at that mortuary. The six-month guarantee for the equipment has not yet expired. The equipment is working efficiently.

**The Temporary Deputy Speaker (Mr. Imanyara):** Could you ask the last question, Ms. Karua?

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, since we have information that the senior official sent from the Ministry Headquarters is the same person who colluded with the supplier to instal substandard equipment worth less than Kshs500,000 and then got the Ministry to pay Kshs2.5 million, could the Assistant Minister agree to visit the hospital to inspect the equipment in the company of this House's Committee on Health, Housing, Labour and Social Welfare and local Members of Parliament? We will also supply our own experts. Is the Assistant Minister agreeable to this all-inclusive inspection?

**Dr. Wako:** Mr. Temporary Deputy Speaker, Sir, I am 100 per cent sure that our people have done a very good job. There was no collusion in this project. I agree to visit the hospital with hon. Members to confirm that the equipment is of the required standard.

*(Applause)*

**The Temporary Deputy Speaker (Mr. Imanyara):** Very well. Let us proceed to Dr. Ochuodho's Question.

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

**The Temporary Deputy Speaker (Mr. Imanyara):** Ms. Karua, the Assistant Minister has agreed to your request. So, consult with him and agree on when you will visit the hospital.

**Dr. Kulundu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Last year's Printed Estimates indicate that every district hospital was allocated only Kshs1.5 million for mortuary rehabilitation. How come that Kerugoya District Hospital was allowed to spend Kshs2.5 million when a provincial general hospital, such as Kakamega, was allocated a paltry Kshs600,000 for the same purpose?

**Dr. Wako:** Mr. Temporary Deputy Speaker, Sir, it is not true that all district hospitals were allocated the same amount of money. Allocation depended on the requirements of individual hospitals. I know of hospitals which got Kshs1.8 million and Kshs2 million, and of others which got up to Kshs4 million. So, the Kshs2.1 million that was given to Kerugoya District Hospital was the amount it required.

**The Temporary Deputy Speaker** (Mr. Imanyara): Dr. Ochuodho's Question!

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, Dr. Ochuodho is in Arusha. Could you kindly defer this Question to next week?

**The Temporary Deputy Speaker** (Mr. Imanyara): Will next Thursday be okay?

**Mr. Muite:** Yes, Mr. Temporary Deputy Speaker, Sir.

*(Question deferred)*

#### ALLOCATION OF PLOTS IN MIHARATI

**Mr. Githiomi:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Could the Minister inform the House when the official allocation of plots in Miharati Village of Kipipiri Constituency will be done?

(b) Could he table the names of those allocated some of the plots?

(c) What is the criteria for allocating the plots?

**The Minister for Lands and Settlement** (Mr. Ngala): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) A task force was established to co-ordinate the exercise of picking the area occupied by **[The Minister for Lands and Settlement]** the squatters and plotting the same on the development plan. The task force completed its work and already, a part-development plan (PDP) has been prepared as a result of the task force report and documentation will follow once the process is finalised.

(b) In 1986, the Nyandarua District Plot Allocation Committee advertised a number of plots for both residential and commercial purposes, which were later allocated by way of balloting on 29th May, 1986. A list of allottees was prepared and is attached to my written answer.

(c) The criteria for allocating the plots was by way of secret balloting.

Mr. Temporary Deputy Speaker, Sir, I will lay on the Table the names of the people who were allocated the plots once I am through with the answer.

**Mr. Githiomi:** Mr. Temporary Deputy Speaker, Sir, I think the Minister has been duped. Residents of Miharati Village, who were settled there in 1963, have not been allocated the plots. The list of names that has been attached to the written answer has indicated that a total of 115 residents have been allocated residential plots.

*(Loud consultations)*

Protect me from these people here who are making noise. I cannot ask my question.

What is happening in Miharati Village now is that the Ministry of Lands and Settlement - particularly officers on the ground - has been allocating plots to non-residents of that village. They are backdating the allotment letters to 1986 and 1992. One hundred and 15 plots have already been allocated. They are only 209 plots in Miharati Village. Could the Minister consider rescinding the allotments so that the villagers who were settled there in 1963 can benefit from the allotments? Otherwise, there will be bloodshed in that village.

**Mr. Ngala:** Mr. Temporary Deputy Speaker, Sir, I agree with the hon. Member that there was an anomaly which was committed by the officers. The squatters who were there were not initially allocated plots. That is why I said that a task force was appointed to look into how it would accommodate everybody. So, I think the issue of bloodshed will not arise because the exercise will take into account the squatters who were already there. They have not been displaced. So, they will now be made part of the scheme, so that they can also benefit

from these plot allocations.

**Mr. Mwalulu:** Mr. Temporary Deputy Speaker, Sir, the Minister has talked about a task force that was established to carry out investigations. For how long will it work? When will the work be finished so that the bloodshed that the hon. Member has talked about does not take place?

**Mr. Ngala:** Mr. Temporary Deputy Speaker, Sir, I said that the task force completed its work and already a PDP has been prepared as a result of the task force's report. Documentation will follow once the process is finalised. So, the process is on to make sure that everybody comes on board.

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, Mr. Githiomi has said that there is looming danger in that area because of the manner in which plots are being allocated. Some people from outside that village are being allocated plots. Could the Minister, meanwhile, suspend these allocations until he sorts out the matter? We do not want to have an incident in Kipipiri Constituency similar to what is happening in Kibera.

**Mr. Ngala:** Mr. Temporary Deputy Speaker, Sir, I do not think there is any need for suspension of the allotments. I have already taken into account the point of the hon. Member. There was an anomaly and the situation is being corrected by the task force. The task force will make sure that everything is done correctly.

**Mr. Githiomi:** Mr. Temporary Deputy Speaker, Sir, kindly allow me to ask two questions because this Question is very important.

**The Temporary Deputy Speaker** (Mr. Imanyara): You are allowed to ask one question only.

**Mr. Githiomi:** Mr. Temporary Deputy Speaker, Sir, I had requested the Minister to consider cancelling the allotment letters that have already been given to people outside Miharata Village, because none of the villagers has benefitted. Again, the task force has already completed its work and we have the names of the villagers in place. Could the Minister now consider announcing a day when the plots will be allocated to the residents of the village?

**Mr. Ngala:** Mr. Temporary Deputy Speaker, Sir, once the whole exercise is complete, the allocation process will begin and the dates of the allocation will be given through the District Plot Allocation Committee. So, I think the doubt that the hon. Member has should not be there. As I said, once the task force is through with its work, the date for the allocation will be announced.

The documentation which I talked about includes part of what the hon. Member is worried about. He is worried about the already issued letters of allotment. So, documentation will correct the whole anomaly.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Githiomi. Before we go to the next Order, we have a number of Ministerial Statements. I will start with the Office of the President.

## MINISTERIAL STATEMENTS

### ASSAULT ON HON. KIKUYU

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, on 13th November, 2001, hon. Katuku, rose on a point of order and requested a Ministerial Statement regarding the assault of hon. Kikuyu by a gang of thugs, which he alleged calls itself "Taliban". In this connection, I wish to state as follows:

On 8th November, 2001, at around 3.30 p.m., hon. Kikuyu accompanied by Messrs. Johnson Nyamu and Mwenda Akinga, were driving along the Kilome-Sultan Hamud Road in the hon. Member's vehicle. On reaching Kayata Market, they found a convoy of ten vehicles bearing the posters of the Party of Independent Candidates of Kenya (PICK) candidate for the Kilome Constituency by-election. The PICK boss, Mr. John Mwau, was being awaited at Kayata Market to address a campaign meeting at 4.00 p.m., and a crowd of PICK supporters had already gathered.

It is alleged that hon. Kikuyu and his companions started distributing posters showing His Excellency the President shaking hands with Mr. Harun Mwau of PICK, while the PICK candidate was looking on in the middle. The posters bore the writings: "Anybody who votes for PICK will have their children die", and "Mwau is a devil worshipper". It is further alleged that the PICK supporters were enraged by the posters and suddenly pounced on hon. Kikuyu and his companions and beat him up.

Hon. Kikuyu sustained an eye injury on this right eye and lost Kshs30,000. Mr. Johnson Nyamu was also hit by a stone on the right eye and lost Kshs800, a national identity card and a voter's card. Mr. Paul Mwenda lost Kshs200. The irate PICK mob is also alleged to have forced hon. Kikuyu and his companions to chant the slogan "*Osa Vinya Mukamba*".

Mr. Temporary Deputy Speaker, Sir, following the incident, Mr. Jonesmus Kikuyu reported the matter to Salama Police Post, and an entry was made in the Occurrence Book No.14, on 8th, November, 2001. The report



also indicated that the attackers fled in a number of motor vehicles whose registration numbers were not given. Neither Mr. Kikuyu, nor his companions could name or describe their assailants. When Mr. Kikuyu was asked by the police to record a statement and get a P3 Form, he declined. The matter, however, is still pending under investigation.

The document tabled by hon. Katuku, then, entitled "Campaign Moments Strategy Kilome Constituency By-election" and coded "Osama" was forwarded to relevant authorities for investigation. However, initial findings show that the KANU Headquarters is not aware, nor was it involved in the printing or distribution of the document.

#### DISTURBANCES IN KIBERA SLUMS

Mr. Temporary Deputy Speaker, Sir, I was ordered by the Chair, on the request by Mr. Adolf Muchiri, to issue a statement on the issues that happened in Kibera yesterday. With the Chair's permission, I would like to issue a statement on the disturbances that have been experienced recently in Kibera Division, Nairobi. The circumstances surrounding these disturbances are as follows:

On the 31st October, 2001, His Excellency the President presided over a fund-raising in Langata Constituency for Langata Constituency Bursary Fund. In his address, he responded to the requests made by the people of Kibera as follows: He directed that all those people displaced by flooding of Mbagathi River, in Kibera slums, be resettled elsewhere. He did direct that an area be identified for the construction of a police station to serve the people of Kibera. Those displaced by the construction of a police station were also to be settled elsewhere. He also asked the Provincial Commissioner, Nairobi area, to consult with the landlords of Kibera, with a view of having the rents of the slum houses reduced.

Mr. Temporary Deputy Speaker, Sir, in implementing the above, the following have already been done. The Provincial Commissioner, in conjunction with the Commissioner of Lands, has already identified a piece of land to settle those affected by the flooding of the Mbagathi River. A suitable area has also been identified for the settlement of those who will be affected by the construction of a police station in Kibera.

With regard to the issue of reduction of rents, the Provincial Commissioner, Nairobi area, met with the residents and the landlords on 6th November, 2001, and came up with a proposal on the reduction of rent. The same was discussed with the Member of Parliament for the area, hon. Raila Odinga, who agreed that the reduction was reasonable. A meeting was to be held with representatives of the tenants on the same. However, while these negotiations were going on, a small number of thugs, masquerading as tenants or representatives of tenants, engaged in looting and destruction of property, and even abductions leading to rape.

Mr. Temporary Deputy Speaker, Sir, as the law enforcement personnel moved in to restore order, the thugs also intensified their activities, during which they demolished a chief's office and also disrupted the Provincial Commissioner's baraza yesterday. The baraza had been convened to inform the residents of the proposal on the reduced rents and also to advise them to desist from engaging in unlawful activities. It is quite clear that the issue of rent had become secondary by yesterday. There was deliberate anarchy by thugs, who would like to portray an image to outsiders that they are neglected tenants.

I would like to inform this House that a majority of law-abiding tenants still want the reduced rents to be put in place, and this will be implemented by the Provincial Commissioner, as instructed. Acts of hooliganism, however, will be dealt with accordingly.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Katuku, would you like to seek any clarification on the first Ministerial Statement?

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, I would like to seek clarification from the Assistant Minister. Before then, I would like to correct the impression created by the Assistant Minister that Mr. Kikuyu did not take it seriously to record a statement and get a P3 Form.

Mr. Temporary Deputy Speaker, Sir, since Mr. Kikuyu was beaten, he has been undergoing treatment and he is yet to do what the Assistant Minister is saying. However, I am surprised that to date, nobody has been arrested, and yet the person who ordered the beating of Mr. Kikuyu, is the "Boss", Mr. Harun Mwau. Why is the Assistant Minister fearing to arrest John Harun Mwau, who ordered the beating up of Mr. Kikuyu, irrespective of what he was doing?

**The Temporary Deputy Speaker** (Mr. Imanyara): Is any other hon. Member seeking clarification on the first statement?

**Mr. Maundu:** Mr. Temporary Deputy Speaker, Sir, the people of the place where the by-election took place loathe anything to do with violence. Any person who introduces the politics of violence, be it a Member of Parliament or any other leader, must be treated with the contempt he deserves. Could the Chair ask the Assistant Minister to keep his file open and bring to book any person, living or dead, to make sure that these type of incidents do not take place, more particularly when we are doing politics? We would like to do politics in an

environment of peace and harmony. We do not want these sort of incidents that can damage the image of our people.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Samoei, do you have anything to comment on those requests for further clarification?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I did say that investigations are being carried out with respect to the assault of Mr. Kikuyu. I did say that the hon. Member was requested by the police to record a statement and get a P3 Form, which would have helped in the investigations, but Mr. Kikuyu declined. The file is still open and the hon. Member can collect a P3 Form and record a statement, so that we can be able to follow up his case.

Mr. Temporary Deputy Speaker, Sir, I wish to inform Mr. Maundu that we will keep this file open and it is in our interest that we find the perpetrators of this act.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Muchiri, you were seeking clarification on the second statement.

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, the truth of the matter is that, it is hon. Raila who requested the President to comment on the issue of rent. The Minister is aware that slum structures are not covered by the law. The tenants and the landlords cannot go to the rent tribunal court or any other court. Under what authority did the President comment on the issue of rents on people's houses which are fixed on willing-buyer, willing-seller basis? Secondly, the land in Kibera area was allocated by the Government, particularly by the Provincial Administration, and they normally demand money while allocating that land. One wonders on what grounds the Government is maintaining that, that land in question is Government land? Thirdly, these people who were arrested at Kibera are being charged in a court of law for incitement against the landlords. The owners of those slum structures cannot be landlords; they are just owners of ordinary structures! Could the Government release these people because there is no charge that ought to be preferred against them?

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, could I, through you, seek clarification from the Assistant Minister? The matter in Kibera is very explosive and sensitive, particularly because most of the landlords happen to be from two ethnic communities, namely, the Nubians and the Kikuyus, while most of the tenants happen to be from the Luo community. So, this issue tends to be viewed from a tribal angle. Could I seek clarification from the Assistant Minister as to why Ministers and civil servants do not carry out ground work in order to avoid this embarrassment and tell the President when he should come in and when he should keep off? This is because when the President makes a statement, everybody feels that they want to implement it. Why do the civil servants not do enough ground work so that the President does not make statements that result in embarrassment, including loss of lives? Could the Assistant Minister give us a clarification as to why they do not do that?

**Mr. Anyona:** Mr. Temporary Deputy Speaker, Sir, part of the problem and the reason why decisions have to be made while people are on their feet is because there is a legal vacuum. As Mr. Muchiri has said, neither the landlords of these structures nor the tenants are covered by any form of law. So, we are really in the jungle, where might is right. Would the Government, in view of this experience, ensure now that this whole part of our society, which may be a new thing that is developing, is brought within the purview of the law? This will help us to administer the problems. Since this problem is not only being experienced in Kibera, but everywhere, could the Government undertake to bring the matter under the law and make sure that the problem is handled peacefully across the country?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I do admit that this is a very serious problem and very serious thought and consideration need to be put in, in order to get it behind us. The President, in being mindful of the welfare of the people of Kibera, asked the Provincial Commissioner to sit down with the structure owners or landlords--- The fact that a meeting was actually held and some consensus arrived at means that there is a possibility of some form of agreement being arrived at. In fact, to a greater extent, there was an understanding between the structure owners and the tenants. What happened yesterday, as I said earlier on, was as a result of a minority group of people who took advantage of the situation that is in Kibera today.

The Government and the Provincial Administration in particular, in conjunction with the Ministry of Lands and Settlement are running a scheme which will put this problem behind us. This scheme will ensure that the so-called structure owners actually own the land so that they can be brought within, as Mr. Anyona has said, the purview of the law. Thereafter, if problems arise, they can be addressed by the Rent Tribunal, as it were. What we were trying to do was temporary; to try and bring harmony between tenants and structure owners in Kibera. By the way, we have made very good progress and there is a great deal of understanding. This minor misunderstanding should not blow the problem out of proportion.

**The Temporary Deputy Speaker** (Mr. Imanyara): Let us get a Ministerial Statement from the Minister

for Local Government. Hon. Members, the Minister should be accorded silence as is the tradition of the House when a Member makes his maiden speech.

DRAFT VALUATION ROLL 2001 BY THE NCC

**The Minister for Local Government** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I was requested yesterday by Mr. Kamanda to make a Ministerial Statement on the Draft Valuation Roll of 2001 by the Nairobi City Council (NCC).

All local authorities are required by law, under the Valuation of Rating Act, Cap. 266 of the Laws of Kenya, to prepare a valuation roll for their respective councils every ten years. In the intervening period, the councils are supposed to come up with supplementary valuation rolls to bring in new sub-divisions, transfers and any other property which might have been omitted or overlooked from the previous roll. The current valuation roll of the NCC was last updated in 1982. This is contrary to the law, which requires valuation rolls to be updated every ten years. It is for this reason that my Ministry directed the council to update the valuation roll in order to comply with the law.

The valuation roll is a list of all registered/ratable properties within the jurisdiction of the council. It includes properties owned by individuals, Government and even the NCC itself. The values ascribed would be open market freehold values. This means that the values are based on unimproved site value as per the current market rates. Buildings and other improvements are not included. The NCC's Draft Valuation Roll for 2001 was placed before the full council meeting which was held on 11th October, 2001, and was adopted. After the adoption by the council, the law requires publication of notice and this was done on 31st October, 2001 in the local print media. This is a legal requirement to accord ratable owners an opportunity to lodge objections in respect of values ascribed to their properties.

It is important to note that updating of valuation rolls does not necessarily mean that ascribing rates must go up. In many instances, they may go down depending on the behaviour of the open markets. The normal period for lodging objections is 28 days, but due to request from members of the public, this requirement has been extended by a further 14 days, to accord all interested parties adequate time to file any objection. The fee for objection is determined under the Valuation for Rating Act regulations. At present, the fee is Kshs500 per objection.

Mr. Temporary Deputy Speaker, Sir, let me highlight the effects of the Draft Valuation Roll for 2001 for the NCC. The exercise has been able to indicate correct values of properties within the City. It is a good indicator of property values and an incentive to investment. I do not see anybody who owns property in the City of Nairobi having any quarrel with this. Secondly, the current valuation roll contains 80,000 properties. By updating the roll, the council has been able to bring in additional 20,000 new properties into the roll. Thirdly, broadening the ratable base will lead to a reduction of the current rate, struck from the current 15 per cent to less than 1 per cent of the revised value so as to maintain the existing levels. This means that although values of unimproved plots might appear to be very high, the actual rates payable would be more or less what was paid last year, in order not to destabilise the economy.

It has been claimed that the effects of the Draft Valuation Roll will increase property rates by up to 2,000 per cent, which is not true. If a council proposes to increase any rate by more than 4 per cent, the law requires that the Minister for Local Government must give his approval. This has not been done in the present case, and I would like to assure this House that in the event of the NCC bringing a proposal higher than 4 per cent, I shall not approve it. Instead, I have instructed the council to intensify its effort when collecting outstanding rates, and any other debts owed to the council, in order to improve its revenue base to facilitate better service delivery to the residents of Nairobi.

Thank you, Mr. Temporary Deputy Speaker, Sir.

*(Applause)*

**Mr. Gatabaki:** Mr. Temporary Deputy Speaker, Sir, notwithstanding the elegance with which hon. Uhuru Kenya has delivered a lengthy speech, could it be considered as his maiden speech?

**Mr. Muchiri:** Mr. Temporary Deputy Speaker, Sir, could the Minister also consider to reduce the rates in the areas within Nairobi where Nairobi City Council does not render services like in Embakasi, Mwiki, Githurai, Kahawa West and Thome Estates?

**Mr. Kamanda:** Mr. Temporary Deputy Speaker, Sir, we have two issues here; that is, the site value and the rates. The Minister said he has already given authority for the valuation of the site. The site value has increased by almost 2,000 per cent. The intention of the officers in Nairobi City Council was to increase the rates

using the current site value.

Currently, Nairobi City Council is charging 15 per cent on commercial properties and 12 per cent on agricultural properties. If they increase the site value from Kshs1 million by 2,000 per cent, many landlords will not be able to pay. Most properties here in Nairobi range from Kshs800,000 to Kshs1 million. At the end of the day, if they increase even by 1 per cent, then their intention is to allocate those properties to some people within the Government. Nairobi City Council has no property to allocate. Could the Minister tell this House whether the intention of the officers is to make sure that landlords are unable to pay rates so that their properties are allocated to some individuals within the Government?

**Mr. Musila:** Mr. Temporary Deputy Speaker, Sir, first, I would like to congratulate the new Minister for Local Government for the manner in which he has given his statement. Having said that, I would like to state that Nairobi City Council is currently not providing any services to its residents. Since the idea behind increasing the rates is to raise more money, could the Minister assure this House that when money will be available, Nairobi City Council will provide services to its residents because they have been without services for many years?

**Mr. Michuki:** Mr. Temporary Deputy Speaker, Sir, since this proposal was made by Nairobi City Council, I have had the occasion to study certain properties. It is quite evident that the new and improved site value increases range between 3,300 per cent and 15,300 per cent. This means---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Michuki, what clarification do you want to seek from the Minister?

**Mr. Michuki:** Mr. Temporary Deputy Speaker, Sir, I will state the clarification which I want from the Minister.

Could the Minister lay on the Table of this House the interpretation of an improved site value? Since the last valuation was done, those properties have not improved to the tune of 15,000 per cent.

**The Minister for Local Government** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I would like to make it clear that the Valuation Roll is actually mandated by law. Every single council must, after every ten years, carry out a valuation for rating. This is what has been done. Unless the law itself is changed, there is not very much we can do about it. As I stated, the issue here is that the last valuation was done in 1982, which is almost 20 years ago. In many instances, there are properties, probably in the City Centre, that were valued at approximately Kshs1 million in 1982. Their value definitely has increased over the last 20 years. All we are saying is that we are taking into account increases that have actually been taking place over the last 20 years.

Furthermore, on the issue of service delivery, this current valuation exercise is actually being carried out on over 20,000 properties that were previously receiving services of one kind or another, without paying rates. Those properties are in the market. So, the intention here is not to increase the rates, but to increase the ratable base. As I stated clearly, there is no intention on the part of my Ministry to increase rates over and above the current level. We will do everything possible to ensure that, that does not happen.

## POINTS OF ORDER

### INVASION OF LIBOI BY MILITIAMEN

**Mr. Shidiye:** Mr. Temporary Deputy Speaker, Sir, I stand here to seek a Ministerial Statement from the Minister of State, Office of the President. On 23rd, November, 2001, seven people were killed in cold blood in Liboi on the border of Somalia and Kenya in my constituency. The militia **[Mr. Shidiye]** from across the border invaded Liboi Division in my constituency. Seven people were heinously murdered in cold blood. Their arms were tied. When the militia came in they surrounded the police post.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Shidiye, you have made your point.

**Mr. Shidiye:** Mr. Temporary Deputy Speaker, Sir, I want to seek two things. I just want to seek the reason why the Government withdrew an army camp which was right on the border. Secondly, why was Harhar police post abandoned? Could the Government take immediate action to end these murders? Why has no action been taken up to now?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I will look into the circumstances as stated by the hon. Member and issue a Ministerial Statement next week.

### INSECURITY IN MERU

**Mr. Murungi:** On a point of order, Mr. Temporary Deputy Speaker, Sir, I would like to seek your guidance on a fundamental matter relating to Ministerial Statements that are given in this House. We in the House are getting concerned at the casual and routine manner in which the Minister in charge of internal security comes

to this House, almost every week, to give us assurances about security in various parts of the country and nothing happens thereafter. Is there a way we can have a follow-up on this Ministerial Statements? I have in mind a Ministerial Statement made in this House last month, by the Minister of State, in charge of State security assuring the people of Meru, that there would be improved security in Meru District, after three people had been killed in Isiolo and a businessman at Gikumene. Barely five days after the Minister gave the assurance that he had put mechanisms in place to improve the security situation in Meru, there was a raid at Nkubu Market and a Chemist was killed. There has been a wave of robberies despite these statements.

Mr. Temporary Deputy Speaker, Sir, could you give some guidance as to whether the Ministers can really follow-up what they say or they are just making empty statements of cosmetic value or no value at all to the people on the ground?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Samoei, when you will be giving the Ministerial Statement you have promised to, also touch on Meru, with regard to the matters Mr. Murungi has raised.

**Mr. Shidiye:** On a point of order, Mr. Speaker, Sir, what of my request?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Shidiye, he said he is going to give a Ministerial Statement with respect to your request. Mr. Samoei when are you going to give the Ministerial Statement?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, on Wednesday next week.

TABLING OF CONTRACT BETWEEN  
KENYA GOVERNMENT AND DE LA RUE

**Mr. Muturi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Approximately two weeks ago, I asked a Question here, and the then Minister for Finance, before he was translocated to Nyayo House, promised to lay on the Table of the House the contract between the Kenya Government and---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Muturi, since the Minister is not there, could you address the issue to the Leader of Government Business?

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, the Minister promised to lay on the Table of the House the contract between the Kenya Government and De La Rue, regarding the printing of the Kenya currency. To date, that contract has not been laid on the Table of the House. Could you order the Minister to lay that contract on the Table of the House for scrutiny?

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Mr. Temporary Deputy Speaker, Sir, I have noted the hon. Member's sentiments. I would like to assure the House that we will do something about it.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Marrirmoi, I did not get what you said.

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Mr. Temporary Deputy Speaker, Sir, I would like to assure the hon. Member that I have taken note of what he has requested, and soon we shall---

**The Temporary Deputy Speaker** (Mr. Imanyara): Could you indicate when?

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): Next week, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): When, next week?

**The Assistant Minister for Finance and Planning** (Mr. Marrirmoi): On Tuesday, next week, Mr. Temporary Deputy Speaker, Sir.

**Mr. Anyona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not have the opportunity of congratulating the new Minister for Local Government for a very well delivered maiden speech by way of Ministerial Statement.

Yesterday, I requested a Ministerial Statement from the Ministry of Local Government regarding the provision of water in Nairobi. The details are in the HANSARD of yesterday, but briefly we wanted the Minister to tell us what is going on about distribution of water, because in many places there is no water---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Anyona! He will read the HANSARD and give the Ministerial Statement.

**Mr. Anyona:** Mr. Temporary Deputy Speaker, Sir, briefly, the main issue was the exorbitant bills which have no record. Could he indicate when he might be able to give the Ministerial Statement?

**The Minister for Local Government** (Mr. Kenyatta): Mr. Speaker, Sir, we would be in a position to give a Ministerial Statement on Tuesday next week.

**Mr. Katuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am standing to seek a clarification from the Chair or the Minister. Standing Order No.88(2)---

**The Temporary Deputy Speaker** (Mr. Imanyara): Which Minister?

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, the former Minister for Local Government, Mr. Kamotho.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Katuku, you can only request a Ministerial Statement from a sitting Minister and not a former Minister.

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, the issue was with regard to the Ministry of Local Government, and that is why I am not sure whether it should be Mr. Uhuru Kenyatta or Mr. Kamotho who should handle this matter.

Mr. Temporary Deputy Speaker, Sir, Standing Order No.88(2) states:-

"A Member shall not deliberately mislead this House".

Yesterday, I stood to seek a clarification from the Chair, but the particular Minister was not there. On 1st November, while Mr. Kamotho was answering a Question in relation to Trans Mara Conservancy, on the issue of directorship, he said that as far as he is concerned, there is no Minister who is a director of that company unless the hon. Member has his Minister in his pocket, who is a Director of Trans Mara Conservancy.

Mr. Temporary Deputy Speaker, Sir, on 6th November, Mr. Sunkuli, while making a personal statement, said:-

"Yes, I am a director of that Mara Conservancy".

Would I not be in order to ask the Chair to compel Mr. Kamotho to apologise for deliberately misleading the House?

**The Minister for Environment** (Mr. Kamotho): Mr. Temporary Deputy Speaker, Sir, I do not know the reason why the hon. Member thinks that I told this House a lie. According to the records in the Registrar of Companies, there is no Minister who is a director of the Trans Mara Conservancy. So, whatever my colleague, Mr. Sunkuli, said here, he should take responsibility and produce evidence. According to the Registrar of Companies, he is not named as a director. Even if you asked for a Ministerial Statement from my colleague who has taken over from me, you will get a copy of the certificate of registration, which shows that his name is not there as a director of Trans Mara Conservancy.

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

IN THE COMMITTEE

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

THE CHILDREN BILL

*Clause 2*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended—

(a) in the definition of "child", by deleting the words a "boy or girl" and substituting the words "any human being";

(b) in the definition of "child abuse" by inserting a comma and the word "psychological" immediately after the word "sexual";

(c) by inserting a new definition of "early marriage" immediately after the definition of "disabled" child as follows:-

"early marriage" means marriage or cohabitation with a child or any arrangement made for

such marriage or cohabitation;

(d) by deleting the definition of "female genital mutilation" and inserting a new definition of "female circumcision" in the proper alphabetical order, as follows:—

"female circumcision" means the cutting and removal of part or all of the female genitalia and includes the practices of clitoridectomy, excision, infibulation and other practices involving the removal of part or the entire clitoris or labia minora of a female;

(e) in the definition of "home"

(i) by deleting the words "guardian or relative" in line two and substituting the words "guardian, relative or foster parent"; and,

(ii) by inserting the words "and the child has no foster parent," immediately after the expression "living", in line four;

(f) by deleting the definition of "relative" and substituting therefor the following new definition "relative" in relation to a child means any person related to the child, whether of full blood, half blood or by affinity;

*(Question of the amendment proposed)*

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, some of us have got some difficulties with subclause (d). I wanted to seek the confirmation of the Minister himself or his Assistant Minister that the terminology and the description of the various parts of that particular part of the body which is being described are correct. Perhaps the Vice-President and Minister for Home Affairs, Heritage and Sports has had the input of the gracious ladies from that side, so as to ensure that this description is accurate and it is inclusive, and that they have not left any part out.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I can assure the hon. Member that, that description is inclusive.

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

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

*(Clause 2 as amended agreed to)*

*Clause 3*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:—

THAT, Clause 3 be amended:

a) in the marginal note, by deleting the word Best and substituting therefor the words Survival and best;

(b) in subclause (3) (b), by deleting the word or and substituting therefor the word and.

*(Question, of the amendment proposed)*

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

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

*(Clause 3 as amended agreed to)*

*Clause 4*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and**

**Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, clause 4 be amended by deleting the word social and substituting therefor the words social, political, economic.

*(Question of the amendment proposed)*

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

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

*(Clause 4 as amended agreed to)*

*(Clause 5 agreed to)*

*Clause 6*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and**

**Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 6 be

**[The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports]**  
amended by deleting subclause (2) and substituting therefor a new subclause (2) as follows—

(2) Every child shall be entitled to free basic education, which shall be compulsory in accordance with Article 28 of the United Nations Convention on the Rights of the Child.

*(Question of the amendment proposed)*

**Mr. Wamae:** Mr. Temporary Deputy Chairman, Sir, my worry here is that we have not defined what is basic education. We want to ensure that these children get, at least, primary education. Can we say that there should be a minimum of seven years' free basic education?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I think we have defined basic education elsewhere in this Bill. But the hon. Member should appreciate that we have already addressed the question of free and universal basic education at primary level.

**The Temporary Deputy Chairman** (Mr. Musila): You have stated that this is defined elsewhere in the Bill. Could you be kind enough and show the hon. Member where you have defined it?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Speaker, Sir, I think we will reach there. But this means primary education.

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, may I assist him. Clause 6(2) states that basic primary education shall be compulsory. "Basic" there applies to primary education.

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, this is an important clause and it should not end up as another dead letter in the law. This country is a signatory to the treaty referred to here; that is, the United Nations Convention on the Rights of the Child. That Treaty actually requires us, as signatories to that treaty, to give free primary education. We have never done this; hence, we have not discharged our obligations in terms of that treaty. My concern here is, are we just going to enact this Clause without a corresponding requirement that every year, sufficient funds should be Voted in the Budget so as to make this clause, a reality? Could the Government give an assurance that when they bring the Budget each year, the vote of the Ministry of Education will include money to pay fees for these children. There is no use saying children will be entitled to free primary education, unless this Government votes money for that particular purpose. Could the Government give us assurance that from next year, there will be a budgetary allocation in order to ensure that all children of school going age will go to school and will have free primary education?

**The Assistant Minister, Office of the Vice President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, the same UN Convention which the hon. Member is referring to does not require us to provide instant free primary education. It is gradual. The process has started and we are going to achieve it, I can assure you. The Government has widely consulted on this. It is also provided for in the KANU manifesto. We are going to achieve that level.



**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, first of all, I want to thank the Government for accepting this clause, and at the same time, thank hon. Muite for his sentiments. It is important that Kenya, being a signatory both to the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, we should move from a situation where we say we shall progressively make plans to provide free education. I think this should be instant! In our Committee, we thought we should tie the Government to providing free and compulsory basic primary education. In doing so, we discriminated against a certain category of children. A child is anybody who is under the age of 18 years. You will realise that in this country, there are children aged between 14 years and 18 years who are not catered for in this clause. So, that basic primary education should be free and compulsory. We shall allow you to progressively work out ways and means of providing free secondary education later on, depending on the availability of resources.

**Mr. Gatabaki:** Mr. Temporary Deputy Chairman, Sir, in the preamble, the Government did commit itself to provide not only free, but compulsory basic education. It is obligatory. The Government says it is abiding with the two conventions. I am very clear here that the Government will provide free basic education from next year. It recognises the importance of being a signatory to these two conventions; the African Charter and the United Nations Convention on the Rights of the Child. I am very grateful that the KANU Government has seen the light of day.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Thank you, Mr. Temporary Deputy Chairman, Sir. I think we are dealing with legislation here. I want to allay the fears of the hon. Member. Let us pass this legislation and leave the question of implementation to the Government.

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

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

*(Clause 6 as amended agreed to)*

*(Clause 7 agreed to)*

*Clause 8*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 8 be amended by deleting the comma and the words "extended family."

*(Question of the amendment proposed)*

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

*(Clause 8 as amended agreed to)*

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

*Clause 13*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 13 be amended by inserting the words "female circumcision, early marriage or other", immediately before the words "cultural rites."

*(Question of the amendment proposed)*

**Dr. Kulundu:** I just wish to once again, thank the Ministry for accepting this amendment. I think this is the first time that we are identifying female circumcision or female genital mutilation as a crime in our society. It

is important that Kenyans know that female circumcision or female genital mutilation predisposes our girls and mothers to certain infections. In this era of HIV/AIDS, it is important that Kenyan communities do recognise this as a violation not only of women's rights, but also human rights.

**Mr. Gatabaki:** Even when we see the Government is dilly-dallying on issues like the nomination of women to the East African Legislative Assembly, we have seen other areas where the Government is recognising the rights of women. We thank the Government. It is not all that is wrong.

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

*(Clause 13 as amended agreed to)*

*(Clause 14 agreed to)*

*Clause 15*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended-

(a) by inserting a comma and the words "alcohol, tobacco products" immediately after the word "narcotics."

(b) by inserting the words "and any other drugs that may be declared harmful by the Minister responsible for health" immediately after the words "psychotropic drugs."

*(Question of the amendment proposed)*

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, I would like to support that proposed amendment. Alcohol and tobacco are rapidly becoming substances that are abused by our youth. Apart from the narcotics that we know about, it is important that we include these two. In part "b", we are also providing for a situation where something may in future be discovered to be harmful to the welfare of the youth. I strongly wish to support this amendment.

**Mr. Gatabaki:** Mr. Temporary Deputy Chairman, Sir, the Committee was concerned about the incapacity of the Government to implement these laws. Just the other day, the daughter of the President of the USA was arrested because she was buying alcohol when she was underage. The main issue is implementation. There is no need of having laws that cannot be implemented. Let us have laws, but also, let us ensure that they are implemented.

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

*(Clause 15 as amended agreed to)*

*(Clause 16 agreed to)*

*Clause 17*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 17 be amended-

(a) in subclause (1), by deleting the words "and no child shall be subjected to capital punishment or life imprisonment";

(b) by inserting a new subclause immediately after subclause (2) as follows-

"(1A) Notwithstanding the provisions of any other law, no child shall be subjected to capital punishment or to life imprisonment."

(c) by inserting the words "by the government" immediately after the word "assistance" appearing in subclause (3).

*(Question of the amendment proposed)*

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

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

*(Clause 17 as amended agreed to)*

*(Clauses 18 and 19 agreed to)*

*Clause 20*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 be amended-

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

"(a) the duty to maintain a child and in particular to provide him with-

(i) adequate diet;

(ii) shelter;

(iii) clothing;

(iv) medical care, including  
immunization; and

(v) education and guidance."

(b) in subclause (2) (c), by deleting paragraph (I) and substituting therefor the following subparagraph-

(i) give parental guidance in religious, moral, social, cultural and other values;"

(c) in subclause (2)(c), by deleting subparagraph (vi) and renumbering subparagraph (vii) as (vi);

(d) in subclause (5) by deleting the expression "(a)" and aligning the subclause accordingly.

*(Question of the amendment proposed)*

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

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

*(Clause 20 as amended agreed to)*

*Clause 21*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 21 be amended-

(a) in subclause (3)(a) by inserting the words "at the first instance" after the word "responsibility";

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

"(b) the father shall subsequently acquire parental responsibility for the child in accordance with the provisions of section 22."

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Musila): Hon. Members, I have received notice from Ms.

Karua for a proposal to further amend the amendment, and I ask her to proceed.

**Ms. Karua:** Thank you, Mr. Temporary Deputy Chairman, Sir. I beg to move:

THAT, Clause 21(b) be amended by inserting the words

"on application of the mother or guardian to the court, or" immediately after the word "child"

The proposed amended clause will read as follows:

THAT, the father shall subsequently acquire parental responsibility for the child on application of the mother or guardian to the court or in accordance with the provisions of section 22.

Mr. Temporary Deputy Chairman, Sir, Clause 22 provides that the father of a child born out of wedlock may assume parental responsibility by applying to the court. Throughout the Bill, the mother or guardian is not given a corresponding right to move the courts on their own Motion. It, therefore, means that should the father not wish to take any responsibility, though able, that child may suffer when there is a parent who could assist the child. We are thinking of the best interests of the child and it is our duty to ensure that whoever is able, whether the mother or father, does take part in raising that child. This amendment will, therefore, cater for the best interests of the child by ensuring that both parents can be compelled to take responsibility for the child by the courts on application of a guardian or either of the parents. It will also bring equality between the two parents in that the mother's right to apply to the court will be taken care of. For those who fear that giving the mother the right to apply to the court may bring in a floodgate of litigation, this is not so. There are ways and means in this time of advanced technology to determine whether a person who is alleged to be the father is, indeed, the biological father of the child.

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

*(Question of the further amendment  
to Clause 21 (b) proposed)*

**Mr. Muite:** Mr. Temporary Deputy Chairman, Sir, I would like to very strongly support the amendment proposed by Ms. Karua. Most of these provisions in the Bill that we are now going through, good as they are, will really be academic if we cannot accommodate the interests of the children who are fathered by individuals who are then not obliged to support them. It is not right that we should simply throw them to the society when they were fathered by males. The males should have a responsibility of supporting those children. We should give the mother or guardian the right to claim this support. These children will sometimes be found in the streets and they really suffer. It is a class of children whose needs are crying out even in the countryside. This is a very appropriate amendment and I hope we shall pass it. In these modern days with scientific developments there can be no doubt whatsoever on the issue of paternity. The DNA tests can establish conclusively whether one is the real father or not. The days when women would look around for wealthy people, especially Members of Parliament, to say they are the fathers are gone. If you are not the father, there is no danger. If you are the father, you must assume responsibility for that pleasure. You should not leave it to the mother or the child to suffer alone.

I support this amendment.

**Mr. Kamolleh:** Mr. Temporary Deputy Chairman, Sir, as much as I would like to support this amendment fully, I tend to think we should perhaps bring a further amendment, if any. If we pass this amendment as it is, then we will have a problem of affiliation here.

**The Temporary Deputy Chairman (Mr. Musila):** Order, Mr. Kamolleh. You have to debate on the proposed amendment. You cannot talk of further amendments---

**Mr. Kamolleh:** I am talking of the proposed amendment.

**The Temporary Deputy Chairman (Mr. Musila):** Order, Mr. Kamolleh! You cannot talk of further amendments because you have not given the Chair any notice to make any amendments. There is a proposal on the Table now.

**Mr. Kamolleh:** I am not supporting the proposed amendment because it borders on affiliation and brings in some---

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Our Standing Orders are very specific in asking hon. Members who are contributing and may have a personal interest in the matter to declare their interest. This is particularly important in a matter like this one.

*(Laughter)*

**The Temporary Deputy Chairman (Mr. Musila):** Mr. Kamolleh, do you want to declare your interest?

**Mr. Kamolleh:** Perhaps there will be many children who will be brought to me; so, I declare my interest. The most important thing is that if there is enough scientific ability to determine one's paternity or maternity, then

one should first bring that particular evidence before he/she is compelled to take responsibility. We should not just pass the amendment as it is because it means that a person who is compelled by a court to take responsibility for a child may have to go to a hospital and carry out a DNA test to determine paternity. We should say that after carrying out conclusive DNA tests and one is found to be the father or mother, then that person can be compelled to take responsibility for the child, but not before. This is a very important [Mr. Kamolleh] point and we might end up making some men suffer for a long time. For the ladies, it is easier because they cannot be forced to be the mother, but a man can be forced to be the father.

**The Temporary Deputy Chairman** (Mr. Musila): Point taken, Mr. Kamolleh.

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, my Committee considered this matter to great lengths and initially we were for the amendment as proposed by the Gracious Lady. However, in a meeting with the various stakeholders, it was brought to our attention that this proposed amendment would open the floodgates that used to be there during the Affiliation Act. Much as we know that science has developed to the extent where paternity can easily be determined, I think it is also in the best interests of the child that a father is not imposed on the child. You can imagine a situation where a father is forced to take responsibility of a child. What would be the feelings of that child?

**Mr. Muite:** There is no child without a father!

*(Laughter)*

**Dr. Kulundu:** Yes, Mr. Temporary Deputy Chairman, Sir. That is true in some communities. In fact, in my own community, what we are debating could be unnecessary, but in hon. Muite's community; and this is where we have to be mindful of the multi-ethnic nature of this amendment--- In my own community, there would be no problem at all. In fact, fathers come up and admit responsibility. So, I wish all Kenyans could be like Luhyas. However, because we are legislating for a multi-ethnic society, I think we need to tread carefully on this.

*(Applause)*

**Mr. Kihoro:** Thank you, Mr. Temporary Deputy Chairman, Sir. I do support the amendment moved by hon. Ms. Karua because, I think the interests of the child are very important here. It is a child who is here and not one who can be rejected and driven backwards to the mother or father. The child is actually on the ground and there are certain responsibilities that go with that. I think it is too late, especially for the father who could be very well endowed to support his child, to reject the consequences of this union with the lady.

Mr. Temporary Deputy Chairman, Sir, also, the question of paternity can be determined these days very conclusively. There have been so many cases which have come up in the past and they have been determined. The chances of an error occurring have been determined - one case in 10 million - and there is no reason why you cannot invite science to make sure that the child will be properly taken care.

So, I support the amendment.

**Mr. Gatabaki:** Mr. Temporary Deputy Chairman, Sir, we did have in the Committee considerable consensus. We have got so many stakeholders and on this question we stated over and over again and we settled for Clause 32(b) which provides that "The father and mother may by agreement", because not only are we considering which is the best interests of the child, but also the environment in which that child is born. The father cannot be forced upon the environment which he would not be able to conform to. So, we agreed, and the majority of the stakeholders were women, that the Bill be debated. So, it is a consensus building.

**The Temporary Deputy Chairman** (Mr. Musila): Mr. Munyasia, did you want to say something?

**Mr. Munyasia:** Mr. Temporary Deputy Chairman, Sir, I wanted to say that I would only have supported the proposed amendment if it had included that the "suspect father" would not be the one to prove his paternity of the child; that if the mother making the allegation was the one to prove that this man is the father, then I would have supported it. However, as the fears have been expressed, it is going to be abused if we make it loose.

**The Temporary Deputy Chairman** (Mr. Musila): Very well! I would now wish to dispose this matter by putting the Question on the further amendment which is:-

THAT, Clause 21(b) be amended by inserting the words after the word "child", "on application of the mother or guardian to the court or *et cetera*. This is all in accordance with the provisions of Section 22.

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

*(Applause)*

### QUORUM

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

**The Temporary Deputy Chairman** (Mr. Musila): Order! That particular clause is gone.

**Ms. Karua:** Mr. Temporary Deputy Chairman, Sir, but there is no quorum.

**The Temporary Deputy Chairman** (Mr. Musila): Order, hon. Ms. Karua! It is in order for an hon. Member to point out to the Chair that there is no quorum. However, you cannot go back to the [**The Temporary Deputy Chairman**] decision we have taken. We have already taken a decision when there was presumably a quorum.

*(Applause)*

However, my attention has been drawn to the fact that there is no quorum and I order that the Division Bell be rung.

*(The Division Bell was rung)*

**The Temporary Deputy Chairman** (Mr. Musila): Order! We now have a quorum.

*(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 21 as amended agreed to)*

*(Clauses 22, 23, 24, 25, 26 and 27 agreed to)*

### Clause 28

**The Temporary Deputy Chairman** (Mr. Musila): Hon. Members, we have a Supplementary Order Paper for Clause 28. It is on page 646.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 appearing on the Order Paper be deleted and a New Clause 28 be inserted as follows-

(a) in subclause (1) -

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

"(a) a chairperson who shall be an eminent person who is knowledgeable in, or has actively contributed to the promotion of, the rights and welfare of children, and who shall be appointed by the President;"

(ii) by deleting the words "home affairs and national heritage" appearing in paragraph (b) and substituting therefor the words "matters relating to children;"

(iii) by deleting the words "the Solicitor-General, or a person deputed by" appearing in paragraph (g);

(iv) by deleting paragraph (j) and substituting therefor the following new paragraph -

(j) six persons representing non-governmental organisations engaged in child welfare activities nominated by the Minister in accordance with such procedure as may be prescribed:

Provided that membership under this paragraph shall be representative of the interests of all stakeholders and shall take into account the principle of gender parity.

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

"(k) three persons representing religious organisations nominated by the Episcopal Conference, the National Council of Churches of Kenya and the Supreme Council of Kenya Muslims,

respectively;"

(vi) by deleting paragraph (1) (1) and substituting therefor the following new paragraph -

"(1) two representatives of the private sector appointed by the Minister, being persons knowledgeable in, or who have actively contributed to the promotion of, the rights and welfare of children;"

(vii) by deleting paragraph (m) and renumbering paragraph (n) as (m);

(b) in subclause (2), by inserting the words "but may be nominated for a further term of three years" immediately after the word "years."

**The Temporary Deputy Chairman** (Mr. Musila): Hon. Members, the Chair would like to clarify that on your Order Paper on page 627, there is a proposal to amend Clause 28, but the Assistant Minister has indicated that it had been deleted and substituted with one on page 646 on the Supplementary Order Paper. I think it is now clear.

Mr. Osundwa, is that correct?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Yes, Mr. Temporary Deputy Chairman, Sir.

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, I would like to raise a question about the composition of the council. I wanted some little clarification from the Assistant Minister. What is the [Dr. Kulundu]

rationale for that amendment?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, here, we sought to broaden the number of representation so that we bring in more stakeholders. I think our intention here was good.

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, I wish to support the Assistant Minister in his amendment, in that, this amendment seeks to reduce the presence of Government in the Council and increase private sector participation. It is on that basis that I strongly support the amendment.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I would like to confirm that his fears are unfounded. Our idea here was to broaden the council so that we include more stakeholders.

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

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

*(Clause 28 as amended agreed to)*

*Clause 29*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 29 be amended-

(a) in subclause (1) by inserting the words "rights and" immediately after the word "child"

(b) in subclause (2), by deleting paragraph (n) and substituting therefor a new paragraph (n) as follows -

"(n) set criteria for the establishment of children's institutions under this Act;"

*(Question of the amendment proposed)*

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

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

*(Clause 29 as amended agreed to)*

*(Clauses 30, 31 and 32 agreed to)*

*Clause 33*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 33 be amended by inserting the words "or other sources" after the word "Parliament".

*(Question of the amendment proposed)*

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

*(Clause 33 as amended agreed to)*

*(Clause 34 agreed to)*

*Clause 35*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 35 be amended in subclause (2) —  
(a) by deleting the word "government" and substituting therefor the word "management"; and,  
(b) by deleting the word "government" and substituting therefor the word "management".

*(Question of the amendment proposed)*

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

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

*(Clause 35 as amended agreed to)*

*Clause 36*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 36 be amended by deleting the words "twenty" and "nine" wherever they  
[**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports**]  
occur and substituting therefor the words "one hundred" and "twenty" respectively.

*(Question of the amendment proposed)*

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

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

*(Clause 36 as amended agreed to)*

*Clause 37*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and**



**Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 37 be amended in paragraph (a) by inserting the words "rights and" immediately before the word "welfare" in line one.

*(Question of the amendment proposed)*

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

*(Clause 37 as amended agreed to)*

*(Clauses 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 agreed to)*

*Clause 52*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 52 be amended—

(a) in Subclause (1) by deleting paragraphs (a) and (b) and substituting therefor the following new paragraphs —

"(a) to have the period of committal increased by a period not exceeding six months, if the child is of or below the age of sixteen years; or,

(b) to have the child sent to a borstal institution, if the child is above the age of sixteen years; or,

(c) to have the child provided with appropriate medical treatment or professional counselling, if the child's conduct is attributable to drug abuse or if the child is of unsound mind or is suffering from a mental illness.

(b) by inserting the following new Sub Clauses immediately after Subclause (1)-

"(2) The parents of the child or any person who has parental responsibility for the child shall be notified of, and afforded an opportunity to be heard in any proceedings instituted under this section, unless the court is satisfied that such persons cannot be found or cannot reasonably be expected to attend the proceedings.

(3) The expenses incurred in committing a child under this section shall be borne by the State."

*(Question of the amendment proposed)*

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

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

*(Clause 52 as amended agreed to)*

*(Clauses 53, 54 and 55 agreed to)*

*Clause 56*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 56 be amended by inserting the following new proviso-

"Provided that nothing in this Section shall prevent a charitable children's institution from providing medical care, education or training for children accommodated therein, if the provision of such services shall have been approved by the Council".

*(Question of the amendment proposed)*

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

*(Clause 56 as amended agreed to)*

*(Clauses 57, 58, 59, 60, 61, 62 and 63 agreed to)*

*Clause 64*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 64 be amended by inserting a new Sub Clause (5) as follows—

"(5) The functions and powers of the authorised officer appointed under this section shall be supplementary to and not in derogation of the functions and powers conferred on an inspection committee appointed under section 64A."

*(Question of the amendment proposed)*

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

*(Clause 64 as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Musila): Hon. Members, you realise that there is a proposed New Clause on page 632 of the Order Paper, but we will deal with it later in accordance with the Standing Orders.

*(Clauses 65 and 66 agreed to)*

*Clause 67*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 67 be amended—

(a) in Subclause (1), by deleting the word "disapprove" and substituting therefor the word "cancel";

(b) by inserting the following new sub clauses immediately after Subclause (2)-

"(3) When a cancellation under this section takes effect, the Director shall, subject to any directions of the Minister, take such remedial measures as may be necessary to protect the children accommodated in the home.

(4) The Director may, under subsection (3) —

(a) remove any child or children from the home;

(b) procure the closure of the home;

(c) institute disciplinary measures against the manager of the home; or,

(d) take such other action as may be necessary for the protection of the children."

*(Question of the amendment proposed)*

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

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

*(Clause 67 as amended agreed to)*

*(Clause 68 agreed to)*

*Clause 69*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 69 be amended-

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

"(b) hearing any charge against a child, other than a charge of murder or a charge in which the child is charged together with a person or persons of or above the age of eighteen years;"

(b) by deleting Subparagraph (i) of the proviso thereto and re-numbering the subsequent subparagraphs accordingly.

*(Question of the amendment proposed)*

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

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

*(Clause 69 as amended agreed to)*

*(Clause 70 agreed to)*

*Clause 71*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 71 be amended by inserting the words "or by a child" immediately after the word "against" in line two.

*(Question of the amendment proposed)*

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

*(Clause 71 as amended agreed to)*

*Clause 72*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 72 be amended—

(a) in subclause (3) by inserting a new paragraph (h) as follows—

"(h) the child's exposure to and use of drugs or other psychotropic substances and, in particular, whether the child is addicted to the same, and the ability of any person or institution to provide any special care or medical attention that may be required for the child."

(b) by inserting the following new subclauses immediately after subclause (3)-

"(4) The court may, if it considers it imperative for the proper determination of any matter in issue before it, of its own motion or upon application, call any expert witness it shall deem appropriate to provide assistance to the court, and the expenses of any such witness shall be determined by the court and shall be defrayed out of moneys provided by Parliament."

"(5) In any proceedings concerning a child, whether instituted under this Act or under any written law, a child's name, identity, school, home or last place of residence shall not, nor shall the particulars of the child's parents or relatives, any photograph or any depiction or caricature of the child, be published or revealed whether in any publication or report (including any law report) or otherwise.

(6) Any person who contravenes the provisions of subsection (5) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a

term not exceeding three months, or to both."

*(Question of the amendment proposed)*

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

*Clause 72 as amended agreed to)*

*(Clauses 73, 74, 75 and 76 agreed to)*

*Clause 77*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 77 be amended in subclause (1), by inserting the following new paragraphs immediately after paragraph (b)-

"(c) "legal custody" means so much of the parental rights and duties in relation to possession of a child as are conferred upon a person by a custody order;

(d) "actual custody" means the actual possession of a child whether or not that possession is shared with one or more persons."

*(Question of the amendment proposed)*

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

*(Clause 77 as amended agreed to)*

*Clause 78 agreed to)*

*Clause 79*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy [The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports]

Chairman, Sir, I beg to move:-

THAT, Clause 79 be amended—

(a) in subclause (1)(h), by inserting the words "or an exclusion order," immediately after the words "protection order";

(b) in subclause (3) -

(i) by deleting the words "as of right";

(ii) by inserting the words "except with the leave of the court" immediately after the word "child" appearing at the end of the subclause.

*(Question of the amendment proposed)*

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

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

*(Clause 79 as amended agreed to)*

*(Clause 80 agreed to)*

*Clause 81*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 81 be amended in subclause (1), by inserting the words "and where the child has been removed from the jurisdiction of the court or the Republic of Kenya, make a wardship order or a production order on such conditions as the court may deem appropriate in the circumstances" immediately after the word "applicant" appearing at the end of the subclause.

*(Question of the amendment proposed)*

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

*(Clause 81 as amended agreed to)*

*(Clause 82 agreed to)*

*Clause 83*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 83 be amended—

(a) in subclause (1) by inserting the words "or an appropriate Section 109 order" immediately after the word "thereafter" in line four;

(b) by deleting subclause (5) and substituting therefor the following new subclause

"(5) Any order in relation to access or maintenance in respect of a child who is the subject of a custody order shall not cease to have effect on the revocation of a custody order unless otherwise directed by the court.

(c) in subclause (6), by deleting the word "contact" appearing in line two and substituting therefor the word "access";

(d) by inserting a new proviso to subclause (6) as follows—

"Provided that the court shall have power, upon application being made, to extend a custody, access or maintenance order beyond the child's eighteenth birthday for such period as it shall deem fit."

*(Question of the amendment proposed)*

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

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

*(Clause 83 as amended agreed to)*

*(Clause 84 agreed to)*

*Clause 85*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 85 be amended by inserting a new paragraph (e) as follows —

"(e) where the mother and father of a child were not married to each other at the time of the birth of the child and have not subsequently married, but the

**[The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports]** father of the child has acquired parental responsibility for the child, it shall be the joint responsibility of the mother and father of the child to maintain the child."

*(Question of the amendment proposed)*

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

*(Clause 85 as amended agreed to)*

*(Clause 86 agreed to)*

*Clause 87*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa) Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 87 be amended by deleting the words "an order under this section" in lines one and two and substituting therefor the words "a maintenance order".

*(Question of the amendment proposed)*

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

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

*(Clause 87 as amended agreed to)*

*(Clauses 88, 89 and 90 agreed to)*

*Clause 91*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 91 be amended in subclause (2) by deleting the word "cease" in line one and substituting therefor the words "be reviewed by the court".

*(Question of the amendment proposed)*

*(Question, that the word to 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 91 as amended agreed to)*

*(Clauses 92, 93, 94 and 95 agreed to)*

*Clause 96*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 96 be amended in subclause (5) by deleting the word "defaulter" in line one of paragraph (b) and substituting therefor the word "respondent".

*(Question of the amendment proposed)*

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

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

*(Clause 96 as amended agreed to)*

*Clause 97*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 97 be amended in subclause (1) by deleting all the words appearing after the word "Act" in line nine.

*(Question of the amendment proposed)*

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

*(Clause 97 as amended agreed to)*

*(Clause 98 agreed to)*

*Clause 99*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 99 be

**[The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports]**  
amended—

- (a) in subclause (1), by inserting the words "by will or deed" immediately after the word "may" in line one;
- (b) in subclause (3)(a), by deleting the words "it is made in writing," and substituting therefor the words "the deed";
- (c) in subclause (3)(b), by inserting the words "or is an appointment made in the course of an oral will made in accordance with Section 10 of that Act" immediately after the word "Act" in line four;
- (d) by inserting a new subclause immediately after subclause (7) as follows:—  
"(8) Any person, not being a parent of a child, in whose favour an existing custody order or a residence order in respect of a child has been made, or to whom the care of a child has been entrusted by virtue of being a fit person under this Act, shall act jointly with the surviving parent of a child or with his guardian:  
Provided that the surviving parent or the guardian shall be entitled to apply to the court for an order giving effect to some other arrangement."

*(Question of the amendment proposed)*

*(Question, that the words to 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 99 as amended agreed to)*

*(Clauses 100, 101 and 102 agreed to)*

*Clause 103*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 103 be amended in subclause (2), by deleting the words "the child may" in line one and substituting therefor the words "the child, or the Director, or a person who has parental responsibility for the child, or a person who has been authorized to act jointly with a guardian under section 99, may".

*(Question of the amendment proposed)*

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

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

*(Clause 103 as amended agreed to)*

*(Clauses 104, 105, 106 and 107 agreed to)*

*Clause 108*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 108 be amended by deleting subclause (2) and substituting therefor the following new subclause —

"(2) Persons qualified to apply for an order under this Part for the protection of a child include:—

- (a) the child;
- (b) the parent, guardian or custodian of the child;
- (c) a relative of the child;
- (d) the Director; and,
- (e) an authorised officer:

Provided that a qualified person may apply for more than one order at the same time, but the court shall not make more than one order in response to the application if to do so would be detrimental to the interest of a child, or if the desired effect of the orders sought by the applicant may be achieved by making only one order."

*(Question of the amendment proposed)*

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

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

*(Clause 108 as amended agreed to)*

*(Clauses 109, 110, 111, 112, 113 agreed to)*

*Clause 114*

**The Assistant Minister, Office of the Vice-President, Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 114 be amended



- (a) in subclause (1) –
- (i) by inserting the word "or" at the end of paragraph (r);
- (b) by inserting a new paragraph (s) as follows—  
 "(s) who is engaged in the use or trafficking of drugs or any other substance that may be declared harmful by the Minister responsible for health."
- (c) by inserting a new subclause immediately after subclause (2) as follows—
- (3) A child apprehended under this section shall be placed in separate facilities from child offenders "facilities.

*(Question of the amendment proposed)*

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

*(Clause 114 as amended agreed to)*

*Clause 115*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
 THAT, Clause 115 be amended in subclause (10) by inserting the words or his representative immediately after the word Director in line four.

*(Question of the amendment proposed)*

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

*(Clause 115 as amended agreed to)*

*Clause 116*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
 THAT, Clause 116 be amended —

(a) in subclause (1), by deleting the word hospital wherever it occurs and substituting therefor the words health institution;

(b) in subclause (2)—

(i) by deleting the word hospital in line two and substituting therefor the words health institution;

(ii) by deleting all the words appearing after the word concerned in line five and substituting therefor the words or the Director or his representative.

(c) in subclause (3) by deleting the word hospital wherever it appears and substituting the words health institution.

*(Question of the amendment proposed)*

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

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

*(Clause 116 as amended agreed to)*

*Clause 117*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
 THAT, Clause 117 be amended in the proviso, by deleting the words another court in lines two and three and substituting therefor the words another Children Court.

*(Question of the amendment proposed)*

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

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

*(Clause 117 as amended agreed to)*

*Clause 118*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
 THAT, Clause 118 be amended in subclause (2)—  
 (a) by inserting the word any immediately before the word other in line four;  
 (b) by inserting the words who knows or is known to the child or the parents or any relative of the child immediately after the word person in line four.

*(Question of the amendment proposed)*

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

*(Clause 118 as amended agreed to)*

*(Clause 119 agreed to)*

*Clause 120*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
 THAT, Clause 120 be amended—  
 (a) in subclause (2) —  
 (i) by inserting the words if the court has ascertained that there is a vacancy at the school immediately after the word attainments in line four;  
 (ii) by deleting paragraph (g) and substituting therefor the following—  
 "(g) if a child is subjected to early marriage, make an order rendering such marriage null and void *ab initio* and requiring the child to be placed under the care of a fit person and to return to school; or  
 (iii) by inserting a new paragraph (h) as follows—  
 (h) where it is satisfied that the child has been engaged in drug abuse and that it is in the child's best interests to do so, by order commit him to a drug rehabilitation centre for treatment or order that the child be accorded professional counselling.  
 (b) in subclause (5)(b), by deleting the word twenty-eight in line three and substituting therefor the word fourteen.

*(Question of the amendment proposed)*

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

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

*(Clause 120 as amended agreed to)*

*(Clause 121 agreed to)*

*Clause 122*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 122 be amended in subclause (1) by deleting the words fifty thousand and four years and substituting therefor the words two hundred" and five years respectively.

*(Question of the amendment proposed)*

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

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

*(Clause 122 as amended agreed to)*

*(Clauses 123, 124, 125 and 126 agreed to)*

*Clause 127*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 127 be amended -  
(a) in the proviso to subclause (8) by inserting the words "or his representative" after the word "Director" wherever it appears;  
(b) in subclause (9) by inserting the words "or his representative" immediately after the word "Director" in line two;

**[The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports]**  
(c) in the proviso to subclause (13) by deleting all the words after the word "enquiry" in line two and substituting therefor the words "the Director may give such consent".

*(Question of the amendment proposed)*

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

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

*(Clause 127 as amended agreed to)*

*Clause 128*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 128 be amended in subclause (4) by deleting the word "premises" in line three and inserting the words "individual and".

*(Question of the amendment proposed)*

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

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

*(Clause 128 as amended agreed to)*

*Clause 129*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 129 be amended—

- (a) in paragraph (a) by deleting the word offender in line two and substituting the word child;
- (b) by deleting paragraph (c) and substituting therefor the following paragraphs—
- (c) by inserting the following new paragraphs -
- (c) specify the person or authority that is to convey the child to the school;
- (d) contain directions as to any special care or treatment required for the child;
- (e) contain directions as to access arrangements for the child by his parent, guardian or relative;
- and
- (f) specify details of any contribution order made against the parents or the guardian of the child and the dates upon which accounts shall be supplied to them.

*(Question of the amendment proposed)*

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

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

*(Clause 129 as amended agreed to)*

*(Clause 130 agreed to)*

*Clause 131*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 131 be amended by deleting the words "ten thousand" in line twelve and substituting the word "fifty thousand".

*(Question of the amendment proposed)*

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

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

*(Clause 131 as amended agreed to)*

*Clause 132*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and**

**Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 132 be amended by deleting the words

[**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports**]  
"twenty thousand" in line six and substituting the words "fifty thousand".

*(Question of the amendment proposed)*

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

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

*(Clause 132 as amended agreed to)*

*Clause 133*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 133 be amended—

(a) by deleting the words "brought back to that person, institution or authority, if he or it is willing to receive such child, or may be" after the word "and" in line eight;

(b) by deleting the words "in the case of a child under supervision or care under this Act" in lines thirteen and fourteen;

(c) by inserting a new paragraph as follows—

"(i) order that the child be returned to where he ran away from; or"; and

(d) by renumbering subsequent paragraphs accordingly;

*(Question of the amendment proposed)*

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

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

*(Clause 133 as amended agreed to)*

*(Clause 134 agreed to)*

*Clause 135*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 135 be amended—

(a) in subclause (1) by inserting the words "or dealt with in accordance with section 133" after the word "home" in line four;

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

"(b) being absent from such school on leave of absence or on licence, runs away from the person in whose charge the child has been placed or fails to return to the school on the expiration of his leave or upon the revocation of his licence, may be apprehended without warrant and shall be brought before a court having jurisdiction where the school is situated to be dealt with under the provisions of section 133."

(c) in subclause (3) by deleting the words "whether or not he is brought before a court,".

*(Question of the amendment proposed)*

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

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

*(Clause 135 as amended agreed to)*

*Clause 136*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 136 be amended —

(a) by deleting the words "If any person" in line one and substituting therefor the words "Any person who";

(b) by deleting the words "ten thousand" appearing after paragraph (c) and substituting therefor the words "fifty thousand".

*(Question of the amendment proposed)*

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

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

*(Clause 136 as amended agreed to)*

*Clause 137*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 137 be amended by deleting the words "twenty thousand" and "six months" in lines eleven and twelve and substituting therefor the words "one hundred thousand" and "two years" respectively.

*(Question of the amendment proposed)*

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

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

*(Clause 137 as amended agreed to)*

*(Clause 138 agreed to)*

*Clause 139*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 139 be amended by deleting subclause (7) and inserting the following new subclauses—

"(7) Any institution or person who receives payment of any monies under a contribution order shall keep proper accounts in respect of such monies and shall furnish the parents or guardian liable to make such payments with accounts in respect of the same on a quarterly basis, or in respect of such lesser period as the court may direct, throughout the duration of the order.

(8) Any person who fails to comply with the provisions of subsection (7) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both."

*(Question of the amendment proposed)*

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

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

*(Clause 139 as amended agreed to)*

*Clause 140*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 140 be amended in subclause (2) —

(a) by inserting the word "any" before the word "other" in line three;

(b) by inserting the words "of such an institution or person" after the word "custody" in line six.

*(Question of the amendment proposed)*

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

*(Clause 140 as amended agreed to)*

*(Clauses 141 and 142 agreed to)*

*Clause 143*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 143 be amended-

**[The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports]**

(a) in subclause (1) –

(i) by deleting the word "monogamous" appearing in paragraph (a) immediately before the word "marriage";

(ii) by deleting the word "twenty-one" appearing in paragraph (b) and substituting therefor the word "twenty-five";

(iii) by deleting the word "twenty-one" appearing in paragraph (c) and substituting therefor the word "twenty-five".

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

"(2) No single man may qualify to foster a female child and no single woman may qualify to foster a male child under this Part."

(c) by inserting the following new subclauses—

"(3) No person shall be appointed to be a foster parent unless the person is resident in the Republic of Kenya and has been so resident for a period of at least twelve months.

(4) A foster parent shall not remove a child from the jurisdiction of the Republic of Kenya without the leave of the court and such leave shall only be granted upon exceptional circumstances being shown.

(5) Where such leave is granted, the court shall impose such conditions and restrictions as it shall deem appropriate having regard to the best interests of the child."

*(Question of the amendment proposed)*

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

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

*(Clause 143 as amended agreed to)*

*(Clauses 144, 145, 146, 147 and 148 agreed to)*

*Clause 149A*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 149A be amended by deleting subclause (1) and substituting therefor the following—

"(1) The Minister shall establish a Committee to be known as the Adoption Committee which shall comprise such members as are set out in the Ninth Schedule."

*(Question of the amendment proposed)*

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

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

*(Clause 149A as amended agreed to)*

*(Clauses 150 and 151 agreed to)*

*Clause 152*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 152 be amended—

- (a) by deleting subclause (1) (d);
- (b) in subclause (2)-
  - (i) by deleting paragraph (c);
  - (ii) by renumbering paragraph (d) as (c);
  - (iii) by inserting a new paragraph as follows—

"(d) a sole foreign female applicant".

(c) in subclause (3)(e), by inserting the word "male" after the word "foreign";

(d) in subclause (4)(a), by deleting the word "infant" in line two and substituting therefor the word "child".



*(Question of the amendment proposed)*

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

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

*(Clause 152 as amended agreed to)*

*(Clauses 153 and 154 agreed to)*

*Clause 155*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 155 be amended in subclause (1)(d) by deleting the word fifty in line seven and inserting the words two hundred.

*(Question of the amendment proposed)*

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

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

*(Clause 155 as amended agreed to)*

*(Clause 156 agreed to)*

*Clause 157*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 157 be amended in subclause (1)(f) by deleting the word infant in line one and substituting therefor with the word child.

*(Question of the amendment proposed)*

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

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

*(Clause 157 as amended agreed to)*

*(Clauses 158, 159, 160, 161, 162, 163, 164,  
165, 166, 167, 168, 169 and 170 agreed to)*

*Clause 171*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 171 be amended —

- (a) in subclause (10), by deleting the word twenty in line three and substituting therefor the words one hundred;
- (b) in subclause (11), by deleting the word ten in line five and substituting thereof with the words one hundred.

*(Question of the amendment proposed)*

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

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

*(Clause 171 as amended agreed to)*

*Clause 172*

**The Assistant Minister, Office of the Vice-President and Ministry Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 172 be amended in subclause (2)(c), by deleting the word ten in line five and substituting therefor with the word twenty.

*(Question of the amendment proposed)*

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

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

*(Clause 172 as amended agreed to)*

*Clause 173*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 173 be amended in subclause (1)(b), by deleting the words one year and ten thousand and substituting therefor with the words three years and one hundred thousand respectively.

*(Question of the amendment proposed)*

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

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

*(Clause 173 as amended agreed to)*

*(Clauses 174, 175, 176 and 177 agreed to)*

*Clause 178*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT clause 178 be amended by deleting subclause (1) and substituting therefor the following—

(1) Notwithstanding the provisions of Parts II and VII of the Criminal Procedure Code, a Children Court may try a child for any offence except for —

the offence of murder; or

(a) the offence of murder; or

(b) an offence with which the child is charged together with a person or persons of or above the age of eighteen years.

*(Question of the amendment proposed)*

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

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

*(Clause 178 as amended agreed to)*

*Clause 179*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 179 be amended—

(a) in subclause (1)—

(i) by deleting the word person in line four and substituting therefor the words child is;

(ii) by deleting the words or manslaughter is under appearing in lines five and six and substituting therefor the words and is not charged together with a person or persons of or above;

(iii) by deleting paragraphs (i) and (ii) of the proviso thereto;

(b) in subclause (2), by deleting the word person appearing line three and substituting therefor the word child;

(c) in subclause (3), by deleting the word person in line five and substituting therefor the word child;

(d) by inserting a new subclause (5) as follows—

(5) Where, pursuant to the provisions of Section 178 and of this section, a court other than a Children Court hears a charge against a child, the court shall apply all the provisions of this Act as relate to the safeguards to be accorded a child offender."

*(Question of the amendment proposed)*

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

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

*(Clause 179 as amended agreed to)*

*Clause 180*

**The Assistant Minister, Office of the Vice-President and Ministry Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 180 be amended by deleting the expression (d) and substituting therefor with the expression (c) and renumbering the subsequent paragraphs accordingly.

*(Question of the amendment proposed)*

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

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

*(Clause 180 as amended agreed to)*

*(Clauses 181, 182 and 183)*

*Clause 184*

**The Assistant Minister, Office of the Vice-President and Ministry Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 184 be amended, in subclause (1)—

(a) by inserting the words under the provisions of the Probation of Offenders Act immediately after the word hostel in paragraph (j);

(b) by inserting a new paragraph (k) as follows—

(k) by making a community service order.

(c) by renumbering paragraph (k) as (l)

*(Question of the amendment proposed)*

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

*(Clause 184 as amended agreed to)*

*(Clauses 185, 186, 187, 188, 189,  
190, 191, 192 and 193 agreed to)*

*New Clause 17A*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting a new Clause immediately after Clause 17 as follows:—  
Right to privacy.

"17A. Every child shall have the right to privacy subject to parental guidance."

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

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

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

*New Clause 18A*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting a new Clause immediately after Clause 18 as follows:—

Duties and responsibilities of child.

"18A. In the application of the provisions of this Act, and in any matter before a court of law concerning any child, due regard shall be had to the duties and responsibilities of a child to:—

- (a) work for the cohesion of the family;
- (b) respect his parents, superiors and elders at all times and assist them in case of need;
- (c) serve his national community by placing his physical and intellectual abilities at its service;
- (d) preserve and strengthen social and national solidarity; and
- (e) preserve and strengthen the positive cultural values of his community in his relations with other members of that community:

Provided that in reckoning the requisite duty and responsibility of any individual child, due regard shall also be had to the age and ability of such child and to such limitations as are contained in this Act.

*(Question of the new clause proposed)*

**Dr. Kulundu:** Mr. Temporary Deputy Chairman, Sir, this is another clause which [**Dr. Kulundu**]

our Committee is grateful to the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports for accepting it. In our opinion, if you look at the whole body of the Bill, it talks about rights. The Committee thought that it was dangerous to give our children the impression that they just live in a world of rights without any corresponding responsibility on their part. So, we feel that this is an important clause and as much as we were told by legal experts that we cannot legislate responsibilities, we feel that this an important ingredient of the Bill, and I beg to support it.

*(New clause read the First Time)*

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

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

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

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

*New Clause 64A*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill, be amended by inserting a new Clause 64A clause immediately after clause 64 as follows:-

Inspection committees.

64A. (1) The Minister may appoint an inspection committee to inspect any rehabilitation school, children's remand home or charitable children's institution.

(2) The committee shall comprise not more than five persons and shall exercise and perform, subject to any directions given by the Minister, the powers and functions specified in the Eighth Schedule.

(3) Recommendations of the committee shall be reported to the Minister and shall, subject to any directions given by the Minister, be implemented by the Director.

(4) The Director shall, within six months of the submission of a report by the committee to the

Minister, report to the Council on the action taken to implement any recommendations contained in the report.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

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

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

*New Clause 83A*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill, be amended by inserting a new clause immediately after Clause 83 as follows:—  
Interim custody orders.

83A. (1) The court shall have power to make interim custody orders and may, from time to time, review, suspend or vary such orders.

(2) An interim custody order shall not be made in respect of a period exceeding twelve months.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

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

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

*(First Schedule agreed to)*  
*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*(Fourth Schedule agreed to)*

*(Fifth Schedule agreed to)*

*(Sixth Schedule agreed to)*

*(Seventh Schedule agreed to)*

*New Schedules*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by inserting the following new schedules after the Seventh Schedule as follows:-

*Eighth Schedule***Powers and Functions of  
an Inspection Committee**

- (a) Inspect rehabilitation schools, children's remand homes and charitable children's institutions.
- (b) Visit these institutions or cause them to be visited.
- (c) Interview any child in the premises or institution.
- (d) Interview the manager and any staff member in the premises.
- (e) Inspect the conditions and facilities provided by the institution or manager of the premises; and,
- (f) Make recommendations on closure, improvement and remedial requirements and relocation of children housed in the institution inspected.

*(Question of the new schedule proposed)*

*(New schedule read the First Time)*

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

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

*(The new schedule was read a Second Time)*

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

*Ninth Schedule*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Chairman, I beg to move:-

**Members of the Adoption Committee**

- (a) The Director.
- (b) Four representatives from charitable children's institutions and organizations engaged in child welfare activities appointed by the Minister.
- (c) One representative from Kenyatta National Hospital.
- (d) One representative from private hospitals dealing primarily with children, appointed by the Kenya Medical Association.
- (e) One representative of the Law Society of Kenya knowledgeable in the rights and welfare of children.
- (f) A representative of the Ministry of Foreign Affairs and International Co-operation.
- (g) The Attorney-General.

*(Question of the new schedule proposed)*

*(New schedule read the First Time)*

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

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

*(The new schedule was read a Second Time)*

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

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy [**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports**]

Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Children Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

### **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

#### **THE CHILDREN BILL**

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

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports** (Mr. Osundwa): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Children Bill be now read the Third Time.

**The Minister for Agriculture** (Dr. Godana) seconded.

*(Question proposed)*



**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I just want to make very few remarks. First of all, I would like to point out that we have come a long way in the consideration of this Bill, because a very inclusive process was followed in its formulation. I would like to pay tribute to hon. Members of the Committee chaired by Dr. Kulundu, who took a great deal of time to go through this Bill. In fact, at one time, they held a workshop in Mombasa specifically to go through this Bill. They participated fully and came out with a number of recommendations. May I also say here that also, the Government planned a national conference on children, and also the same hon. Members of this House, including the Chairman of the Committee and his team and many other Members, did participate in that national conference.

Mr. Temporary Deputy Speaker, Sir, the national conference was also attended by people from the private sector, non-governmental organisations and many other civic leaders. All the necessary proposals that were made were thoroughly scrutinised, especially the ones that were made for amendments and which came from that Committee of this House, most of them were accepted by the Government. So, this Bill does represent a collective effort of the Government, Members of this august House, the private sector and the people of Kenya. I, therefore, do wish to thank them more sincerely.

I should thank my hon. Assistant Minister, who has worked extremely hard as it has been demonstrated this afternoon.

**Dr. Kulundu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to take this opportunity to thank the Government for, at long last, bringing this Bill before the House. As you may have heard during the debate, this Bill should have been enacted probably 12 or 13 years ago but, for some reason, it was not possible to enact it until now. I wish to take this opportunity to thank the Vice-President, his Assistant Minister, Mr. Osundwa and senior Government officers in that Ministry, for giving the Departmental Committee on Health, Housing, Labour and Social Welfare the opportunity to review the Bill exhaustively. We took slightly longer than is stipulated in our Standing Orders, but I think it should be appreciated that this was a very voluminous Bill and the time spent on it was worthwhile.

I also wish to take this opportunity to thank all the stakeholders who met with the Committee. In particular, I would like to thank the Law Society of Kenya whose input was invaluable to the committee. I would also like to thank the Child Welfare Society of Kenya and the Coalition on the Legal Network for Children. I would like to thank all those organisations and individuals for their invaluable input into this Bill. In conclusion, I wish to call upon the Government to implement this Act in its entirety. I am particularly concerned about the provision in Section 6 which puts emphasis on the provision of free and compulsory education. This provision can be found in all parties' manifestos including that of KANU and it should not be difficult at all to implement it.

I would like to call upon the Government to speak with one voice on this very important issue. I say so because, whereas the other day the President was in fact agreeing with the spirit and letter of this Bill, one Director of Education was busy issuing directives to the PDEs and DEOs about raising levies and so forth from parents. The Bill specifies that primary education will be free and fair and we want this implemented as soon as possible. It is incumbent upon the Government to look for resources to make sure that primary education is freely available to Kenyan children and is compulsory. There is a penalty to this, as provided for in Section 18. If the Government does not do this, any Kenyan can go to court and sue it for denying a child free education. Similarly, any parent in this country can be sued for not taking his child to school. This is a Bill that should make all of us very happy as a nation. I wish to thank the hon. Members of this House, and particularly those of my committee, who spent sleepless nights working on this Bill.

With those few remarks, I beg to support.

**Mr. Ochilo-Ayacko:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to make brief remarks regarding this Bill. First, I want to congratulate the Vice-President and Minister for Home Affairs and the Government, on the passage of this Bill which should have been passed sooner than now.

The point I want to make is that "the taste of the pudding is in the eating thereof". It is now incumbent upon the Government to implement this Bill so that the lives of our children are improved in terms of the protection they will get from this Bill and the enjoyment of the rights that arise from it. What militates against the working of Bills is the fact that most Kenyans are ignorant about laws that operate and govern their lives. Therefore, it is incumbent upon the Government, and all of us who are assembled here today, to teach our people to know what the operations of law are all about.

I know that a lot of the provisions of this Bill will be violated because our people are not aware of what they are enjoined to do under this Bill. So, as we conduct civic education around the country, I think the Government should put it foremost because it is very important to look after our children and ourselves. The Government should ensure that at least 80 per cent of Kenyans are aware of the operations of this law and adhere to it. The Government, on its part, should put in place enough resources and machinery to implement it.

With those few remarks, I am grateful, Mr. Temporary Deputy Speaker, Sir.

**Mr. Gatabaki:** Mr. Temporary Deputy Speaker, Sir, I served on the Committee that went through this Bill. We spent many hours and days preparing it. Sometimes when you read a newspaper in the morning, you should see the bashing we get from the Fourth Estate. All they care about are the salaries of the Members of Parliament. Nobody cares about highlighting what this House does. Time has come for Kenyans to be told that there is a considerable amount of good work being done by this House and not just raising our salaries or organising Harambees. I would also like to tell the Government to make use of the resources available from this side of the House. When you look at the amendments to this Bill, you will realise that the Opposition is vibrant and robust with ideas. The Government should also make use of our ideas to revamp the economy. This document provides a framework for the security of our children. It safeguards their rights and freedom. Henceforth, the Government should ensure that the laws of this country are implemented so that Kenyan children will have the dignity and decency that is required for every person in this country.

Thank you, Mr. Temporary Deputy Speaker, Sir.

*(Question put and agreed to)*

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

## BILL

*Second Reading*

THE SUGAR BILL

*(The Minister for Agriculture on 28.11.2001)*

*(Resumption of Debate interrupted on 28.11.2001)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Dr. Wamukoya, you were on the Floor. You have 20 minutes!

**The Assistant Minister for Tourism and Information** (Dr. Wamukoya): Thank you very much, Mr. Temporary Deputy Speaker, Sir.

Yesterday, as I was seconding the Motion, I was really congratulating the Minister for Agriculture for initiating the liberalisation of some sectors of crop agriculture. I specifically mentioned the tea industry which has been liberalised with useful results. Yesterday, we also passed the Coffee Bill which the Minister accepted with the requested amendments so that it can also result into useful and fruitful future. I am requesting the Minister to also do the same in the sugar industry. We would want complete liberalisation in the sugar industry so that the farmer plays a bigger role than these other institutions as regards his produce.

Mr. Temporary Deputy Speaker, Sir, we have four institutions in the sugar industry, namely: Kenya Sugar Authority (KSA) which we now want to convert to Kenya Sugar Board (KSB); millers or manufacturers; outgrower companies and the farmers. In the old arrangement, the KSA and the millers had so much power that actually the farmer who toiled everyday did not have any say. This was such that when the farmer sent his produce to the factory, the miller decided on what to pay him. To substantiate the statement I am making, if you have the National Policy on the Sugar Industry, on page 9, it states:-

"This KSA was established by an Act of Parliament on Agriculture, Cap.318 through Legal Notice No.32 of 17th March, 1973."

I consider 30 years to be a very long time for one Act to be in operation. I say this because what is shown here is that, in this Bill, we are just transferring KSA to KSB. So, I was suggesting to the hon. Minister for Agriculture that we should give more power to the farmer by separating KSB, whose role should be regulatory and advisory, from management, co-ordination and operation activities of the sugar industry. I was suggesting that we have Kenya Sugar Industry Agency (KSIA) which will have exclusively composition of the farmers, millers and research institutions. If we do that, we shall be comparable to the tea industry which is now going through a boom.

Mr. Temporary Deputy Speaker, Sir, before the House rose yesterday, I was speaking about millers. The millers in this country are very powerful and they decide on the fate of the farmer at their will. If you look at the arrangements in the sugar industry, as far as the charges and the income of the farmer are concerned, you will find

that the payment to the farmer today per tonne is only Kshs2,300. Now, that is the gross pay. Now, if you remove transport, ploughing, harrowing, seed cane, fertiliser whose price is inflated by the outgrower companies and harvesting costs, the farmer only gets something like 15 per cent of the gross which he takes to the factory. So, in actual fact, the sugar-cane farmer is a very poor person; considering that sugar-cane takes 18 to 24 months to mature.

**Mr. Ochilo-Ayacko:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am aware that the Assistant Minister seconding this Motion has an interest in the subject matter. Therefore, would I be in order to ask him to declare his interest? I have been listening and I find him very supportive of farmers.

**The Assistant Minister for Tourism and Information (Dr. Wamukoya):** Mr. Temporary Deputy Speaker, Sir, I have been a very small-scale farmer since 1975 and now I have got only three acres of cane but I still contribute to the industry.

*(Applause)*

So, I am a small "fish" in the industry but I have an interest.

Mr. Temporary Deputy Speaker, Sir, I was saying that the farmer in the sugar-cane industry is a very poor person. That is why I was appealing to the Minister that he should look at the farmer before he looks at the big institutions like the KSB and the millers.

Mr. Temporary Deputy Speaker, Sir, I want to tell the Minister a story about how the millers have completely disregarded the plight of the farmer. In the period from 1995 to 1997, and this time I am speaking about Mumias, while they were installing their diffuser, the miller did not bother to inform the farmer that he was going to suspend harvesting of cane for all that period of time. So, the farmer went about his duties. He planted cane which was not being harvested beyond the age of 24, 36, 47 and 50 months and you know when the cane goes beyond 24 months, it loses water. So, most of the farmers lost their cane through fires and the cane becoming very dry. It was very surprising for some chief executives of some of these milling companies to say that: "What the farmer gets as his pay is just pocket money because everything else is done for him." Considering that the farmer waits for 24 months before harvesting of cane is done, we have calculated and, on average, found out that a sugar-cane farmer only gets about an equivalent of Kshs500 a month. This is too little because he spends a lot of time borrowing money to pay school fees and so on. So, the Minister for Agriculture should try, as much as possible, to put more emphasis on what the farmer will get in his new Bill.

Mr. Temporary Deputy Speaker, Sir, may I also comment on outgrower companies. Outgrower companies were initiated around 1975. At this time, the idea was to put the interest of the farmer in one place. Unfortunately, when these outgrower companies were put in place and directors elected, they turned themselves into executive directors. They became bosses of the farmer. So, they were not serving the farmer; they wanted the farmer to serve them. I would like to suggest that we should have one national outgrower company and then have zones down to the sugar zones representing the farmers in these zones. But they should be affiliated to this one outgrower company so that we do not have localised and entrenched sort of system whereby these people think that the outgrower companies are their personal properties. Our experience is that the outgrower companies have swindled farmers. They withdraw farmers' money at will, and they use it to travel to all sorts of places, even when it is not necessary.

Mr. Minister, we want you also to look at our plight as far as the outgrower companies are concerned. I also appreciate that we are signatory to the COMESA Agreement, but it has been abused. There has been an outcry about importation of sugar which is sold at lower prices at the expense of the locally-produced sugar so that we find in our factories piles and piles of sugar which are not sold. If sugar is not sold, then, the farmer would not be paid in time. If the farmer is not paid in time, then, he or she is impoverished and is not capable to go through his or her normal activities. I am suggesting to the Minister that the importation of sugar should be left to the factories that are deficient of sugar so that the factory which knows the quantities which they are supposed to sell to the people---

**Mr. Sambu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I know that the Assistant Minister is seconding the Bill, but is he in order - to imply - to propose amendments to what the Mover has moved?

**The Temporary Deputy Speaker (Mr. Imanyara):** Dr. Wamukoya, you are seconding the Bill. We have not even proposed the Question.

**The Assistant Minister for Tourism and Information (Dr. Wamukoya):** Thank you, Mr. Temporary Deputy Speaker, Sir. I am an Assistant Minister, and I am just giving my views so that my good Minister could help us in the industry.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You have to second the Bill.

**The Assistant Minister for Tourism and Information** (Dr. Wamukoya): Mr. Temporary Deputy Speaker, Sir, I am about to finish.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Imanyara): It is okay. You can take your time, but it must be to second the Bill.

**The Assistant Minister for Tourism and Information** (Dr. Wamukoya): Mr. Temporary Deputy Speaker, Sir, I beg to second the Bill.

Thank you.

*(Question proposed)*

**Mr. Kombo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make a few comments on the Sugar Bill. I think the Sugar Bill has come in at the right time although we have had delays for many years. It has been fortunate that it has come. We will support it, provided that certain amendments get through.

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

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

In the same breath, as the Seconder appealed to the Minister, at the outset, I also want to make my appeal; that, the Minister does listen to the various comments that will be made by people from the sugar-growing areas. He should listen carefully and be sympathetic to the sugar-cane growers. Yesterday, we were debating the issue of coffee and the Minister was applauded because he was very sympathetic to the coffee growers. We do hope that the same sympathy that he showed towards the coffee growers will be shown towards the sugar-cane growers.

The sugar-cane industry is not new in this country. It has been around for as long as 1922; in fact, when we had sugar industries like Ramisi and all those organisations. For some time, especially in the 1970s, Kenya was self-sufficient in sugar, but today, if you look at the situation, you will wonder what happened to what was once upon a time a prosperous industry; what went wrong that today Kenya is no longer self-sufficient in sugar. The problems are numerous. The Minister did allude to them when he spoke yesterday, like inefficient factories, and we appreciate that.

But, coming from an area that grows the cane, I will concentrate more on the problems that affect the farmer. The sugar-cane grower is one of the most trampled upon citizens of this country. Nobody cares about the sugar-cane farmer. In Bungoma, we have had delays in harvesting of cane, sometimes up to five years. In fact, there was a time when we used to use the cane as firewood because of delayed harvesting. This has put the farmer in a very difficult situation. We used to grow maize before the emergence of cane growing in Bungoma. The farmer could grow his maize and educate his children at that time when sugar-cane was introduced. The farmer gave up growing of maize and went into sugar-cane hoping that he or she would make money. Today in Bungoma, we have lost the acreage that we used to put under maize. We have also lost what we have put under cane because there were such delays in harvesting. Even when it is harvested, the sugar-cane is taken to Nzoia Sugar Factory, and it is particularly crushed. Sugar is produced and it is sold and the poor farmer is expected to wait for another three to four years before he or she is paid.

Today, as I speak, the sugar-cane farmer, under Nzoia Sugar Company, is owed over Kshs600 million. Then, we are talking about poverty reduction. If Nzoia Sugar Company was to pay the farmers Kshs600 million, the poverty situation in Bungoma would be history. Soon, we will be going to January when schools open, and the sugar-cane farmer is going to be struggling to raise school fees for his or her children and his or her money is lying with the factory. I would like to ask - in fact, on a very short-term basis - the Minister to consider basically asking the factory to perhaps give some advances, especially for school fees, to the sugar-cane farmer. Considering the fact that parents now have to also pay fees for their primary school children, their burden is going to be very heavy. So, basically, delayed payments make the sugar-cane farmer a very poor person who is incapable of

meeting his or her needs, paying school fees, paying hospital bills, among other responsibilities. These are the problems which we hope that the passage of this Bill will solve.

Mr. Temporary Deputy Speaker, Sir, corruption is another problem which has bedeviled the sugar industry. If we talk of Nzoia Sugar Company, for example, it is a well known fact that the upgrading of the factory did not take place, but Kshs1.2 billion was sunk into equipment that either did not arrive or is rotting somewhere. At Nzoia Sugar Company premises, you will find tractors which do not work because there are no spare parts that are compatible with them. All this was done by politically-correct individuals.

Appointment of senior personnel within the sugar industry has been done on the basis of who is politically-correct. So, by using their positions, such individuals have done very strange things which have impoverished and made it very difficult for Nzoia Sugar Company to upgrade itself from the three-tonnes per day milling capacity to the originally planned seven-tonnes per day milling capacity.

Mr. Temporary Deputy Speaker, Sir, because of the inefficiency of sugar factories, there has been a sugar shortfall in the country. I am sure that we could produce enough sugar but, because of the inefficiency of the sugar factories, we have a shortfall of about 200,000 tonnes, which need to be imported. But when the opportunity to import sugar comes, unscrupulous businessmen, who are again politically-correct, are given the chance to import sugar. In the end, the little sugar that is produced by factories cannot be sold. So, I hope that through the passage of this Bill, we will tighten those areas. For example, the penalty of Kshs500,000 provided for in this Bill is not sufficient. A person who dumps sugar into the market is a saboteur. He is as bad as a killer; he is killing so many farmers.

So, the Kshs500,000 anti-dumping penalty is peanuts. I think such a person should be tried on the same basis as a murderer. So, the anti-dumping penalty must be enhanced. I hope the Departmental Committee on Agriculture, Lands and Natural Resources has looked at this aspect with a view to enhancing this penalty at the Committee Stage, so that such saboteurs can be properly punished.

Mr. Temporary Deputy Speaker, Sir, I would like to agree with Dr. Wamukoya on his call for representation of the sugar-cane farmer. The farmer is allied to the outgrowers organisation, but his voice is not really heard. I think we should strengthen this Bill so that his voice can also be heard. Recently, while at a funeral, an old man wrote a little note and asked: "Mheshimiwa, who owns our outgrowers company called "Moco" in Bungoma?" Frankly speaking, I also did not know who owns the company. So, I asked him: "Why did you ask me that question?" He replied: "Because we elect people to the management committee of the company but once they are in office, they do whatever they like; they do not come back to us for any consultation at all."

In the case of Moco, the management committee went ahead and invested Kshs7 million in a shed worth less than Kshs1 million without consulting the farmer at all. So, the farmer has no say in the management of outgrowers companies. The management committees do whatever they like. Other than that, outgrowers companies are involved in a lot of wrangles. Instead of serving the farmer, you find that they are politicised. When they call for farmers' meetings, you find that some people have organised gangs of stone throwers. That does not help the farmer at all. So, I think this is an area we have to worry about and ensure that the farmer is also heard. They should also be involved in the management of outgrowers companies.

Mr. Temporary Deputy Speaker, Sir, privatisation is now taking place in the sugar industry. The process should be handled very carefully with the farmer in mind, and not the unscrupulous businessman who just wants to invest. It is the wearer who knows where the shoe pinches. In the case of Mumias Sugar Company, the 30 per cent shareholding given to farmers is not enough. At the outset, there ought to be a policy; if sugar companies are privatised, the farmer must own 50 per cent shares.

We currently talk of privatisation without a proper legal or institutional framework. This is not only the case for the sugar sector but for all other sectors being privatised. We do not have a proper privatisation framework. So, we just privatise our organisations without thinking about the consequences of doing so. We ignore what should be done. So, we should be careful and put in place a proper privatisation framework, to empower the farmer when we privatise our agricultural organisations. Really, the Government should not have a substantive role in the privatisation of the sugar industry; I do not understand the role it plays currently. Among the provisions in this Bill, for instance, is the establishment of a board of ten members. But the Minister proposes to give only four seats to farmers and the rest to his officers and other persons. Really, his officers do not understand what goes on in the field; they stay in ivory towers in Nairobi.

So, I hope that the Minister will concede to giving sugar-cane farmers the lion's share of the seats on the proposed board, just as is the case in the coffee sector. We should have seven farmers and three other persons sitting on the board. After all, farmers are the major stakeholders. The Government's role should be limited to providing an enabling environment to the sector, and not to participate in its activities. Farmers should be allowed to grow sugar-cane and own the factories as we privatise the sector; they should be in charge of sugar production.

The Government's role should purely be to ensure existence of an enabling environment.

Mr. Temporary Deputy Speaker, Sir, the transportation of sugar-cane from the shamba to the factory is done by the factory. When you buy a car and you are driving it home, it is your car. You do not tell the seller that until you get the car home, he is still responsible for it. This is what happens to the sugar-cane farmer. The factory buys the cane from the shamba and travels with it, losing it on the way because of the bad roads, so that by the time it is weighed at the factory, the farmer has lost a lot of it. The transporter does not care because he would be paid for his mileage from the farm. He is not bothered how much the cane will be weighed at the factory. So, this has got to change so that sugar-cane is weighed by the farmer as he hands it over to the transporter in the shamba, and the transporter takes the responsibility. Otherwise, the farmer has got to be compensated.

There are many other issues, but I just want to be brief so that my colleagues can contribute. But, lastly, with regard to infrastructure, in the coffee and tea growing areas, factories have played a major role in maintaining roads. It should be compulsory that sugar factories also maintain roads in areas where they are situated. Basically, what I am saying is that amendments that will empower the farmer all through, are the amendments that we will introduce at the Committee Stage. I hope that the Minister will be sympathetic to the sugar-cane farmers. He is a good Minister and he has been listening to this debate. I heard him speak very well during debate on the Coffee Bill and I am waiting to hear him speak on this debate on the Sugar Bill.

With those few remarks, I beg to support.

**Dr. Omamo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill.

Earlier on, Mr. Ochilo-Ayacko wanted Dr. Wamukoya to declare his interest in the sugar industry. I think I must also do so. I am a cane farmer and I like chewing sugar-cane. I am also in the Departmental Committee on Agriculture, Lands and Natural Resources, where this matter has been discussed in great detail. I would first like to thank the Minister for bringing this Bill to the House. As others have said, it has been brought here a bit late, but it is better late than never.

Yesterday, when the House was discussing the Coffee Bill, an hon. Member pointed out that, that Bill had been mentioned many times by different former Ministers. He talked about former Ministers such as Mr. Mwangale, Mr. Maina Wanjigi, Dr. Odongo Omamo and Mr. Obure. But now we are lucky that we have our relatively young Minister coupling it all. It was not our mistake to moot these Bills earlier on. Some wise person said that Rome was not built in a day. But I would like to add that, although Rome was not built in a day, it was being built everyday. The various former Ministers, who have worked in this Ministry in the past, had a little to build. I would like to congratulate our Minister for bringing this Bill to the House.

I would like to say that the sugar industry in our country has seen good days and what we are now confronted with is a bit of a shock for us. It is true that our country experimented with sugar-cane as a crop pretty early, and varieties of it were brought into this country many years ago from India and South Africa. Those varieties served us well. It was from those varieties that we manufactured jaggery, also known as *sukari guru*, and as a result of those early successes with the sugar-cane varieties from other countries, we thought of growing sugar-cane on a commercial scale. The early factories, such as Ramisi and Miwani, were later followed by Muhoroni, Chemelil, Mumias and Nzoia sugar factories after we had seen the success that sugar-cane growing could be done in Kenya. We have the right climate, soil and rainfall in several areas in the country for this crop to grow.

Mr. Temporary Deputy Speaker, Sir, the successful transfer of technology in processing of sugar-cane was also done very well. We know that the technology from India---

*(Loud consultations)*

May I be protected from the hon. Members who are consulting loudly!

**The Temporary Deputy Speaker** (Mr. Muturi): Order, Mr. Angwenyi and company!

**Dr. Omamo:** Mr. Temporary Deputy Speaker, Sir, the successful transfer of technology, in the processing of sugar-cane, from India, Britain and later from America was all very good. What is bothering us today are problems that are of recent making. Today, we have a real problem in our hands. As a representative of sugar growers in the Nyando Sugar Belt, I would like to say that the problem there is real. Miwani and Muhoroni sugar factories are under receivership and Chemelil Sugar Factory is right now undergoing a major overhaul. If today something happens to cane, such as cane fire, it would be the biggest mess in the Nandi Escarpment/Nyando Sugar Belt.

The problem we have noted on the ground has emanated from several areas. First, we have not had a reliable source for financing the sugar industry and the sugar-cane farmer has not had the opportunity and the

facility to buy inputs at the right time and at fair prices. The loans that have been given to some of the farmers, via the Sugar Development Fund (SDF), have not worked well because of the repayment system, which requires that all the loan is to be paid from the first crop. That has left the farmer without money to develop the ratoon crop.

Mr. Temporary Deputy Speaker, Sir, we have had a lot of trouble because of mismanagement at the factory level. Money that is made available by the Government, or from the SDF, has been squandered by some of the factories, leaving the growers in real trouble. This scenario would have to change if the farmers are to benefit. Unfortunately, you can grow sugar-cane but, without factories, sugar-cane is absolutely useless because you cannot chew all of it. The factory must be operational, but the farmer must also grow sugar-cane. So, sugar-cane supply and crushing capacity must chive as it were. That has not been the case now.

Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister because, in this Bill, there are areas where the Minister has come out quite boldly with policies that will definitely help the sugar industry. One such area which I want to spot out right away, is that the Minister is proposing in this Bill that there shall be a Kenya Sugar Board to replace the Kenya Sugar Authority. In my opinion, the Kenya Sugar Authority was not very authoritative, although it was the "Kenya Sugar Authority". Many farmers have not benefited from that authority. The Kenya Sugar Authority is being replaced here by the Kenya Sugar Board. I am glad that the Minister would like the farmer's voice to be heard in the Kenya Sugar Board. In the Kenya Sugar Authority, there was no farmer's voice. If there were farmers there, then they were silent. But in the Kenya Sugar Board, there is a provision for representation of the farmer.

I would like to urge the Minister to forget the four representatives of farmers, when we come to the Committee Stage because they are too few. I would like to suggest a figure of seven representatives, although that will come at the Committee Stage. That is the starting point for empowering the sugar growers.

Mr. Temporary Deputy Speaker, Sir, again, I would like to salute the Minister for coming up with a proposal that the sugar-cane grower should benefit from the sugar-cane by-products. At the moment, the by-products in the manufacture of sugar are all pocketed by the millers. The by-products include the molasses and the biogas from the sugar-cane. These are all taken by the millers, but the sugar-cane farmer takes nothing. In the future, as it is provided in this Bill, the by-products will be shared between the millers and the farmers. Farmers will have a share in the value of the by-products.

Mr. Temporary Deputy Speaker, Sir, I would like, again, to salute the Minister for coming forward with institutions to support the sugar industry. The outgrower farmers' institutions should give the farmer a voice in the sugar industry. These institutions, particularly both at the farm and factory levels, should facilitate dialogue between growers and millers, and between growers' representatives and millers' representatives. This dialogue is very important. The organisations are called Kenya Sugar-cane Growers Association and Kenya Sugar Manufacturers Association. Those are key associations to the sugar industry. There should be continuous dialogue between sugar-cane growers and millers. I would also like to congratulate the Ministry because, for the first time, they are attempting to think seriously about having a formula for fixing the sugar-cane price. This is a move in the right direction. What I would like to suggest, however, is that, to fix this formula based on the quality of sucrose content of sugar-cane, at this stage, is premature. We do not have high-yielding sugar-cane varieties in the hands of the sugar-cane grower, at this stage.

Mr. Temporary Deputy Speaker, Sir, in countries where sugar-cane growers are paid on sucrose content basis, conditions are different. The varieties that are recommended by research workers are known and are extended to the farm gate.

Mr. Temporary Deputy Speaker, Sir, we had an opportunity as the Departmental Committee on Agriculture, Lands and Natural Resources, to visit sugar-cane growing countries that are not very far away from Kenya. We visited India, Swaziland and South Africa to see how they are conducting their sugar-cane growing activities. It is true that in some cases, they pay the sugar-cane grower on weight. In some other cases, they pay on the basis of sucrose content. But, as I have said, payment on sucrose content is a very advanced stage of payment and, at this moment, we are not yet ready for it. What varieties do we have that can yield the required sucrose content? What varieties are the millers and research fellows recommending for growers? If you go to the field, you will find all sorts of varieties. Some are recommended by the millers today, in two years time they say, "it is not good". And yet, if you plant sugar-cane today and you look after it, you can harvest sugar-cane six, eight and even ten times over a period of 20 years, if it was a correct variety. At the moment, we do not have those varieties available to the farmer. Therefore, I would like to inform the Minister that this is one area that they should explore. We would like the payments made to the sugar-cane farmers to be based on the weight of their cane. If I was a sugar-cane plant, farmers would really have gone for me because of my weight. That is what we want. We would like the farmers to be paid based on the weight of their sugar-cane.

Mr. Temporary Deputy Speaker, Sir, I would also like to congratulate the Minister for promoting and

supporting research. This is excellent and it should continue because we have a long way to go. I remember, when we visited the Sugar-cane Research Station in Natal, South Africa, we found that the annual budget for that station was SA Rand4.2 billion. If you want to convert this money into Kenya shillings, you multiply it by eight, nine or even ten. This is a lot of money and the research workers do their best. I would like to say that although research is a long process, we should make a start. I would like to thank the Minister because this Bill is on the right track as far as research is concerned.

There is a national policy on privatisation and, here, we have to get it right. Why do we want to privatise the sugar industry? If we want to privatise this industry in order to empower the sugar-cane grower, let us do so. If we want to empower the grower, let us not dilly-dally in this process. Let us empower the sugar-cane grower through privatisation. All along, we have been told that farmers will benefit from the privatisation of the sugar factories. I am surprised that the farmers will be allocated only 20 per cent of the shares. This is not fair because these are factories which are virtually owned by the Government. If the Government wants to off-load the shares to the grower, let it not dilly-dally.

I am a sugar-cane grower and I have lived in the sugar-belt all these years, but no one has discussed with the sugar-cane growers about the percentage of equity that should be allocated to them. The Kenyan sugar-cane grower has been treated as nobody. In the sugar industry, it is the miller who calls the tune. This is not fair. We would like to persuade the Minister that at the Committee Stage, let Mumias Sugar Company that has got 30 per cent wait for, at least, another 20 per cent to make it 50 per cent in the privatisation process. The same should apply to Chemlil, Nzoia and Muhoroni Sugar Companies. You will empower the grower if you do this. This is what we will press for. Empowerment of the growers should also be reflected at the Board and Annual General Meeting (AGM), where they should be represented.

I would like to touch on an area which appears to be a big threat to our industry. This threat should be dealt with squarely by our Government. This aspect concerns sugar from COMESA countries. I would like to point out that sugar from COMESA countries is as sweet as the Kenyan sugar. Believe me, sometimes ours is even sweeter than sugar from COMESA countries.

*(Applause)*

Why should our country be flooded with sugar from COMESA countries, while we know very well that we are nursing a young industry? Why do we not make it possible for our sugar industry to grow?

At the moment, our sugar consumption is just below 500,000 tonnes and we require 200,000 tonnes of sugar or so to be self-sufficient. Why do we not try our level best, first, to be self-sufficient and then import the quantity of sugar that we have run short of? I would like to say that sugar is being imported into this country in bulk and in a haphazard manner. This has put us in a situation whereby our small sugar factories cannot sell the small quantity that they produce in this country. These factories cannot sell their produce because of sugar from COMESA countries. What is COMESA sugar? This is sugar that is imported by a Kenyan. This sugar does not "walk" from Sudan along River Nile to Kenya!

*(Laughter)*

This is not the case. This sugar is imported by a Kenyan and dumped into this country. I would like to appeal to the Minister to ensure that the regulatory function of the Board should not just be heard, but be seen to haunt dumping of sugar in our country.

I would like to end my contribution by saying that in other countries, sugar industries have succeeded. Sugar industries in India, Swaziland, South Africa and also in the Sudan have succeeded because of irrigation. We should come up with a master plan which will incorporate irrigated sugar in **[Dr. Omamo]** this country. With irrigated sugar, and funds being made available through the Sugar Development Fund, personally, I have no fear that we can compete effectively and survive in the COMESA region. I would like to say that research will give us varieties of sugar-cane which are suitable for irrigation. I would also like to point out that thousands of hectares of land are available in Kenya, for example, in Coast and Eastern Provinces and elsewhere, which we can irrigate and produce more sugar not only for us to be self-sufficient in this country, but also have a surplus for export.

Finally, Mr. Temporary Deputy Speaker, Sir, the sugar-cane grower requires political goodwill. Without political goodwill, the sugar industry will go to the dogs. We do not want to wake up one day to discover that we cannot sell our sugar. We do not want to wake up one day to discover that Muhoroni and Mumias Sugar Companies cannot sell sugar because of imported sugar from South Africa, Mauritius and the Sudan. No! No! We



want political goodwill to come out forcefully and say "no" in order to protect our young sugar industry.

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

**Dr. Wekesa:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to support the Sugar Bill. I would like to commend the Minister for Agriculture for taking his duties zealously. We are very impressed by the steps he has so far taken to revamp the agricultural sector. We need more Ministers of his calibre.

Mr. Temporary Deputy Speaker, Sir, I would like to revisit my pet subject. On many occasions, I have said in this House that the key to our economic recovery, from time immemorial, is agriculture. Again, I would urge the managers of our economy to revisit the agricultural sector if they are serious about revamping the economy. If the Opposition were to form the next Government, we would give agriculture the first priority. If you prioritise agriculture as the first item in your development agenda, you will effectively deal with poverty, provide good medical care and education to our people. Consequently, Kenyans will be much better off than they are today.

Mr. Temporary Deputy Speaker, Sir, I want to recap the importance of this Bill. Over five million Kenyans depend on this industry. Through sugar farmers, the Government collects about Kshs3 billion. At the same time, sugar companies owe farmers Kshs1.2 billion. In the last nine years, the Government, through levies and other taxes, has collected more than Kshs20 billion from the sugar industry. That notwithstanding, the sugar industry is now collapsing. Some sugar factories have already closed down. Mr. Temporary Deputy Speaker, Sir, one of my colleagues was asked to declare his interest in the sugar industry. My interest is agriculture. As you all know, I keep livestock like the Minister. I also grow maize, unlike the Minister. So, I am very much interested in agriculture. Our colleagues from sugar-cane growing areas have no doubt that I fully support this Bill. I will soon bring a Motion to this House about the maize industry. The reason why I am supporting this Bill is to whip up support from my colleagues from sugar-cane growing areas so that when I bring a Motion on the maize industry they will also support it.

Mr. Temporary Deputy Speaker, Sir, the problems that affect cane growers are similar to the ones that affect maize farmers. I just want to go through a few of them and you will see that there are a lot of similarities. Sugar-cane growers face the following problems; lack of credit facilities, high cost of inputs like fertiliser, machinery and tractors. The cost of preparing one acre of land is too high. The sugar-cane farmers cannot even transport their cane to the factory because of the poor state of roads. The farmers, together with their workers have to do with poor schools and medical facilities that exist in their areas. As hon. Omamo said, sugar-cane farmers also lack sufficient water to do irrigation. These problems also affect other farmers. Therefore, when we are talking about the Sugar Bill, we must address ourselves to the question of sugar importation because we grow sugar-cane in this country.

Mr. Temporary Deputy Speaker, Sir, I would like to support the Bill. Once again, I commend the able Minister for Agriculture for bringing this Bill at this time. However, there are some glaring omissions that we must deal with at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, I know my colleagues want to contribute to this Bill. So, I will not dwell on areas that my colleagues have already covered. I will only mention those areas which I feel have not been covered, so that you can give my colleagues a chance to also contribute.

Mr. Temporary Deputy Speaker, Sir, I will go very quickly to areas that I want to highlight. First, I would like to address myself to the Board. A few of us feel that the representatives to the Board should include people from the rural areas. We have proud Kenyans living in Homa Bay, Trans Nzoia, Awendo and Ramisi who would wish to be members of the Board. We always wonder why everything should be based in Nairobi. We have been told that the Kenya Sugar Authority (KSA) wants to put up their headquarters here in Nairobi. Farmers and directors have to come from all over Kenya in order to access the KSA. We know that most sugar-cane in this country is grown in Western Kenya. Why do we not have the KSA headquarters in Western Kenya? Even when it comes to the appointment of members to the Board, why do we not consider the stakeholders in the sugar industry? We should appoint people from sugar-cane growing areas so that they have the opportunity to run the industry. This is their only livelihood, and while constituting the Board, the farmer should be represented. I concur with my colleagues, that farmers' participation in the Board is minimal and, we would like it to constitute six members or more. We should also be very careful when it comes to the nomination of members of the Board. I have known of managing directors who prefer very mediocre farmers being appointed to the Board, so that during the annual general meeting, everything is worked out, and the meeting is completed within 15 minutes, because the directors know it all, even when they do not know. The "clever" managing director will have everything worked out, because the farmer does not know what is going on. So, even when we have more farmers' representatives on the Board, they must be literate. For example, Dr. Omamo, who knows about sugar cane

production and has been growing cane for the last 30 years, so that they can contribute their views to the Board. They should be able to criticise the agricultural experts, like engineers. They should be people who have been involved in the industry for a long time, so that they can make meaningful contributions during the Board meetings.

Mr. Temporary Deputy Speaker, Sir, there is a lot of Government involvement in many of our Boards and, yet, we are talking about privatization. It is high time that Government participation in some of these Boards was minimised. We should be serious about privatization. There are farmers who have been growing sugar cane for the last 30 years, so we have Kenyans who know what they are doing. The Government should only give us direction and be an overseer, but not a participant, as it is, at the moment. Usually, there are three to four Permanent Secretaries on the Board, to represent the Government. I think one Permanent Secretary is enough. Maybe, only the Attorney-General should remain on the Board, because we need his legal advice. We should not have a conglomeration of Government officials on this Board.

Mr. Temporary Deputy Speaker, Sir, with regard to the membership of the Board, we should recognise that transport is an important component in the sugar industry. I have not seen anywhere in the Bill where the transporter is included among the Board members. A farmer could grow his cane, but he lives 15 kilometres to 20 kilometres away from the factory. The cane is useless unless it is transported to the factory. So, the transporter should be a stakeholder. Because, the transporter has a lot of influence on what the farmer gets in the final analysis, my colleagues and I, will introduce amendments to this Bill, to make sure that all the stakeholders are included.

Mr. Temporary Deputy Speaker, Sir, the chief executive should not be somebody who receives political patronage from the Government. We have seen what political appointments have done to this country. I think we have reached a stage where we should not look at the political stand of Kenyans. We should be looking for people who are properly qualified, honest and who will do the job irrespective of their political stand. We want people who will follow the law. So, I would like to appeal to the Minister for Agriculture that, while he will have to approve the appointment of the chief executive or have an opportunity to appoint the chief executive, that chief executive should be somebody who is transparent. If we think of what has been happening in various parastatals, it is a pity that sometimes we blame the Government but there is probably an individual who has made the appointment and "sold" it to the Government to ratify. Millions of shillings have been lost through this practice.

Mr. Temporary Deputy Speaker, Sir, before I conclude my contribution, I would like to comment on imports. The problems afflicting the sugar industry are the same ones afflicting the grains sector. The farmers of this country are at pains when the Government allows imports of what we produce in this country. We are at pains to see that sugar is hoarded to give unscrupulous traders the opportunity to prepare letters of credit to import sugar into this country. This usually happens around the time the Budget is delivered to Parliament. How come that a certain section of Kenyans - and I do not want to define them - know exactly when to bring in sugar? Does it mean that the Government is in collusion with those people? You know who I am talking about! Some of them vote for me and I have to be very careful about what I say. But how come that, just before the Budget is presented to Parliament, sugar is hoarded and then ships start arriving in Mombasa? This is the sort of thing we do not want. This is also happening in the maize industry. In Trans Nzoia District, right now, we have got a lot of maize. But a month ago, a lot of maize arrived in this country. Does this Government think of the poor farmer?

Mr. Temporary Deputy Speaker, Sir, one day, I was addressing a meeting in Eldoret of grain farmers who have been frustrated by this Government. I told them: I think, sometimes we should thank this Government because when we are trying to find means and ways of forming the next Government, this Government is actually giving us voters. How could it ignore about five million sugar-cane farmers? The Government is actually giving them to the Opposition. How could it ignore farmers from Trans Nzoia up to Narok who grow maize; and import maize while they are harvesting maize? It means the Government does not care about them! Maybe, the KANU Government wants us to have an easy ride next year! I do not think that any maize or sugar-cane farmers who have been ignored by this Government will vote for it next year. We will tell them this Government is not fit because it has ignored them.

**Mr. Munyasia:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to inform Dr. Wekesa that after 40 years in power, the KANU Government must be tired! When it does not respond to the needs of those farmers, that is clear evidence that they are tired. They are on their way out.

**Dr. Wekesa:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to conclude---

**The Minister for Agriculture (Dr. Godana):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Are the hon. Members in order to digress from the subject which is before the House, which is the Sugar Bill? They know that the KANU Government is concerned about the plight of farmers in this country. That is why we have a whole list of Bills, including the Sugar Bill, the Coffee Bill and the Co-operative Societies Bill coming

before this House, and we are still sitting late up to 8.30 p.m.

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, you know my feeling about this Minister. He is one of the very few Ministers who are trying to do a good job. But the farmers who depend on sugar, coffee, milk and maize form almost half of the Kenyan voters. I am very cognisant of the fact that even me, as a Member of Parliament, I have to do everything within my power to assist those farmers who are being trodden on. It is my feeling that, over the last 20 years, things have changed from bad to worse.

On the question of sugar factories, there was a lot of excitement when the sugar factories, like Awendo, Sony, Mumias, Muhoroni and Nzoia were being created. The farmers at that time were making money from sugar-cane, but the situation has deteriorated very much. This is something that farmers are aware of and we are asking the Government to speed up the process of privatisation.

Finally, Mr. Temporary Deputy Speaker, Sir, even the factories should have standards. We have jaggeries and sugar factories. There has been lack of co-ordination between the factories and the Kenya Sugar Authority (KSA). We are hoping that, in the Bill, we will have a good link-up; where standards are set and people wanting to get into the industry, be they for jaggeries or factories, to produce white sugar, must adhere to those standards. Also, there should be boards of directors at factory level, so that the managers at the factories do not misbehave. The case of Nzoia Sugar is very clear even to me, as a maize farmer. There was a lot of money which came into Nzoia Sugar Company and because there was no proper link between the KSA and the factory, the Managing Director, including the Minister and other politicians, went there and wrecked the factory. They just pocketed the money! This is common knowledge and we do not want that to happen again.

With those few remarks, I beg to support.

**Mr. Ochilo-Ayacko:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution to the ongoing debate regarding this very important industry. I am saying that this industry is important because it is the lifeline of an estimated five million Kenyans. It is strategic because most of these Kenyans live in the rural areas and thus help in reversing the rural-urban migration. They are also helping in eradicating peasantry. One of the reasons why our economy is doing badly is that we have been unable to transform peasantry into a money-earning economy. This industry has attempted to transform a peasantry economy into a money-earning economy.

The Bill before this House has been brought rather late in the day. It ought to have been enacted many years ago. It has also been brought when the situation in this industry has gone haywire and things are in shambles. I am glad that the Minister, who has moved this Bill, is a person of high learning and great integrity. I believe that the Minister will not only do a lot of listening, but also respond to the contribution by Members and make the necessary adjustments and amendments that will improve the efficacy that this industry needs. This Bill is about the wealth of this country that should be owned by five million people and is threatened by a lot of factors.

There are two categories of players in this particular industry. One consists of the growers and institutions associated with them. The other category consists of millers and institutions associated with them. There are conflicts between these two players and also others that are extrinsic to these particular industries. This particular Bill should address the dynamics of this industry. It should address how to protect this grower and institutions associated with the grower. It should also address how to make this grower efficient and the institutions associated with the growth of sugar-cane service-oriented, so that the growers can procure services from those institutions. The Bill should also address the efficiency of the millers and the protection that they other extrinsic forces.

Mr. Temporary Deputy Speaker, Sir, although I am not going to that right away, one very conspicuous omission which this Bill has made is that it does not protect the entire industry from the external enemy who is the importer of sugar into this country and, therefore, denies the entire industry money that it needs. What actually both the grower and miller want is money. The mere growth of a beautiful plant called sugar-cane in itself does not translate into money. The mere milling of sugar-cane in itself is not money. Money is acquired at the stage of selling and, in fact, if this Bill does not address the threat to the market that this industry has, then it is superfluous and will not serve the noble purpose that this House hopes that it will serve.

Mr. Temporary Deputy Speaker, Sir, if you look at functions of the major organ that is created by this Bill, that is the Board, you will find it is helpless. When somebody, who is politically or monetarily-correct imports sugar into this country, the Board can do nothing. At best, the Board may scribble something in its minutes and probably knock on the door of the Minister who may try to whisper to the Minister for Finance that something is in the high seas trying to knock on the doors of our market. So, unless the Bill itself empowers the Board to deal with importation and, therefore, dumping of sugar, then the idea and desire that the industry does well, both the country and farmer get money, is a wild cry that cannot be realised. I am sure the Minister agrees with me and I had said very well that he is a person of integrity and it will be reflected when he now takes our

suggestions seriously and translates them into amendments. So, we are asking the Minister to listen to us very keenly. We know that the mere passage of law is not an end in itself.

As I talk here, I did not indicate my interest but I have two interests in this matter. My first interest is that I am a farmer and so are all my relatives. My second interest is that I represent millers in the sense that one of the milling plants in this country is at the heart of my constituency; erected on some parcel of land that was donated by my forefathers. So, I have those dual interests and that is why I am speaking from the bottom of my heart and not just the middle of it.

Mr. Temporary Deputy Speaker, Sir, if we start by looking at the Board itself, we will find that it is intended to regulate. It is intended to take functions that were being performed without regulations by the Government. In other words, the intention to create this Board, and actually the enactment of this Bill, is a Government notice. The Government is giving notice that it is getting out of this industry. So, the Government is saying: "We have been inefficient in the past and now we want the industry to protect and regulate itself." However, if you look at the composition of the Board, this is not the position. So, if it is the true and honest intention of Government to leave the industry to regulate itself and the industry, in my understanding, is an inclusion of farmers or growers' institutions associated with them and millers, then the composition of the Board must be relooked at. It must reflect this very intention that the Government is trying to make; both in its policy and by bringing this kind of Bill.

Mr. Temporary Deputy Speaker, Sir, so, it would be appropriate if the Minister took note of this and reduced Government representation in the Board and increased farmers' representation. Regarding the farmers or growers' representation, we have heard very well from Dr. Omamo that, in the relationship between the growers and the millers, the growers have been losers. What the Bill is doing is to try and protect the weak. Laws are enacted to protect those who cannot protect themselves. This particular Bill should be one that is affirmative in respect of those who have been overrun in the past transactions. I am suggesting that it would be appropriate, at some stage, to vary these representatives and positively increase them in favour of growers and institutions that are associated with growers. You should reduce Government involvement or representation in the Board.

At the level of appointing members of the Board, it will also be absolutely necessary to make sure that the hand of the Government, that has admitted failure, should not be visible in their appointment. In other words, the requirement that the Minister appoints members of the Board should be done away with. Such requirements should be left to the industry, the millers and representatives of the farmers. There should be no requirement that such persons' appointments be approved by the Government. That is when this House and, therefore, Kenyans will agree that the Government has agreed to get out of this industry and to let it regulate itself and run its own affairs.

You will notice - just still on the Board - that the Government, also through the Minister, seeks to determine the remuneration of the members of the Board. That is also because we know that people work for money, and remuneration is part of a person's independence. I think it is important to include the annual general meetings as a ratifying authority when it comes to remuneration. But what is indicated in this Bill is that such remunerations will be fixed by the Board, in consultation with the Minister or the Minister in consultation with the Board. This still shows that it is not the honest intention of the Government to leave this industry to regulate itself. This is an area that, if the Minister is a man of his words, and I believe that he is, and they are divesting from the sugar subsector, they should remove the hand of the Government from this kind of involvement.

Still on the Board, there are prescriptions for the qualifications of the Chief Executive who will run the Board. I am glad that the appointment of the Chief Executive is left to the Board. It is said in this Bill that the Chief Executive should have some qualifications that are inclined towards agriculture, economics, or commerce. I think that will be a limited scope. I think

once the prescription is that this person should be a holder of a university degree, then, the other issues should be left open. We know that engineers who have run factories--- In fact, most factories have been run very well by engineers because they have been doing milling or such related issues.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Muturi): Order! Hon. Members, it is now time for the interruption of business. The House, therefore, is adjourned until Tuesday, 4th December, 2001 at 2.30 p.m.

The House rose at 8.30 p.m.