

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 30th November, 2000

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.681*

DEATH OF MR. NYANGANI

**Mr. Speaker:** Mr. Sungu not here? This Question will be stood over for now.  
Next Question, Mr. N. Nyagah!

*Question No.698*

BREAKDOWN OF EXPENDITURE ON NAIROBI  
*EL NINO* PROJECTS

**Mr. N. Nyagah** asked a Minister of State, Office of the President:-  
(a) whether he could give a breakdown of costs for each individual road constructed within Nairobi under the *El Nino* Emergency Project; and,  
(b) whether he could further explain the circumstances leading to the cancellation of contract 8NB2 under which 2nd Avenue Eastleigh and General Wairunge Street were to be done.

**Mr. Speaker:** Maj. Madoka, could you respond to the Question?

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Speaker, Sir, my colleague was supposed to come and answer this Question. I think he is still on the way.

*Question No.381*

MERGING OF COMMERCIAL BANKS

**Mr. Speaker:** Mr. Gatabaki not here? We will come back to the Question later.  
Next Question, Mr. Kamau!

*Question No.695*

ISSUANCE OF DEGREE CERTIFICATE  
TO MISS MWENJE

**Mr. Speaker:** Mr. Kamau also not here? We will come back to the Question later.

*Question No.170*

DECLINE IN CASHEWNUT PRODUCTION

**Mr. Kombe** asked the Minister for Agriculture:-

(a) whether he is aware that production of the cashewnut crop in the coast region has been

declining over the years; and,  
(b) what immediate plans he has to reverse the declining production trend.

**Mr. Speaker:** Anybody here from the Ministry of Agriculture and Rural Development? We will come back to the Question later.

Next Question, Mr. Munyao!

*Question No.472*

NUMBER OF MACHAKOS/MAKUENI  
STUDENTS IN UNIVERSITIES

**Mr. Speaker:** Mr. Munyao not here? We will come back to the Question later.

Next Question, Mr. Mwenda!

*Question No.388*

ELECTRIFICATION OF MARIMANTI TOWN

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

(a) when the Ministry will supply electricity to Marimanti

[**Mr. Mwenda**]

Town, the headquarters of Tharaka District; and,

(b) how much money has been set aside for this purpose.

**Mr. Speaker:** Anybody from the Ministry of Energy here? We will come back to this Question later.

*Question No.528*

WATER SHORTAGE IN KIAMBOGO LOCATION

**Mr. Kihara** asked the Minister for Water Development:-

(a) whether he is aware that Kiambogo Location of Gilgil Division lacks reliable sources of water for both human and livestock use; and,

(b) what plans the Ministry has to ensure continued supply of water to the people in that area.

**Mr. Speaker:** Anybody here from the Ministry of Water Development? We will come back to the Question later.

Next Question, Mr. Wamunyinyi!

*Question No.353*

REGISTRATION OF *DINI YA MSAMBWA* SECT

**Mr. Wamunyinyi** asked the Attorney-General when the Government will register the *Dini ya Msambwa* religious sect.

**Mr. Speaker:** Is the Attorney-General here? We will come back to the Question later.

Mr. Sungu's Question, for the second time!

*Question No.681*

DEATH OF MR. NYANGANI

**Mr. Achola**, on behalf of **Mr. Sungu**, asked the Minister of State, Office of the President:-

(a) what the results of the police investigation into the death of Cyprian Thomas Ogolla Nyangani, the then headmaster of Migosi Primary School, on 17th February, 1999 near Lunyerere, along Kisumu-Kakamega Road were; and,

(b) why the police failed to respond to queries raised by the family of the deceased despite

constant enquiries at Vihiga and Kakamega police stations.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) A Matatu driver, Mr. Francis Kimogi Mugenye, was arrested and charged in court with the offence of causing death by dangerous driving. The matter is still pending before the Senior Resident Magistrate in Vihiga.

(b) The police have not failed to respond to queries from the deceased's next of kin.

**Mr. Achola:** Mr. Speaker, Sir, the Minister is misleading the House because this gentleman was not in the Matatu that had an accident. He was strangled elsewhere and the police are trying to cover up this particular incident. What is the Minister going to do, as a matter of urgency, to address this issue?

**Maj. Madoka:** Mr. Speaker, Sir, that is the information I have. Unless I am given more information, I cannot say much.

**Mr. Otula:** Mr. Speaker, Sir, could the Minister tell this House what the postmortem results revealed on the death of this particular gentleman?

**Maj. Madoka:** Mr. Speaker, Sir, I do not have the postmortem report with me.

**Mr. Ayoki:** Mr. Speaker, Sir, arising from the answer given by the Minister, that the case is in court, could he furnish the House with the case number?

**Maj. Madoka:** Mr. Speaker, Sir, the court file is No.3442/99.

*Question No.698*

BREAKDOWN OF EXPENDITURE ON  
NAIROBI *EL NINO* PROJECTS

**Mr. N. Nyagah** asked the Minister of State, Office of the President:-

(a) whether he could give a breakdown of costs for each individual road constructed within Nairobi under the *El Nino* Emergency Project; and,

(b) whether he could further explain the circumstances leading to the cancellation of contract 8NB2 under which 2nd Avenue Eastleigh and General Wairunge Street were to be done.

**Mr. Speaker:** Mr. N. Nyagah, I am sorry the Minister concerned is not here. I have no alternative but to defer this Question.

*(Question deferred)*

**Mr. Speaker:** Next Question, Mr. Gatabaki!

**Mr. Gatabaki:** Mr. Speaker, Sir, I was not actually late but you were too quick for us. I think you should slow your pace so that we can catch up with you!

**Mr. Speaker:** Mr. Gatabaki, I cannot understand what you are saying! You should learn to keep pace with the Chair!

**Mr. Gatabaki:** Mr. Speaker, Sir, I apologise for coming late.

*Question No.381*

MERGING OF COMMERCIAL BANKS

**Mr. Gatabaki** asked the Minister for Finance:-

(a) how many commercial banks have so far merged their operations in order to raise the minimum capital requirements as established by the Central Bank of Kenya;

(b) of these banks, how many were operating profitably before the merger; and,

(c) what steps he is taking to ensure that the merged banks operate profitably.

**Mr. Speaker:** Unfortunately, there is no Minister to answer your Question. This Question will be deferred.

**Mr. Gatabaki:** Mr. Speaker, Sir, could you instruct these sleeping Ministers to come and answer Questions and stop listening to KBC to know whether they have been fired or not?

**Mr. Speaker:** Order, Mr. Gatabaki! What were you listening to before you came to this House; *Kameme*?

*(Question deferred)*

*Question No.695*

## ISSUANCE OF DEGREE CERTIFICATE TO MISS MWENJE

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

- (a) whether he is aware that Miss Lucy Wangui Mwenje, who did a BA Degree course at the University of AGRH BVRJ (BICHPURI) India, College Roll No.53 (enrolment No.938340 between 1993 and 1996) has not been issued with her degree certificate to date; and,  
 (b) whether he could facilitate the issuance of that certificate to enable Miss Mwenje to look for employment.

**Mr. Speaker:** I am sorry, Mr. Kamau, there is nobody to answer your Question.

*(Question deferred)*

*Question No.170*

## DECLINE IN CASHEWNUIT PRODUCTION

**Mr. Kombe** asked the Minister for Agriculture whether he is aware that production of the cashewnut crop in the coast region has been declining over the years; and,

- (b) what immediate plans he has to reverse the declining production trend.

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, I apologise for coming late. However, I beg to reply.

- (a) Yes, I am aware.

(b) The cashewnuts industry is already liberalised. However, the Government, in conjunction with the GTZ-KKBP is encouraging farmers to go into value adding through processing, packaging and exporting of cashewnuts. My Ministry is also encouraging farmers to form marketing groups so that they may increase their bargaining power. So far, Kenya Nut Growers and other farmers co-operatives, have already been formed.

**Mr. Kombe:** Mr. Speaker, Sir, shortage of planting materials has seriously affected the production of this crop. In the current Development Plan, the Government promised that KARI would undertake aggressive research with a view to identifying high-yielding, disease-resistant varieties of the crop. How far has the Ministry gone in implementing that promise?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, the potential for cashewnuts production in the country is in the CL3 to CL4 Agro-Ecological Zones. That is the cassava-cashewnut zones of Coast Province. This translates to a potential of about 100,000 hectares being suitable for the production of cashewnuts. That is according to research findings by KARI. Currently 30,929 hectares are under production, with an average yield of 0.5 tonnes per hectare. The lowest yield being realised in some areas of Kilifi is below 0.2 tonnes per hectare. This decline in yield has been attributed to the effects of poultry mildew disease and the aging of the trees. However, in its attempts, Bayer East Africa Company Limited has been in negotiations with the Coast Development Authority, to test the chemical that has already proved to be a success against the poultry mildew disease in Tanzania. Marketing problems facing this sector are low producer-prices and low organised marketing for cashewnuts. Raw cashewnuts are sold through agents. The previous major buyer, the Kenya Cashewnut Company Limited, is under receivership. However, there is a medium-sized factory with a capacity of 1,440 tonnes per year that is operating. The Government, through KARI, is at an advanced stage in identifying the best seed for cashewnuts in the Coast Province.

**Mr. Mbela:** Mr. Speaker, Sir, the cause of the declining production must be the factory which was irregularly taken over by one of the holy cows. Since the Ministry is doing the planning for poverty alleviation, is it not possible to find some Kshs80 million, so that the people can be able to work for themselves while they revive the production of cashewnuts?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, first of all, I am not aware of any holy cows in Kenya. The only holy cows I know of are those revered by the Hindus. However, the Ministry is negotiating to ensure that the money that has been put into KARI, to carry out the research, is found and the job is carried out to the satisfaction of the coast people.

**Mr. Maitha:** Mr. Speaker, Sir, the KANU Government has really killed the coastal people by killing

factories which are aimed at uplifting their welfare, for example, the cashewnuts factory. Every time KANU looks for votes, they come up with very good recommendations for development in the coast region. Now that KANU bought that factory and killed it through the owner, Mr. Kulei, who is a very big man in the KANU Government, what hope are you now giving the cashewnuts farmers? As you all know, KANU got so many votes from Coast Province. People in the Coast Province are now not educating their children!

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I do not think it is fair for hon. Maitha to mention the name of Mr. Kulei, when he cannot defend himself in this House. We are not aware that he took over the cashewnuts factory.

**Mr. Mbela:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading the House, knowing very well that the Public Investments Committee Report named Mr. Joshua Kulei as having irregularly taken over the factory? How can he now claim ignorance?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, we should not accuse anybody and convict him unless we have taken him to court. And that is what I stand by.

My Ministry, through the GTZ and other organs, is working hard to ensure that we get the right variety of the cashewnut seed through KARI.

**Mr. Kombe:** Mr. Speaker, Sir, the Assistant Minister has told us that KARI has been given some money for research purposes. Could we know how much KARI has been given, so that we can make a follow-up?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I am sorry I do not have the specific figures, but I can bring them to the House any time.

**Mr. Maitha:** On a point of order, Mr. Speaker, Sir. You can see now that the Assistant Minister is not serious with the coast people. Is he in order to say that he does not have the figures when he knew very well that he was going to answer this Question? Could he table those figures in the House?

**Mr. Speaker:** Order! Mr. Maitha, you just want to take the time of the House because he has said that he is going to bring it to the House!

Mr. Sumbeiywo, could you, please, try to do it in the course of next week?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I will bring the figure on Thursday.

**Mr. Speaker:** It will just be the figure and not the Question to be repeated.

Next Question!

**Mr. Munyao:** Mr. Speaker, Sir, it is now 2.50 p.m. and I have not yet received the written reply.

**Mr. Speaker:** First of all, where were you?

**Mr. Munyao:** Mr. Speaker, Sir, I am very sorry I did not know you had called the Question the first time.

*Question No.472*

NUMBER OF MACHAKOS/MAKUENI  
STUDENTS IN UNIVERSITIES

**Mr. Munyao** asked the Minister for Education:-

- (a) where he could table a list of students who have qualified and have been admitted in Kenyan universities in the last ten years from both Machakos and Makueni districts per year; and,
- (b) where he could explain why the two districts' performance in "O" level examination results do not match the Kenya Certificate of Primary Education status.

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

(a) I beg to table the list of students who qualified and have been admitted in Kenya public universities in the last five years, from both Machakos and Makueni Districts.

(b) The performances of some students in the Kenya Certificate of Primary Education and Kenya Certificate of Secondary Education examinations often correlate well, with the former serving as a fairly good predictor of the latter. However, the performances do not always match each other in any part of the country.

The KCPE and KCSE examinations take different formats. They are all sat at different levels of candidates' skill development and intellectual maturity.

*(Dr. Wamukoya laid the document on the table)*

*(A mobile phone rang)*

**Mr. Speaker:** What is that again?

**Hon. Members:** It is hon. Kamanda!

**Mr. Speaker:** Who is it again?

**Mr. Kamanda:** I apologise, Mr. Speaker, Sir.

**Mr. Speaker:** Thank you for the apology, but first move out, go and deposit that instrument out and come back!

*(Mr. Kamanda withdrew from the Chamber)*

**The Assistant Minister for Education, Science and Technology** (Dr. Wamukoya): Mr. Speaker, Sir, the examinations are set at different levels of candidates' skill development and intellectual maturity. They also respond to different curricular objectives and preparations for them to require varying levels of resources and teachers' input. Performances in the two examinations vary significantly with the school's locality, availability of learning facilities, staffing, rate of class repetition, manner of teaching, the community's poverty level, student discipline and quality of the school's internal supervision.

Mr. Speaker, Sir, these factors are dynamic and vary with time and place. Performance in KCSE and KCPE largely depends on these factors. Since schools in different places are endowed differently in this, performance in the two examinations may not necessarily match in Machakos, Makueni or in any other part of the country.

**Mr. Munyao:** Mr. Speaker, Sir, you have observed that the Assistant Minister has refused to tell the House why he has not given me the written reply. As a result, I was not able to follow his answer. However, I would like him to tell us the number of students. He also only gave a list for five years, whereas the Question is about the figures for the last ten years.

**Mr. Speaker:** By the way, before you keep complaining - although I do not want to assist the Assistant Minister - I do not know whether ten years ago, Makueni District existed or whether it was part of Machakos.

**Mr. Munyao:** It was part of Masaku!

**Mr. Speaker:** Therefore, it is not possible to give the breakdown for Makueni.

**Mr. Munyao:** Let him give us the breakdown for Machakos District!

**Mr. Speaker:** Order! Do not argue with the Chair!

Proceed!

**Dr. Wamukoya:** Mr. Speaker, Sir, at the beginning, I did not really know that hon. Munyao was complaining that he did not receive the written reply. I am sorry that he does not have it. I made sure that by 12.00 noon, they had sent it to you!

**Mr. Munyao:** Where is it?

**Dr. Wamukoya:** I beg your pardon.

**Mr. Speaker:** Order, both of you! Mnalifanya Bunge hili kuwa la kienyeji sana!

How can the two of you stand there talking to each other across the place? If that is how you want to do it, please go out of that door, up to the lobby and talk like elders there. You must address the Chair!

**Dr. Wamukoya:** Mr. Speaker, Sir, I was asked to lay the figures for the last five years on the table and I have already done so.

**Mr. Munyao:** Mr. Speaker, Sir, the Question sought to have the figures for the last ten years. Even if Makueni District was non-existent by then, Machakos District was there. The gist of the Question is to find out what happened to those students who passed with flying colours in primary school. We have never had an epidemic in this area, but when it comes to the Kenya Certificate of Secondary Education, we do not get the same matching numbers joining the universities. We should be told the exact number, so that we know what happens to those students when they get to Form Four.

**Dr. Wamukoya:** Mr. Speaker, Sir, the figures are as follows:-

1995/96 1996/97 1997/98 1998/99 1999/00

Machakos 6,561 5,824 6,643 6,510 7,077

Mr. Speaker, Sir, those who are eligible to join university with grade C+ and above in the same years were as follows:-

1995/96 1996/97 1997/98 1998/99 1999/00

Machakos 1,051 913 1,182 1,230 1,082

Those who were selected in the relevant years were as follows:-

	1995/96	1996/97	1997/98	1998/99	1999/00
Machakos	424	329	330	302	230

**Mr. Speaker:** Are you going to read all that? I thought you laid the document on the Table!

**Dr. Wamukoya:** Mr. Speaker, Sir, I have already laid the list on the Table.

**Mr. Katuku:** Mr. Speaker, Sir, as hon. Munyao says, there is that tendency where performance in primary schools is very good while performance in secondary schools is very poor. This is attributed, to among other factors, the drilling in primary schools and lack of school fees in secondary schools, whereby all the students fall out of school or others are not able to attend school regularly. In view of that information, could the Assistant Minister tell us what plans he intends to put in place to ensure that, high level performance is maintained in the region?

**Dr. Wamukoya:** Mr. Speaker, Sir, the Ministry forbids drilling of students and repeating of classes. This is done because many schools want to be ranked in high positions.

**Mr. Munyao:** Mr. Speaker, Sir, the information given by the Assistant Minister is really shocking. From the list he has read, the average number of students who have been admitted to the universities are about 437 and yet, these are two districts. Is the Assistant Minister satisfied with that performance when he knows that, that region has been the store of intelligence in this country? Is that not a political calculation?

**Dr. Wamukoya:** Mr. Speaker, Sir, the figures I gave were only for one district. I did not read out the figures for the second district, because I have already laid the document on the table. The main reason why we find poor correlation between KCPE and KCSE results in many areas, including my area Mumias, is that many students who perform well in a particular area get admission in other places in national schools and other provincial schools. So, the good students leave, for example, Makueni and Machakos districts for other schools. When the results come out, they area attributed to those other places.

Secondly, when there are good performing schools, many parents prefer to take their children from outside the district to the local schools, because they want their children to get good education. And as soon as the results are out, they go to other places, leaving Makueni with the average students only. This is what happens everywhere.

*Question No.388*

ELECTRIFICATION OF MARIMANTI TOWN

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

- when the Ministry will supply electricity to Marimanti Town, the headquarters of Tharaka District; and,
- how much money has been set aside for the purpose.

**The Assistant Minister for Energy** (Mr. Chanzu): Mr. Speaker, Sir, I apologise for coming in slightly late. However, I beg to reply.

(a) Marimanti Town, being the district headquarters of Tharaka District, is eligible for supply of electricity under the Rural Electrification Programme. It is programmed for electrification in the Fiscal Year 2001/2002.

(b) The project is estimated to cost Kshs60 million.

**Mr. Mwenda:** Mr. Speaker, Sir, Tharaka is the only district in the whole of Eastern Province, where people see electricity in textbook pictures. For a long time now, there is no town in Tharaka District which has been supplied with electricity. Now, could the Assistant Minister tell us whether the programme covers neighbouring markets like Gatunga and Ciakariga?

**Mr. Chanzu:** Mr. Speaker, Sir, it is true that Tharaka District does not have electricity. But that is because of what happened previously. When it was Tharaka-Nithi, there was concentration on the southern part. But efforts are being made to supply electricity to Tharaka District, especially Marimanti, being the headquarters of the district and the surrounding areas.

**Cap. Ntwiga:** Mr. Speaker, Sir, the Assistant Minister seems to be conversant with those projects. For that matter, I believe he must have done some survey work for the implementation of the projects in the year 2001/2002. Therefore, could he tell us the last power point to those markets? Where he will establish the power line to Marimanti?

**Mr. Chanzu:** Mr. Speaker, Sir, I do not know where the last power point is!

**Mr. Gatabaki:** Mr. Speaker, Sir, we are being told that a district headquarters has no electricity. A

whole district headquarters has no electricity, which is a basic service! Through you, could we request the President to desist from establishing districts until there is adequate supply of basic services like electricity?

**Mr. Speaker:** Order, Mr. Gatabaki! Are you sure Mr. Mwenda agrees with you on that call? Anyway, I refuse to take the message!

**Mr. Kibicho:** Mr. Speaker, Sir, the Assistant Minister has said that Marimanti Town will be supplied with electricity through the Rural Electrification Programme. We know that, that Mr. programme is implemented by the Ministry of Energy. Could he tell us whether he has sought the necessary funds for those projects and from where? Could he also tell us the amount of money that he has sourced for the rest of the programmes in the country?

**Mr. Chanzu:** Mr. Speaker, Sir, as I said, we intend to undertake those projects in the year 2001/2002. Those projects will be funded under the Spanish Programme. Secondly, I am not in a position to give---

**Mr. Ndilinge:** On a point of order, Mr. Speaker, Sir. Arising from the question put to the Assistant Minister by hon. Kibicho, it clearly appears that he is not aware of the projects! He was asked by Capt. Ntwiga where the last power point for the markets is and he said clearly that he does not know! I wonder why he keeps on misleading the House! He does not know about the projects! He is depending on what he was told by his officers!

**Mr. Speaker:** So, what Standing Order are you relying on?

**Mr. Ndilinge:** Mr. Speaker, Sir, I am relying on a Standing Order!

**Mr. Speaker:** Mr. Mwenda, do you want to ask one last question?

**Mr. Mwenda:** Mr. Speaker, Sir, he has not answered hon. Kibicho's question! Let him answer that first!

**Mr. Chanzu:** Mr. Speaker, Sir, the other part of the Question regards the amount of money that has been sourced for rural electrification projects in the country. I would like to say that I do not have the information regarding that particular aspect.

**Mr. Kamau:** On a point of order, Mr. Speaker, Sir. I really need your guidance! Last year, I asked a similar Question and I was given a similar answer by the Minister. He also talked of a Spanish Programme. That was in the 1999/2000 Financial Year. To date, nothing has happened in Ndaragwa! I am not sure whether he is giving the same answer to my colleague here! I do not know whether that answer is proper. Is he in order to do that?

**Mr. Speaker:** I do not know!

**Mr. Kamau:** Is it a standard answer to every Member of Parliament or is it a tradition?

**Mr. Chanzu:** Mr. Speaker, Sir, the answer I have given is genuine.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House, when he is the one in charge of the Accounting Officer? He does not know how much money has been set aside for rural electrification! Is he in order to come to this House, when he does not know what his Accounting Officer knows?

**Mr. Chanzu:** Mr. Speaker, Sir, the question was not how much money has been set aside. The question was: How much money has been sourced for other projects in the country?

**Mr. Mwenda:** Mr. Speaker, Sir, it is quite obvious, from the answers given by the Assistant Minister to the various supplementary questions, that no survey has been done on those projects. He has given an answer to finish the matter. If he does not know the last power point from which they will tap electricity, then there was no survey done! But the 2001/2002 Financial Year is quite some time ahead. Could he, for the time being, make some temporary arrangements, even if it means supply by a generator, to supply electricity to the district headquarters to enable the provincial administration officers to operate essential services like computers and faxes? Could he consider doing that in the meantime?

**Mr. Chanzu:** Mr. Speaker, Sir, we shall look into that.

*Question No.528*

WATER SHORTAGE IN KIAMBOGO LOCATION

**Mr. Kihara** asked the Minister for Water Development:

- (a) whether he is aware that Kiambogo Location of Gilgil Division lacks reliable sources of water for both human and livestock; and,
- (b) what plans the Ministry has to ensure continued supply of water to the people in the area.



**The Minister for Water Development** (Mr. Ng'eny): Mr. Speaker, Sir, I beg to reply.

(a) No, I am not aware. However, I am aware that Kiambogo Location has three reliable sources of water supply. These are: Miti Mingi Borehole, Kiambogo Dam and Leleshwa Gravity Water Supply.

(b) My Ministry is ready to offer technical support to the people of Kiambogo Location. They have already been sensitised to form water users associations and raise funds to drill new boreholes and then rehabilitate or augment the existing ones to supplement the existing water supply sources in order to meet both domestic and livestock demands.

My Ministry is in the process of assessing long-term water needs, which will include construction of water dams and boreholes, with a view to soliciting funds.

**Mr. Kihara:** Mr. Speaker, Sir, I think the Minister is not doing his work properly. For him to say that he is not aware that there is no reliable source of water is to clearly show this House that he does not know what he is talking about and he has not done his work properly.

Mr. Speaker, Sir, Miti Mingi Borehole collapsed a long time ago and it does not supply water any more. Kiambogo Dam is dry and has been dry for a long time. Leleshwa Gravity Water Supply is also dry. So, for the Minister to say that these are reliable sources of water, I do not know what he is talking about. I would like to tell him that there is water going to Nakuru from Malewa River. If he needs to supply water, he should supply it from this river.

There is also another source of water on the Bull Hill, which is used for drilling. Could the Minister consider supplying water to these areas from these sources which are more reliable? These others are not reliable at all!

**Mr. Ng'eny:** Mr. Speaker, Sir, I would like to assure the hon. Member that, with that pipeline from Naivasha to Nakuru via Gilgil, there is a lot of potential of water in that area. In fact, the hon. Member is very lucky because I can read the following information to indicate that we have done a good job to access the water potentiality in that area. For example, borehole number C785 has got a potential of 9.2 cubic metres per hour. Secondly, borehole number C845 has got a potential of 4.5 cubic metres per hour. Thirdly, borehole number C1798 in Oljoolal has got a potential of 21 cubic metres per hour. Fourthly, borehole number C2289---

**Mr. Speaker:** Mr. Ng'eny, how many are they?

**Mr. Ng'eny:** They are quite a number and I want to assure the hon. Member that he is sitting on water but he has not exploited it.

**Eng. Toro:** Thank you, Mr. Speaker, Sir. When the Ministry of Water Development was formed, its main objective and dream was to supply piped water to all Kenyans by the year 2000. Now we are in the year 2000 and it appears that we are farther away from water than we were when the Ministry of Water Development was formed.

**Mr. Speaker:** Will you ask your question?

**Eng. Toro:** I will, Mr. Speaker, Sir.

**Mr. Speaker:** If you want to make contributions and give your ideas, move a Motion on water development in Naivasha. For now, ask your question!

**Eng. Toro:** When will the Ministry ensure that Kenyans get water? What is the Ministry's revised policy about water for all? What is the Ministry doing about the collapsed water projects like Kandara Water Project, which is no longer functioning?

**Mr. Ng'eny:** Thank you, Mr. Speaker, Sir. With regard to the Ministry's policy or objective, that by the year 2000 majority of Kenyans both in rural and urban areas should have water, it was a statement of intent. I have explained several times in this House that the programme of any scheme or any objective, is different from the statement or objectives. So, it is true that the Government has tried to fulfil that objective in the last 20 years. But due to various constraints, like in any other sector, it has not fulfilled this objective 100 per cent. I would like to tell the hon. Member that in urban areas, the Government has achieved its objective 75 per cent and 50 per cent in rural areas, in water provision. There is another difficult issue of water management and that is what we are trying to address.

**Mr. Kihara:** Mr. Speaker, Sir, you have heard the Minister talk about potential and potential! He did not tell us which of these boreholes are productive! None of them is producing water and these areas are occupied by peasant farmers. Could the Minister tell us when he will get this water from underground because it is not good when it remains underground as people are not drinking it?

**Mr. Ng'eny:** Mr. Speaker, Sir, I agree with my friend, hon. Kihara, that there is plenty of water underground but some of the boreholes are not producing to maximum because of---

**Mr. Kihara:** On a point of order, Mr. Speaker, Sir. The Minister is saying that the boreholes are not

producing to capacity. They are not producing any water at all! This is the point! None of them is producing water!

**Mr. Speaker:** Order! That is not even a point of order!

**Mr. Ng'eny:** Mr. Speaker, Sir, I stand by what I said; that a number of boreholes are producing water. For the few which are not producing, the Government, in conjunction with wananchi, intends to carry out rehabilitation work. I am glad his people are ready and very progressive. Together, we will assist each other.

**Mr. Speaker:** Mr. Wamunyinyi's Question, for the second time.

*Question No.353*

REGISTRATION OF *DINI YA MSAMBWA* SECT

**Mr. Wamunyinyi** asked the Attorney-General when the Government will register the *Dini ya Msambwa* religious sect.

**Mr. Speaker:** Could we have Mr. Attorney-General replying to the Question?

**An hon. Member:** The Attorney-General is still not here!

**Mr. Speaker:** Well, I am afraid, I have to defer your Question, hon. Wamunyinyi, to next week.

**Mr. Wamunyinyi:** Mr. Speaker, Sir, this Question appeared on yesterday's Order Paper and the Attorney-General asked hon. Raila Odinga to ask the Chair to defer it to today because he was held at State House. Now the Question has been asked and he is not here. Where is he smiling from? I wish to request the Chair to take action against him to stop taking this House for granted.

**Mr. Speaker:** Very well. I will defer the Question to next week.

*(Question deferred)*

QUESTIONS BY PRIVATE NOTICE

CONTRACT AWARD TO INTERTEK  
TESTING SERVICES

**Mr. Donde:** Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that a company known as Intertek Testing Services, which was recently allegedly involved in one of the biggest laboratory testing frauds in the United States regarding radioactive material, is about to be awarded a contract to do business with the Government of Kenya.

(b) In view of this adverse report on the company, could the Minister shelve this contract?

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Messrs. Intertek Testing Services is one of the companies that submitted bids for provision of pre-shipment inspection services. These bids are currently being evaluated and adjudicated by the Central Tender Board (CTB). The CTB has received a number of complaints and allegations on the various bidders, citing offences purportedly committed in a number of jurisdictions. We are currently investigating this before the final award is made by the CTB.

(b) As indicated, the contract will be awarded once the CTB is satisfied with the results of its investigations. Any dissatisfied parties at that stage will have recourse to the Procurement Appeals Board.

**Mr. Donde:** Mr. Speaker, Sir, I think this House is aware of the need for the Executive to have a free hand to do its working programmes. However, this House is also aware that whenever Parliament thinks that there is something which is out of the ordinary, it can intervene. I want to know if the Assistant Minister knows that this particular company has been involved in a lot of controversial dealings all over the world I have documents which I would like to table in this House, including letters and court cases in which this company is involved in the United States of America, with the US Government. Mind you, we have a very small Government compared to some of these multinationals. So, to guide the evaluating team, so that they can have some information and I am giving this information free of charge, I will lay it on the table.

Mr. Speaker, Sir, I would also like to tell the Assistant Minister that at the moment we---

**Mr. Speaker:** Order, Mr. Donde! This is Question Time and not information time. So, put the documents first on the Table, and ask your question!

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

You can proceed and ask your question now!

**Mr. Donde:** Mr. Speaker, Sir, my question is: At the moment, this work is being done by very reputable companies and so, why the need to change from these companies which were very reputable when there are only two years remaining before the World Trade Organisation (WTO) phases out this idea of PSI?

**Mr. Arap-Kirui:** Mr. Speaker, Sir, I thank the Member for laying those documents on the Table and they will be given due consideration. May I also point out that we are not seeking to replace any companies that have been doing this work. It is just that their contracts expired and new contracts are open to bids and among those who have bid--- I did answer a Question along the same lines not too long ago. Among those who have bid for new contracts are those who are currently engaged in the inspection services in this country. So, they will all be considered once the deliberations of the CTB are completed and we will know who has succeeded. And as I have explained, all necessary inspections will be undertaken to determine who is best qualified to be given this contract.

**Mr. Speaker:** I will give the last question to Col. Kiluta.

**Hon. Members:** No! You are unfair!

**Mr. Speaker:** Order! This is Question No. 1 and I have five of them. So, look at your time!

**Mr. Ndwiga:** On a point of order, Mr. Speaker, Sir. I rise to seek your guidance. This Question is very important to the economy of this country. Now, I am requesting that if we do not have time, the Chair could actually give the Assistant Minister time to go through it before it is deferred.

**Mr. Speaker:** What I will do is as follows: Because we have had a problem of late, where we deal with ordinary Questions and then, Questions by Private Notice coming at the tail-end, they get either scanty time or are deferred. I think what I will do, if I have to keep the time which we must do, which is one hour for Questions, I will do something that we have not done before, particularly for these five Questions. This is because if I have to attend to all of them, we probably will have to go to 4 o'clock. I will do something I have not done but only exceptionally for Tuesday. I will begin with these five deferred Questions and then after them, I will go to Questions by "Ordinary Notice". So, is that agreeable with the House? Is that all right?

**Hon. Members:** Yes!

**Ms. Karua:** Mr. Speaker, Sir, does that end Question Time?

**Mr. Speaker:** Yes, it does. So, Col. Kiluta, I will defer all of them now.

*(Question deferred)*

#### DISAPPEARANCE OF GUNNY BAGS

**(Mr. Wanjala)** to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that some empty gunny bags donated by Action-Aid and kept under the custody of the District Officer, Budalang'i, for the rehabilitation of Nzoia dykes, have disappeared?

(b) What urgent measures is the Minister taking to apprehend the people concerned?

*(Question deferred)*

#### AWARDING OF JOGOO ROAD CONTRACT

**(Mr. Mugeke)** to ask the Minister for Local Government:-

(a) Could the Minister inform the House how the contract to construct the 1.5-kilometre Jogoo Road section connecting Outer Ring Road was awarded and who is the contractor?

(b) How much is the contracted sum and what was the completion date of the road?

*(Question deferred)*

#### REGULATORY BODY TO OVERSEE PETROLEUM PRODUCTS PRICES

**(Mr. Ojode)** to ask the Minister for Energy:-

- (a) Is the Minister aware that the huge increases of petroleum products prices have adversely affected the consumers and that most Kenyans will not afford the basic needs?
- (b) What necessitated the increases when the price of crude oil is going down in the world market?
- (c) What urgent steps is the Minister taking to introduce a regulatory body to oversee importation, distribution and pricing of oil products in this country?

*(Question deferred)*

ALLOCATION OF JUA KALI  
INDUSTRIAL DEVELOPMENT LAND

**(Mr. Anyona)** to ask the Minister for Lands and Settlement:-

- (a) Is the Minister aware that part of the land allocated to Jua Kali Industrial Development, Plot No.2787/G/Zone 019, 0.80 hectares, Nanyuki, in 1986, has been illegally acquired from the Nanyuki Municipality Jua Kali Association?
- (b) Who is/are the new allottee(s) and who authorised the allotment of the land?
- (c) Could the Minister cancel the irregular allotment of the land in favour of the Nanyuki Municipality Jua Kali Association?

*(Question deferred)*

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): On a point of order, Mr. Speaker, Sir. I would like to seek your guidance. Members might wish to say this particular Question is an important one but I recall this is the third time I am answering a similar Question worded differently. So, I do not know, unless we are going to do it ten or twenty times for Members to be satisfied. It seems unreasonable.

**Mr. Speaker:** Order! Let me say this: You see, it is very interesting when a Member, for example, has brought a Question and, somehow, so many of you know its contents. However, one thing you must understand is that when Members stand [**Mr. Speaker**]

and tell the Chair "this Question is important" and the Speaker is a stranger to the background of the story, how do you expect him to know? Secondly, of the five Questions that are listed on the Order Paper, which is least important? So, all Questions brought to this House by hon. Members are important. So, please, do not plead with me for special treatment of any Question because I will not do it. So, all the Questions are deferred!

**Mr. Kombo:** On a point of order, Mr. Speaker, Sir. This Question was deferred on Tuesday, yesterday and today. In the Question, there is a phrase: "It is about to happen". So, as we defer it to Tuesday, can the Assistant Minister ensure that it does not happen?

**Mr. Speaker:** Order! I thought if you listened, the Assistant Minister said they were carrying out certain investigations and were aware of certain allegations made and that, the tenders will be given after the CTB has made the findings. I thought that is what he said.

**Mr. Kombo:** He did not say that!

**Mr. Speaker:** Order, Mr. Kombo! I am the Chair!

**Mr. Ojode:** On a point of order, Mr. Speaker, Sir. You are ruling that the Questions must be deferred. What Standing Order are you invoking?

*(Laughter)*

The reason why I am asking that is because you still have time to extend. We are not going to the Committee of Supply!

**Mr. Speaker:** Order! The minute you begin questioning every action of the Chair, then we will have 224 Speakers in this House. That obviously cannot happen. Question Time is not part of the business of this House. The tradition of this House which is, as good as the Standing Orders and my ruling, and which I wish now to confirm will be effected every week, is that Questions shall take one hour. The balance of our time shall be devoted to the business of the House. So, that is the Standing Order I am relying on; my own ruling and the

tradition of the House. Therefore, I am making a ruling that Question Time shall last between 2.30 p.m. to 3.30 p.m. We must, therefore, as a House, understand that within the one hour we have 15 Questions because that is what the Standing Orders say. We must then deal with those Questions within that time.

The Chair can also feel the mood of the House on certain Questions. Therefore, I may allow more than three or four interventions because of the special nature of a Question. If this happens, please, do not complain if after one hour we defer the others. So, let us understand that. We cannot be machines. We cannot strictly allocate three or four minutes to a Question because sometimes the Chair can notice the special interest that hon. Members exhibit on a Question and may give one or two Questions more time beyond the ordinary. So, let us leave it at that. But Question Time will be one hour.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. This National Assembly is for the welfare of Kenyans. The only time our people can ask the Executive or the Government about certain matters, be they small or big, is during Question Time. In my view, this is a very sad day when the Chair made a ruling that the representatives of the people shall only have one hour to ask Questions pertaining to 30 million Kenyans. It is a very sad day for me!

**Mr. Speaker:** Order! Hon. Members, Mr. Sambu is talking like he is coming to this House today, while, as a matter of fact, he has been in this House since 1993. He knows Question Time has been one hour. If I may just ask this House one thing, please, make up your mind on whether you want to play by the rules of the House or you do not. Secondly, I would also like to ask this House again to make up its mind: Would you like to respect the decisions of the House and the Chair or you do not? Somebody has to preside over this Parliament. The Speaker does it on behalf of everybody. It is right that we do ask Questions. However, Question Time is not the business of the House.

Every Parliament in the world that exist has a Question Time. Most of them have Question Times. Go to the United Kingdom, it is only for one hour and the Speaker does not extend it by one second. In fact, what the Speaker there does, when it is brought to his attention by the Clerk that time is up, the Speaker says; "Time up!" and then he goes to the business of the House. So, let us not stand every time and accuse the Chair of all manner of things.

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

**Mr. Speaker:** Order! We will go to the business.

By the way, if I may just remind you, yesterday, you insisted that you wanted to get to business, so let us leave Questions. Today, we have a lot of business. You may not want the business before you, but you can refuse it by adjourning it, if you do not like it.

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

**Mr. Speaker:** Order! No more points of order!

**Mr. Ojode:** Aaa!

**Mr. Speaker:** Order! Mr. Ojode, you must now leave the Chamber. You cannot heckle the Chair. I rule that you leave the Chamber, now!

*(Mr. Ojode withdrew from the Chamber)*

Order! There were certain hon. Members who had seen me about certain points of order they wanted to raise. It is now time for those hon. Members to rise. Apart from Question Time, we also have an opportunity for hon. Members to ask for Ministerial Statements or clarifications from Ministers. And this is that time.

## POINTS OF ORDER

### SAFETY OF SAAB 340B AIRCRAFT

**Mr. Badawy:** Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Information, Transport and Communications on the recently acquired aircraft. It is a matter of very great concern to air passengers using the recently acquired aircraft known as SAAB 340B, plying between Nairobi-Malindi-Lamu and Nairobi-Eldoret-Kisumu.

I would like the Minister to give us the profile of these aircraft acquired by Kenya Flamingo which is a wholly-owned subsidiary of Kenya Airways and which in the recent past had three frightening incidents to air passengers plying between these routes I have mentioned. The last incident was one where the aircraft communication systems failed. The aircraft could not land in Malindi and it had to come back to Nairobi. Prior

to that, Flight 603 from Malindi-Nairobi-Lamu witnessed the dropping of one of the landing wheels just after it had taken off from Malindi airport.

In another incident again, the landing gear did not emerge, culminating in an impending belly landing, except for the fact that there was a freelance aeronautic engineer on the plane who manipulated the cockpit system and he was able, therefore, to have the landing gear emerge. This is very serious. It is a matter of great concern to the air passengers from Malindi, Lamu, Kisumu and Eldoret. Therefore, I would like the Minister to give a Ministerial Statement on the safety, condition and profile of this new aircraft in the international aviation world.

#### POLICE HARASSMENT OF KENYANS

**Mrs. Mugo:** Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of internal security. Last night, we were all treated to rather shocking news where we watched citizens being clobbered by policemen. They clobbered helpless women who had already fallen on the ground.

**Hon. Members:** Shame! Shame!

**Mrs. Mugo:** Mr. Speaker, Sir, in *the East African Standard* newspaper we saw a picture of a man being carried away after being clobbered. We also saw women being clobbered by well-built policemen using big clubs. They were clobbering women who had already fallen on the ground. That barbaric and cruel state violence was directed against Kenyans. We have seen this very often. Could the Minister tell this House whether Kenya is now a police state or a dictatorship? What crime had these innocent retrenched civil servants committed? What crime did they commit by wanting to speak to the Head of State? Is it a crime to be near the Office of the President? Is it a mistake for Kenyans to air their grievances? Where are they supposed to go and seek audience? This violence against innocent citizens was barbaric and uncalled for.

Mr. Speaker, Sir, I wonder whether this Minister can tell us whether it is not legal in this country to hold peaceful demonstrations which is a basic human right. These people have not been given their right. You cannot work for a Government and be sent home with Kshs40,000; and even that, they are not getting it on time. So, where are they supposed to go? Can the Government tell us whether these are Kenyans, whether there is freedom in this country, and whether we can co-exist without police beating its own citizens? This is domestic violence.

#### ACCUSATIONS AGAINST THE CHAIR: MINISTER SHOULD APOLOGISE

**Mr. Musila:** Thank you, Mr. Speaker, Sir. With the indulgence of the Chair, I would like to make the following statement.

Mr. Speaker, Sir, the Minister for Finance, hon. Okemo, has been widely quoted in both the print and electronic media complaining that he and by extension, the Kenya Government, was not given a chance to respond to The Central Bank of Kenya (Amendment) Bill. This claim has given the impression that the Chair was either biased against the Government or was ignorant of the rules of the House. As the person who was in the Chair at that time, I would like to put the record straight.

Mr. Speaker, Sir, the debate in question---

*(Mr. Kimeto consulted loudly with Mr. Kibaki)*

**Mr. Speaker:** Order, hon. Members! Mr. Kimeto, you are making Mr. Kibaki a noise-maker, he is not normally a noise-maker. Will you go back to where you came from?

*(Laughter)*

**Mr. Musila:** Mr. Speaker, Sir, the debate in question was closed under the provisions of Standing Order No.80. The Standing Order is very clear as to the procedure to be followed in closing debate. Indeed, this provision of the Standing Order has been used on many occasions by the Government side to close debate on many Bills. As early as 5.30 p.m., I, being on the Chair, realised that the mood of the House was to close the debate on that same day. I then went out of my way and consulted with my colleague, hon. Imanyara. I requested him to approach the hon. Okemo and ask him to stand after Prof. Saitoti who was speaking then, so that I could allow him to contribute and, therefore, respond as the Minister for Finance. Immediately after, I got the feedback from

Mr. Imanyara that the Minister was willing to respond immediately. However, to my surprise, the Minister remained seated afterwards leaving me with no alternative but to give chance to another hon. Member.

I noticed also, Mr. Speaker, Sir, that there were attempts being made by other hon. Members to have the Minister contribute as they were contemplating on moving that the Mover be called upon to reply, in accordance with Standing Order No.80. Despite these efforts, the Minister, for reasons best known to himself, "remained put" on the Bench. I called him to the Chair and informed him of the likelihood of the debate being closed and asked him whether he was willing to respond. He told me that he was not prepared and indicated that he could, perhaps, respond the following day. He said: "There is no hurry". I informed the Minister that there was a likelihood of the debate being closed on that day.

Mr. Speaker, Sir, from the foregoing, it is obvious that the Minister was not being honest when he claimed in front of television cameras outside Parliament that the Government had not been given an opportunity to respond. The Minister should not hide behind the Chair to cover-up his unwillingness to contribute to the Bill. I, therefore, call upon the Minister to apologise to the Chair and to Kenyans at large for the misleading statement.

*(Applause)*

**Mr. Speaker:** Order! Order! Order, hon. Members! This august House must have listened very carefully to what hon. Musila has said. It had to come. I hope that ends there. These uncalled for accusations on the Chair must somehow stop. It is now "on season". It has become fashionable to lay all the blame, real or imagined, on the Chair. I think this must stop. Hon. Members must respect their own Chair. If there is something wrong in their imagination that the Chair has done, please, get in touch with the Chair or follow the right procedure. I do not want the Chair all the time to blame Members or the Chair to be blamed in public rallies, Press Conferences and on televisions. We are living in a world with so many televisions. They will beseech you to talk to them. Please, talk to them about yourselves because the Chair normally does not debate issues here. Do not make the Chair a subject of your own discussion out there. I plead with you to leave it there. Mr. Musila, leave it there.

**Mr. Musila:** I oblige, Mr. Speaker, Sir.

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

**Mr. Speaker:** Order! Order! In fact, I was following the proceedings, but I could not hear the consultations that were taking place between the Chair and the Members who were present. But I am fully informed that what Mr. Musila has stated is what transpired yesterday. When the hon. Minister for Finance comes here, he will apologise to the Chair. This does not apply to him alone. Any other Member who unreasonably and unlawfully takes on the Chair will see fire! Very well!

*(Dr. Ochuodho stood up in his place)*

Dr. Ochuodho, sit down, please. You are not in my list.

**Dr. Ochuodho:** Mr. Speaker, Sir, this matter---

**Mr. Speaker:** Dr. Ochuodho, you seem to be on a point of order on everything. You will sit down.

**The Assistant Minister for Finance and Planning** (Mr. Arap-Kirui): On a point of order, Mr. Speaker, Sir. I take it that the hon. Minister for Finance will be given an opportunity to respond to those comments. From the way I understood it, there might have been a very serious misunderstanding. The Minister maintains that he had informed the Temporary Deputy Speaker that he wished to contribute. He was surprised that he was locked out of the debate.

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

**Mr. Speaker:** Order! Order! Let me put this matter in its legal perspective. Yesterday, we were dealing with the Central Bank of Kenya (Amendment) Bill moved by the hon. Donde and not a Motion. Procedures for Bills and Motions are totally different. A Motion has a fixed time period. You debate a Motion for two hours and no more. But you can do it for less even, but no more than two hours. There is no such time limit for Bills.

Secondly, the Standing Orders give a Minister a specific right and time to respond. In a Bill, there is no obligation of anybody responding. Thirdly, to the best of my ability to understand the procedures, the Chair is not obligated to reach out to **[Mr. Speaker]** any hon. Member, including a Minister, to make a contribution.

*(Applause)*

Fourthly, the tradition and the rules of the House are that when you want to speak, you stand up so that you can catch the Speaker's eye. Unless you have stood up, the Speaker shall remain blind. So, if you want the Speaker to see you, stand up to be counted. If you do not stand up to be counted, do not put blame on the Chair. Finally, hon. Members, please, do not destroy Parliament by trying to put blame on the Chair all the time. Own up to your own inadequacies, if they do exist. If you have failed, please, say: "Sorry, I have failed".

Hon. Members, closure of debate is the prerogative of the House. Even now, if you wish to proceed to the debate next and close it, and that appears to me to be the mood of the entire House, I will accede to it. But if it appears to the Chair that opinion is divided; that some hon. Members would like to close debate while others would like to continue with it, I will exercise my discretion for continuation. If you are unanimous, you can pass all the three Bills on the Order Paper now.

So, please, do not bring blame to the Chair; let the Chair be neutral. Every time there is an accusation against the Chair, you are inviting the Chair to get into your debate. So, I do not want a repeat of this. Both the Government and the Opposition sides must respect the Chair because that is what makes our Parliament. So, that is it. If the Minister would like to come and consult the Chair--- If I were him, I would come running and apologise without further ado.

**Dr. Ochuodho:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Dr. Ochuodho, could you sit down?

**Dr. Ochuodho:** Mr. Speaker, Sir, during---

**Mr. Speaker:** Order! Dr. Ochuodho, that is the kind of behaviour that lowers the dignity of this House. The Chair has given a chance to Mr. Wambua, and you feel that hon. Wambua is less entitled to air time in this House than you. Why?

**An hon. Member:** Throw him out!

**Mr. Speaker:** I will; let him attempt it further.

Proceed, hon. Wambua.

#### SALE OF MACHAKOS COUNTY COUNCIL PLOTS

**Mr. Wambua:** On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Local Government regarding the sale of three plots which belonged to Machakos County Council by two councillors and an officer. Those who sold the plots are the Council Chairman, Councillor Mbai; the Chairman of the Finance Committee, Councillor Davies Musau, and the Acting Clerk, Mr. Wakarubi. The three plots were sold for Kshs7.5 million. The three named persons pocketed Kshs5 million, leaving the council with the balance of Kshs2.5 million. The three persons are now trying to offer something called "keep quiet allowance" of Kshs57,000 to each councillor, so that they can keep quiet. Some councillors have refused to take that money. The three plots were not advertised for sale, as required; they were not even sold with the consent of the council. To make the matter worse, the three persons who sold those plots---

**Mr. Speaker:** Mr. Wambua, please, make it short. Other hon. Members would also like to request for Ministerial Statements.

**Mr. Wambua:** Mr. Speaker, Sir, to assist the Minister with information on this matter, I would like to lay this letter on the Table. Some people are being evicted from the council's houses, so that those houses can be sold. I would like the Minister to take this matter seriously and, if possible, hand it over to the Kenya Anti-Corruption Authority (KACA).

*(Mr. Wambua laid the letter on the Table)*

#### BREAKDOWN OF MARIAKANI WEIGHBRIDGE

**Mr. Kamau:** On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Transport and Communications. About three or four months ago, the main weighbridge at Mariakani broke down. Transporters have always been subjected to heavy losses; they spend nearly 10 hours between the weighbridge and Mariakani Town. In short, could the Minister give a Ministerial Statement, explaining why the Government cannot purchase another weighbridge to replace the one being used at Mariakani? The Ministry is currently using some kind of mobile weighbridge, which weighs vehicles per axle. Thus, it takes between 20 and 30 minutes to weigh a single truck. This means that if a truck arrives at the weighbridge at 1.00 p.m., it will leave that place at 1.00 a.m., spending between 10 and 12 hours at the weighbridge. So, could the Minister issue a



Ministerial Statement and tell this House why the Government cannot rectify that situation, which has been on for between three and four months now?

#### DEATHS OF INMATES AT KING'ONG'O PRISON

**Mr. Kihoro:** On a point of Order, Mr. Speaker, Sir. On 4th October, 2000, I requested for a Ministerial Statement on the events that occurred at King'ong'o Prison on 4th September, 2000. Even though I have made two such requests since then, no Ministerial Statement has been issued. Press reports have been indicating that an inquest may be held in Nairobi. If that were to be the case, those people who may have witnessed what happened at that Prison will find it very difficult to come to Nairobi and give evidence. So, I am renewing my request for a Ministerial Statement on that incident. An Assistant Minister for Home Affairs, Heritage and Sports, promised me on 4th October, 2000, that the Ministerial Statement would be made. I quote the Assistant Minister from that day's HANSARD as saying: "We will respond next week, because this issue needs thorough investigations and a thorough answer, so that the House can be satisfied". However, three months after the incident, neither a Ministerial Statement has been provided nor have investigations been carried out. So, could this matter be sorted out before the House adjourns next week? Thank you.

#### END OF YEAR TESTS FOR KALAWA DIVISION STUDENTS

**The Assistant Minister for Education, Science and Technology (Mr. Awori):** Mr. Speaker, Sir, on Tuesday, hon. Munyao asked for a Ministerial Statement from the Ministry of Education on information he had received to the effect that 463 students in Kalawa Division had paid some money to the Ministry to undertake evaluation tests, and that this was not done. I have made inquiries and the information I have received shows that what the hon. Member said was not correct.

I would like to give hon. Munyao the correct information because I fear that there is something fishy about it. I want to ask for your indulgence to allow me to give the Ministerial Statement with the correct information on Tuesday.

**Mr. Munyao:** Mr. Speaker, Sir, through you, I would like to thank Mr. Awori. He is very good---

**Mr. Speaker:** Very well. Is there anybody from the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports to respond to the issue raised by hon. Kihoro?

**Mr. Kihoro:** Mr. Speaker, Sir, that is what I am requesting. There was dead silence after I renewed my request.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Ms. Mwachai):** Mr. Speaker, Sir, it is true that the hon. Member requested for a Ministerial Statement from the Ministry, but because of some legal technicalities that involve the Attorney-General, Mr. Amos Wako, we will only give it after we get the legal advice from him. The response will contain both the Ministry's and the Attorney-General's advice.

**Hon. Members:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What has she said?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Ms. Mwachai):** Mr. Speaker, Sir, it is true that the hon. Member requested for a Ministerial Statement, but there are investigations being conducted by the Attorney-General. Therefore, we will not give the Ministerial Statement until the legal investigations have reached a conclusive stage.

**Mr. Speaker:** Mr. Kihoro, you will see me after subsequent debate.

**Mr. Kihoro:** Mr. Speaker, Sir, Section 387 of the Criminal Procedure Code requires an inquest to be held by the nearest magistrate. I thought that the Government would respond by saying that, that inquest will be held from such and such a date, and, indeed, it will be held in Nyeri and not in Nairobi? That is what I expected, and I do not know whether it will be forthcoming.

**Mr. Speaker:** Well, maybe, you should see me later and then we will know what to do.  
Next Order!

#### BILLS

##### *Second Reading*

THE PUBLIC SERVICE (CODE OF  
CONDUCT AND ETHICS) BILL

*(The Minister of State, Office of the President  
(Mr. ole Ntimama) on 22.11.2000)*

*(Resumption of Debate interrupted on 29.11.2000)*

**Mr. Speaker:** Dr. Anangwe was on the Floor the last time.

**The Minister for Medical Services** (Dr. Anangwe): Thank you, Mr. Speaker, Sir. I was on the Floor when we adjourned on Tuesday.

The issue that I was discussing was in regard to the Public Service Code of Conduct and Ethics Committee. My attempt was to justify or support the role of the President in the appointment of the Chairman, the Vice-Chairman and the four members of the Committee. I know of the concern that was being raised on the Floor on that particular role; that the autonomy of the Committee will be undermined. I disagree with that.

The autonomy of any institution or agency is a function of two factors. The first one has to do with the calibre of the people being appointed to the Committee. If the calibre of people being appointed on the Committee is high, we will not have any difficulties in the Committee discharging its mandate and responsibilities as required by the law. The mere fact that the President is playing a role in appointing them will not necessarily undermine the autonomy of this particular Committee. We have many examples and cases where the President has appointed people to high offices and they have continued to discharge their responsibilities with dignity as required by the law.

The second factor that would influence the autonomy of the Committee has to do with how they raised their finances. Indeed, I note from the Memorandum of Objects and Reasons to the Bill that it states very clearly and categorically that the expenditure in respect of the Committee and the administration of the Bill after it is enacted will be drawn from the public funds. So, that is an adequate guarantee and we need not worry as to whether or not the Committee will be autonomous. So, regarding the set-up in terms of requirements, personnel required and finances, there is adequate provision. My plea to the Minister in charge of the Bill is to ensure that when he nominates the six members, they must be people of high calibre and whom the President can readily choose in order for them to discharge the mandate of the Committee.

When you read through the Bill, there are sad undertones, which seem to "demonise" acquisition of wealth and criminalise those who are wealthy. I do agree that there is new morality that requires people to be transparent and not misuse public offices. Indeed, that particular phenomenon is new. A few years back, it was not an issue. I remember that some of us were in the Public Service in 1970s and it was "fashionable" to acquire property and you could see public officials saying it publicly: "Tunyakue mashamba." But these days, that particular tendency is no longer acceptable. If you acquired a plot, the whole country would be screaming and calling you names like, "a land grabber," and yet in the 1970s, it was fashionable to do that. Indeed, it was the norm that one had to acquire property, but I accept that, that was a different period.

Now, we have undergone a transformation; we were still a new nation, which must, of course, develop its values and norms. It is no longer acceptable to continue along those lines. But that notwithstanding, we must encourage the culture of generation of wealth and its private accumulation. It is not a sin to do that so long as one is able to generate wealth. But when you look at the Bill, from Clauses 6 to 7, there is an implied criminalisation of those who have wealth. For instance, within three months, notwithstanding that you may have been an outsider and a businessman who acquired your own wealth, you stood for Parliamentary election and you got elected, it is being demanded of you to declare annually your wealth. These are undertones that one may appreciate that they are occurring at this particular moment when there is so much poverty.

Indeed, if there is any indicator that this country is now constituted by more than 50 per cent of the population which is under poverty, it is the attitude and undertones that underlie the Bill. When you are poor, you are seen to be idle. For example, if you went to the street and said that you have no wealth, people would be surprised with you. That is now what is fashionable. Indeed, as Marx did say, "the dominant values of any people are those of the ruling class". It means that in our case the attitudes that are preponderant are of those people who have no wealth. Let us not criminalise wealth because we need wealthy people to be able to create employment and to build this country, particularly when we have undergone economic reforms. That means that the mainstay of wealth generation in this country has to be in the hands of the private sector, private individuals, private institutions, private enterprises and so forth. We have to create a culture where it is respectable to generate wealth.

When you look at this particular Bill, you will find that the undertones inherent are such that one is being condemned for being wealthy. Let us encourage our people to generate wealth and to have acquisitive propensities. Let us encourage private accumulation but of course, within the rule of law and ways that are acceptable.

Coming to the section on political neutrality, I appreciate what Clause 12 is trying to achieve which is essentially that we do not want to have public servants, particularly in offices, who subscribe to a political party or certain political persuasion or are partisan in their discharge of responsibilities. This particular clause says that a public officer who is not a Member of Parliament or a councillor shall be politically neutral and shall refrain from engaging in the activities or acting as an agent of any political party or indicating his support publicly for any party. I think it is good that we have provided for this. I am not too sure whether this is a solution to the partisan behaviour we see, say, amongst civil servants. The other wrong assumption in this particular clause is that once you proscribe political activity within the state arena, then you will have sorted out a problem.

The behaviour of civil servants with regard to politics emanates from the larger society. Whether they come from certain regions or tribes, these are the forces which shape the attitudes of civil servants when they come to discharge their responsibilities within the Civil Service. I am not too sure that by providing for it here, we have solved this particular problem. Indeed, it will continue, but the only difference is that it will not be explicit. It will continue under the surface. For us in the Government, it is always good to have a neutral Civil Service rather than a partisan one. When you have a partisan civil servant and particularly if he belongs to the Opposition political parties, you will know what his role is in the Government. From morning up to evening, he will be conspiring to undermine Government programmes because the party in power is not the one that he subscribes to. It is a good provision, but we probably need to go further in ensuring that when it comes to implementation, this particular provision holds water.

Mr. Speaker, Sir, there may be need to create some exceptions. In some other parts of the world, it is not necessarily true that when you become an MP or when you seek an elective post, you have to leave the Civil Service. In the Netherlands, there are MPs who are also university lecturers and I was taught by such people. The same applies in many other countries. In other words, you would be sitting with him in the lecture theatre and he would be telling you that he is hurrying to Parliament. That may be justifiable particularly when you are dealing with rare and specialised skills that are not abundant in the economy. It may be justified to let such an individual, whereas he has sought an elective post and he is in Parliament, he still continues to discharge his duties elsewhere in the interest of the nation. I will give an example. There are not very many Phd holders in computer science. Dr. Ochuodho may be one of the few people with such qualifications. If he can find the time, why not let him go and teach in the university on part-time basis and he can still come back here and make his contribution? They are full of energy, particularly when they are very educated. When you do not nurture their energy, it can turn to be destructive, like in Dr. Ochuodho's case when he went to whip Mr. Okundi's wife. What I am saying is a fundamental issue. Let us create exceptions in regard---

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to say that Dr. Ochuodho went to whip Mr. Okundi's wife when this matter is pending in court and the appeal has not yet been determined?

**Mr. Speaker:** Sorry, I was consulting with this hon. Member. Mr. Murungi, what did he say?

**Mr. Murungi:** Mr. Speaker, Sir, the Minister said that Dr. Ochuodho is highly gifted; he has a Phd in Computer Science, and that he should be teaching at the University instead of whipping people like Mr. Okundi's wife.

**Mr. Speaker:** Mr. Minister, did you say that?

**Hon. Members:** He said it!

**The Minister for Medical Services (Dr. Anangwe):** Mr. Speaker, Sir, it is the context in which I was saying it which is more important. I did say that Dr. Ochuodho is an expert; he has a Phd in Computer Science and he has so much energy. Probably, if that particular energy was spent at the university, he would not use it for destructive ends. That is all I said.

*(Laughter)*

**Mr. Speaker:** Can I ask you several questions? What section of this Bill deals with Dr. Ochuodho and Mr. Okundi's wife?

**The Minister for Medical Services (Dr. Anangwe):** Mr. Speaker, Sir, it was in relation to political neutrality. It was in Section 12 which states that:

"A public officer who is not a Member of Parliament or a councillor shall be politically neutral

and shall refrain from engaging in the activities or acting as an agent of any political party or publicly indicating support."

The point I was trying to make---

**Mr. Speaker:** Order! I do not want that point. The point is that you are discussing the conduct of another Member without a substantive Motion and you know that is out of order. I therefore bring you to order by ordering you to withdraw that allegation, apologise and proceed.

**The Minister for Medical Services (Dr. Anangwe):** Mr. Speaker, Sir, I apologise, but it was a positive comment.

I beg to support.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. Did you hear what he said? He did not apologise.

**Mr. Speaker:** No, he said: "I apologise".

**Mr. Wamae:** Did he withdraw?

**Mr. Speaker:** Order! As I said this afternoon, the Chair will be obeyed now. You disobey the Chair and worse still, accuse the Chair at your own peril. My order was for the Minister to withdraw and apologise. He apologised, but did not withdraw.

**The Minister for Medical Services (Dr. Anangwe):** Mr. Speaker, Sir, I said: "I apologise". May I now withdraw.

**Mr. Speaker:** Very well. Mr. Murungi, when I give you now the opportunity to speak, please, mind what has happened to him.

**Mr. Murungi:** Mr. Speaker, Sir, I rise to support this Bill, but with several qualifications. I will watch your word and ensure that we confine the debate strictly within the four corners of the Bill unlike my friend there, the Minister.

Mr. Speaker, Sir, in fact, this Bill has some good intentions. We in this Parliament, especially through the Parliamentary Select Committee on Anti-Corruption, did recommend that there be a code of conduct for the Civil Service in this country. I do remember that on several occasions this Parliament has recommended the setting up of an Ombudsman to control the arrogance, insensitivity and kleptomaniac tendencies within our Civil Service. The Government has refused to introduce the institution of an Ombudsman. This Bill comes close to what we have been demanding. The main problem with the Bill is that it is unconstitutional, because it contravenes the fundamental doctrine of separation of powers. If anything, it creates a real doctrine of concentration of power.

**Mr. Speaker:** Order! For the benefit of the House, Mr. Murungi, because you have raised a very interesting issue, are you saying that the Bill is unconstitutional?

**Mr. Murungi:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** So, can you point that out and let me know?

**Mr. Murungi:** Mr. Speaker, Sir, the Public Service Code of Conduct and Ethics Committee, which is being set up under Section 3(1) is supposed to be a Committee which supervises the conduct of the Legislature, hon. Members of Parliament, the Civil Service and the Judiciary. So, to that extent, this Committee undermines the doctrine of separation of power. We cannot have one Committee which supervises the conduct of the judges, hon. Members of Parliament and the Civil Service. We shall have to have three separate committees. This is the point I would like to make and I think it is important.

If you look at the First Schedule on the persons who are supposed to declare income, assets and liabilities to the Committee, you will find:-

A. Officers required to submit declaration to the Committee:

(a) Parliamentarians:

Speaker of the National Assembly, Ministers, Assistant Ministers, Members of Parliament;

(b) Parliamentary Service Commission:

Clerk of the National Assembly, Officers on Job Group "P" and above;

(c) Civil Service;

(d) Local Authorities;

(e) Teaching Service;

(f) Judiciary:

Chief Justice, Judge of Appeal, Puisne Judge, Other officers on Job Groups R2, M4 and above.

Mr. Speaker, Sir, if you look at the composition of this Committee under Section 3, you will find that it is a Civil Service Committee appointed by the President. Section 3(2) says:

"The Committee shall, subject to subsection (3), consist of-

(a) a Chairman appointed by the President after consultation with the Chief Justice, who shall be

- a person who holds or has held office as a judge of the Court of Appeal;
- (b) a Vice-Chairman appointed by the President in consultation with the Minister, from amongst the members of the Committee under paragraph (c);
- (c) four members who shall be appointed by the President-
- (i) from a list of six persons of whom at least three shall be women, nominated by the Minister.
- (d) the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service or his representative who shall be an *ex-officio* member but who shall be entitled to vote in all matters before the Committee."

So, we are saying that this is a Committee of the Executive. I would like to say that a Committee of the Executive should not have any power to regulate the conduct of the Speaker of the National Assembly and the Chief Justice of this country. So, it is important that this Bill, important as it is, requires certain amendments to bring it in conformity with the doctrine or separation of powers upon which our Government is built. This is the first point I was trying to make.

Mr. Speaker, Sir, the second point I would like to make is that, the Committee itself, as a Committee of the Executive, does not have the necessary independence even within the Executive to oversee the conduct of civil servants in an impartial and objective manner? Some time in 1930, the late President Mzee Jomo Kenyatta wrote a book called *Facing Mount Kenya*. In that book, the late President Mzee Jomo Kenyatta was describing a committee called the "committee of elephants". He said that the elephants walked through a *shamba* and destroyed some crops and the farmers were complaining that their crops had been destroyed by elephants. When the elephants heard that, they went to the forest and constituted a committee of elephants to go and listen to the complaints of the farmer. Obviously, after the elephants sat down, they wondered why the farmer had planted his crops on the path of the elephants. So, the elephants decided that the farmer had really no serious complaints.

We are saying that this Committee which is being set up under Section 3 of this Bill is actually a "committee of elephants". It is a Committee of senior civil servants who will go and listen to the complaints against other senior civil servants, including themselves. Suppose there is a complaint against the Permanent Secretary or the Permanent Secretary, Secretary to the Cabinet and Head of Public Service, who is a member of this Committee and voting there in, how can that complaint be independently and objectively processed by that Committee? If there is a complaint against the nominees of the Minister, who can objectively process those complaints?

So, what we are suggesting and we shall bring some amendments at the Committee Stage is to have an independent Public Service Code of Conduct and Ethics Committee, which is not appointed by the President and does not consist of civil servants. We do not mind some retired civil servants being members of this Committee, but serving civil servants should not be members of this Committee.

Mr. Speaker, Sir, we need a Committee of people of high integrity, who are approved by the relevant Committee of this House. At the Third Reading, we will bring some amendments to ensure that the people who will man this Committee are people of high integrity and non-civil servants. They could be former civil servants, but people whose names are approved by Parliament. Clause 4(3) says that the Committee that will be set up is supposed to have no Secretariat of its own. We are setting up a shell of a Committee, because this clause says:

- (3) The Permanent Secretary, Secretary to the Cabinet and Head of the Public Service, shall provide the Committee with such officers as the Committee may identify for the efficient discharge of its functions."

What are we saying? We are saying that officers from the office of Dr. Leakey will be the ones who will provide the Secretariat to this Committee. We are saying that this Committee will be an extension of Dr. Leakey's office. So, we, in Parliament, should allocate some funds for this Committee to function independently. We should remove it from the office of Dr. Leakey. We should create an independent Secretariat to this Committee because it is not a large Committee. Even 10 or 12 people should be able to service the Committee, but it will not be an independent Committee, if it will operate from the office of Dr. Leakey.

Mr. Speaker, Sir, there is the question of declaration under part (3) of the Bill. It is true that senior civil servants, Members of Parliament and judges will declare their wealth. But we shall be very foolish if the declarations of wealth will be merely made by individuals who are holding those offices. Even now, when there is no declaration of wealth, we know that much of the stolen wealth is not in the names of the senior civil servants, judges or Members of Parliament. The wealth which is stolen is hidden. Some of it could be stashed in Swiss accounts under fake names. We were told that when Emperor Haile Selassie died, they were not able to get his money from the Swiss accounts. It was not put under his name. It was put under a name that nobody could recognise. So, a lot of wealth stolen from Ethiopia disappeared. It could not be traced. Even in this country, there are people who have hidden stolen assets. It is not in their names. I do not think you will find any

account---

**Mr. Speaker:** I hope you remember what befell Dr. Anangwe! I am warning you in advance!

**Mr. Murungi:** Mr. Speaker, Sir, I am not about to name Dr. Anangwe as having any accounts. I know he is a poor man just like me! What I am saying is that we need to expand the scope of this declaration. Let hon. Kiraitu Murungi, his wife and children declare what they have. If we widen the net a bit, we are likely to get closer. We should do the same for Messrs. ole Ntimama, Biwott, Dr. Anangwe, the Speaker of the National Assembly and everybody else who is required to make a declaration. Let us do it for ourselves and our families. I am very careful because I am including myself. I think the declaration will make more sense if it is widened that way.

Mr. Speaker, Sir, there is also the question of Clause 12, which brought Dr. Anangwe some trouble; about the political neutrality of the civil servants. I think it is not really a question of not having a law. Right now, we have a law in place, which makes it a criminal offence for civil servants to participate in partisan politics.

We have a law which prohibits civil servants from campaigning for any political party or any candidate. We also have a law which prohibits civil servants from campaigning against any candidate or any political party. That is the National Assembly and Presidential Elections Act, Cap. 7. That is fact of the IPPG reforms that we brought in.

But, Mr. Speaker, Sir, the civil servants, especially those in the Provincial Administration like the DCs, are political officers. They are not civil servants. We have had a case where we confronted a DC and asked him why he was against the Opposition. He pointed at the picture of Moi which was hanging over his head and said: "I am here because of this person! Whatever he wants me to do, that is what I am going to do! You will come with your civil servants when you come to power!" So, many of the DCs behave like that. I do remember that even in the height of elections, after we had prohibited civil servants from participating in elections, a PC in Western Province said that he was ready to go out immediately the KANU Government is out of power.

Therefore, he continued to work for KANU and nothing happened to him! So, I think the problem is that one of impunity. Civil servants flout that law daily. They campaign for KANU daily. They harass Members of Parliament from the Opposition and nothing happens to them. What we need in this law is to pass a stiff penalty. The penalty that we fixed in 1997, that a civil servant will pay a fine of Kshs50,000, is not good enough. Nobody has paid to date. Let us put them in for about ten years! Let them lose some property in hefty fines, so that they can learn to be professional civil servants.

We also have the same provisions under the Chief's Act. It is a criminal offence for any chief to campaign for any political party or to support the partisan political activities of any political party. I think it is Section 20 of the Chief's Act. But what happens? The chiefs all over the country behave like youth-wingers of KANU. During the campaigns, it is the chiefs who call meetings at night. We have seen them in by-elections distributing money for certain candidates. Nothing has happened to those chiefs. I think we need to move beyond that. We need to have a few chiefs sacked, so that the others can take the laws that we passed here seriously. It is very important that we have a professional Civil Service.

I know that the next Government in this country will be formed by the DP. It is not our wish to misuse the Civil Service the way KANU has done in the last 30 years. Sometimes, the civil servants do not have any respect for even the Ministers. I remember when Mzee ole Ntimama had slaughtered many cows in Narok over Christmas, a DC showed up there and said: "These cows cannot be eaten because we have not given hon. ole Ntimama a licence to hold a party here!" What Government are we running where a small person cannot recognise a senior Cabinet Minister like hon. ole Ntimama? We have seen a case where a Chairman of a Country Council and some councillors have humiliated the Vice-President of this country, and nothing has happened to them!

I think what we need to introduce in our Civil Service, and what I do not see in this Act, is a programme of education. We need a lot of seminars and education for the Civil Service in this country. We should teach them discipline and the line of command. We should teach them how to treat Members of Parliament, Ministers and their seniors with respect. I think that is even more important than the penalties and other things that are put in this Act. What we need is education and to teach them good manners. If we do that as a complement of the law that we are passing, we will have a better Civil Service for this country.

With those few remarks, I beg to support.

**Mr. Kajwang:** Mr. Speaker, Sir, I rise to Move the following Motion:

THAT, the Motion which we are now debating be amended by deleting the word "now" after "read" and substituting in place thereof the words "six months from today".

Mr. Speaker, Sir, the Motion which we are now discussing was moved under the provisions of Standing Order 102 (1) which says:

"On the Order of the Day being read for the Second Reading of a Bill, a Motion shall be made; That the Bill be now read a Second Time,".

So, that is the Motion we are debating and I am seeking the indulgence of the House that an amendment be granted by deleting the word "now" after "read" and substituting in place thereof the words "six months from today."

The effect of what I am trying to do is that, if this Motion succeeds, then the Bill can be shelved and be brought to the House after six months. I am saying so because the Bill as it now stands, contravenes the Constitution of the Republic of Kenya

Mr. Speaker, Sir, this is a serious matter because we cannot allow any Bill to go through this House or even to be debated in this House, if we already know that there is a likelihood that, if the Bill goes through, it will contravene the Constitution.

I want to refer to Section 3 of the Constitution of the Republic of Kenya. It states that:

"This Constitution is the Constitution of the Republic of Kenya and shall have the force of law throughout Kenya and, subject to section 47---" (which, of course, allows amendments to the Constitution) "if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void".

Mr. Speaker, Sir, what I am saying is that this House cannot pass any law which has a consequence that it may conflict with the Constitution. This is because the Constitution itself says that if any such law is promulgated by this House or made into law, it shall be void. This House cannot do what is likely to be void, because then we shall be wasting taxpayers' money; we shall be wasting our own time when we have some more important things to do for this country than to waste time.

Mr. Speaker, Sir, the Standing Orders also show such a situation. If you look at Standing Orders 40 (d)---

**Mr. Speaker:** Just a minute! Let me get my copy. I am encouraging every Member to follow this debate with the relevant reference material. You are referring to which Standing Order?

**Mr. Kajwang:** Mr. Speaker, Sir, I am referring to Standing Order 40 (d).

Standing Order 40.(1) states as follows:

"Save as otherwise provided by these Standing Orders, notice shall be given by a Member of any Motion which he proposes to move."

(2) "Before giving notice of Motion, the Member shall deliver to the Clerk a copy of the proposed Motion, in writing and signed by himself---" Which I have already done. "and the Clerk shall submit the same to the Speaker---" Which the Clerk has done.

(3) "If Mr. Speaker is of the opinion that any proposed Motion:-

(b) "is contrary to the Constitution, without expressly proposing appropriate amendment to the Constitution."

That is what I want to use as my basis. That falls under Section 40(3) (b). The Motion now before the House reads as; "THAT, this Bill be Read now a Second Time", which is contrary to the Constitution. Because it does not expressly provide for amendment of the Constitution, it should be rejected.

**Mr. Speaker:** Mr. Kajwang, let me just put a question from the Chair about one or two things.

**Mr. Kajwang:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Is there no difference between a Bill and a Motion?

**Mr. Kajwang:** Mr. Speaker, Sir, there is a Bill before the House. But what is before the House right now is a Motion. It is a Motion seeking that, this Bill be now Read a Second Time.

**Mr. Speaker:** Let me just put you in the correct perspective, therefore: The Motion that this Bill be now read a Second Time does not contravene the Constitution. You can address the Bill and show us the sections that contravene the Constitution. But the Motion itself is valid.

**Mr. Kajwang:** Mr. Speaker, Sir, the import of the Motion, if it goes on, is that this House, may, of course by a Vote, pass this Bill or refuse to pass it. If it does pass it, then that Bill will be contrary to the Constitution. That is my argument. Having laid that foundation, I want to show you some of the sections of this Bill, which are likely to contravene the Constitution of the republic of Kenya.

Mr. Speaker, Sir, just to mention first and foremost, that the offices which have been set out--- Let us even refer to the Memorandum of Objects and Reasons, which is on page 1087 of this Bill. Let me just begin by referring to paragraph (1) which states:

"The main object of this Bill is to provide for ethical standards and norms of conduct to be observed by public officers and to prescribe sanctions for the breach of those standards and rules of conduct. This should provide a basis for enhancing public confidence in the integrity of the

public officers and in the decision making process in the Government and the public sector in general."

That is the general and main object. First, it wants to raise the standards and ethics of public officers and it will prescribe sanctions. So far so good. But what is a public officer? That is in part one of the Bill which deals with preliminary provisions. It states:

"A public officer is defined as any officer or person as a member, officer or servant of a public body. The expression "public body" is very broadly defined to include any department, service, undertaking of the Government, the Cabinet, the National Assembly, local authorities and any corporation, council, board, committee or other body which has power to act under or for the purposes of any written law relating to local Government; Public Health or undertakings of public utilities or otherwise, to administer funds belonging to or granted by Government or money raised in rates, taxes, charges in pursuance of any such law."

So, what this Memorandum of Objects and Reason is setting out is that a public officer is so broadly defined that it contains from the Office of the President to the office of a sweeper; from the Judiciary to Parliament; Auditor-General (Corporations) to the Attorney-General. That is what is defined here as a public officer.

In fact, if you look at the definition section of this Bill, it has also tried to define a public officer. That is what bothered me first, I wanted to know who is this public officer and who is this authorised person that this Bill is talking about. This is what is defined in Article 2 of the Bill.

At page 1057, the public body is defined as follows: The public body include:

"The Government, any department, service or undertaking of the Government; the Cabinet, the National Assembly, any local or public authority, any corporation, council, board, committee or any other body which has power to act under and for the purposes of any written law relating to Local Government, public health or undertakings of public utilities or otherwise to administer the funds belonging to or granted or money raised by rates, taxes or charges in pursuance of any law."

Mr. Speaker, Sir, so, anybody who is paid with any coin from the public treasury as a public officer and that person, of course, includes the President, Vice-President, Ministers, Cabinet, Clerk of the National Assembly, Speaker, Attorney-General, the courts and even the Chief Kadhi's Court is provided for in the constitutional offices. This also applies to the Controller and Auditor-General. These are people who are paid by public funds raised from public taxes. So, we are talking about a situation where we have a Bill seeking to control and give sanctions against certain officers for doing certain wrongs. They have, of course, listed those wrongs as prohibited conduct and I would refer to what is referred to as prohibited conduct and it is in Part 4 of this Bill, Page 1065.

The Bill states in Section 10:-

"A public officer shall neither ask for nor accept any property or benefit of any kind for himself or for any person on account of anything to be done, omitted to be done by him in the discharge of his duties or by virtue of his official position".

So, it is saying that you should never take a gift or a benefit if you are a public officer. Of course, we have already seen the definition of a public officer; we are saying that the President, Chief Justice, Attorney-General, Speaker, Clerk of the National Assembly and Members of Parliament shall not take any gifts or benefits for them to do or omit to do anything in the discharge of their duties.

So, what are we then saying by this Bill if it goes through? We are saying that although the Constitution provides for the Office of the President and I can assure you it is in Section 4 of the Constitution which provides that:- "There shall be a President of the Republic of Kenya who shall be the Head of State and Commander-in-Chief of the Armed Forces of the Republic". That is the section of the Constitution that creates the Office of the President. If the President was to do anything that would be construed to be prohibited conduct, then this Committee which we are creating today shall summon the President of the Republic of Kenya and, of course, after doing that, shall ask him under oath to give certain evidence which it will inquire or require from him. Of course, after he has given that evidence and any other person has given evidence against him, they will write a recommendation to the authorised person to deal with the President. I do not know who this authorised person will be. This is because he is the Head of State and Commander-in-Chief of the Armed Forces and then there is some authorised person whom we are supposed to report to and he is likely to take some due disciplinary action.

Mr. Speaker, Sir, let me show you the disciplinary action which this authorised person may take.

**Mr. Speaker:** On which page is it?

**Mr. Kajwang:** Mr. Speaker, Sir, it is on Page 1076, Section or Article 23. It states:-

"This authorised person upon receipt of a report under Section 22 containing the findings of the



breach of this Act and subject to the Constitution, he may take any of the following actions against the public officer:

(a) warning and caution".

So, we expect the authorised person to write to the President a letter warning him and giving him caution that in the event that he continues polluting these acts which are contravening this Act, he is likely to be fired, but I do not know now. Let me just go on and say what else he can do. It further states:- "He can also recommend a demotion". So, the authorised person is likely to recommend that the President be demoted. I do not know whether, when he becomes demoted he becomes Vice-President, Member of Parliament only or what happens? The same applies to you, Mr. Speaker. You see, if this authorised person were to write to our Speaker to tell him that he is demoted, I do not know whether the Speaker will become the Deputy Speaker or he will become an ordinary Member of Parliament or he will just go home. The same applies to the Chief Justice. If you demote the Chief Justice, what does he become? I do not know whether he becomes an ordinary judge or he goes home.

Mr. Speaker, Sir, then, of course, there is suspension, withholding, deferment and surcharge of increment and dismissal. So, the authorised person can even dismiss the President, Speaker of the National Assembly, Chief Justice who according to this Constitution is appointed by the President and can only retire at the age of 74, but if you want to discipline him there is a provision of how the Chief Justice as a judge of the High Court can leave office. So, what are we saying? We are saying that we are bringing a Bill in this House which is likely to contravene the provisions of the Constitution and these are the offices I am referring to, which it may contravene although I was using the President as an example, but I can read out the constitutional offices: I have just tabulated them because I was looking at the Constitution and I tried to look at what are the constitutional offices.

Section 4 provides for the President; Section 15, the Vice-President; Section 16, Ministers of the Government; Section 17, the Cabinet; Section 19, Assistant Ministers; Section 22, Permanent Secretaries; Section 31, Members of Parliament; Section 33, Nominated Members of Parliament; Section 26, the Attorney-General; Section 37, the Speaker; Section 38, the Deputy Speaker; Section 41, members of the Electoral Commission; Section 45 (b) which we amended recently, the Clerk of the National Assembly; Section 60, Judges of the High Court; Section 61, the Chief Justice; Section 64, the judges of the Court of Appeal; Section 66, the Chief Kadhi; Section 110, the Controller and Auditor-General. So, these are constitutional offices. They are provided for in the Constitution and the Constitution provides the manner in which they may be appointed, leave office and in which they may be disciplined if the Constitution so says.

Mr. Speaker, Sir, but the Constitution has provided on how the President may leave office. Not by dismissal by some authorised person. It provides for a debate in this House by a Motion or a vote of no confidence and, of course, there is another provision which deals with him if he is incapable of exercising the office of the President. The same applies to the Vice-President, whereby he may leave office by being sacked by the President or through resignation. I think those are the only provisions upon which the Vice-President may leave office or maybe, by a vote of no confidence, but that is not specifically provided for in the Constitution. So, we cannot then allow some committee of civil servants and you know the committee is made up of some civil servants--- Let me look at the composition and it should be in Article 3 which talks about the establishment of the committee on Page 1058. It states:-

"There shall be an established Committee to be known as Public Service Code of Conduct and Ethics Committee. The Committee shall be subject to Section 3. Sub-section 3 consists of the chairman appointed by the President, the Vice-Chairman appointed by the President in consultation with the Minister and four members who shall be appointed by the President from a list of six persons of whom, at least, three shall be women and nominated by the Minister all of whom shall be persons prominent in public life having the highest standards of probity and integrity".

But part "B" is what worried me most and I put a mark there. It states:- "The Permanent Secretary and the Head of the Public Service (and this must be Mr. Leakey) or his representative who shall be an *ex-officio* member, but who shall be entitled to vote". This is the first time I am seeing an *ex-officio* being allowed to vote by an Act of Parliament. When you are an *ex-officio* you are supposed to be a technical person and advise the Committee, tribunal or whatever. You cannot all of a sudden be an *ex-officio* member who sits there to advise, but when it comes to voting you also carry up your hand. The it states:- "Another member who must also be there is the Director of Kenya Anti-Corruption Authority (KACA)". So, today we are creating something called KACA and Permanent Secretary to the Cabinet and we are creating monsters. That is people who can sit in this Committee and dismiss the President of the Republic of Kenya. Dr. Leakey wants to dismiss the President of the Republic of Kenya from office. Who is this Mzungu? Who does he think he is?

(Laughter)

We have voted for a President, whether he won by rigging like hon. Kibaki believes, but he is the President and he has taken the oath of office. Then who is Dr. Leakey to recommend the dismissal of the President?

**Mr. Kariuki:** On a point of Order, Mr. Speaker, Sir. Is it in order for the hon. Member to castigate a member of SAFINA so badly and with such attacks? Are some Kenyans more Kenyan than others?

**Mr. Speaker:** Order! I think the only thing I can say at this stage is that the Speaker does not allow racial attacks. I really do not know whether I [Mr. Speaker] can distinguish between a SAFINA Member, a DP Member, a KANU Member or a FORD(K) Member. Those are extraneous to my profession. I really do not know them. So, please, do not become racial.

**Mr. Kajwang:** Mr. Speaker, Sir, although I will not attack Dr. Leakey because he is a Mzungu, what I am trying to say is that he is the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. Clause 3(2)(d) says---

**Mr. Speaker:** Order! Mr. Kajwang, just to bring it to your attention, the Clause does not talk about Dr. Leakey; it talks about the Permanent Secretary, Secretary to the Cabinet and the Head of the Civil Service. That is an office, not a person. It could be held by a "green" person.

**Mr. Kajwang:** Mr. Speaker, Sir, I agree that, of course, this is an office and it could be held tomorrow by somebody else; be it a Mhindi or any other person. But in the meantime, we cannot be blind to the fact that it is being held by Dr. Leakey. So, in our debate, we must mention that he is the one holding this office.

Mr. Speaker, Sir, about this Committee, the Bill says that there can never be quorum unless the Permanent Secretary is present or, in his absence, the Director of KACA. Why are we bringing corruption into this Bill? I thought we were just merely declaring our wealth and, of course, we are expected to say the truth. Somebody will look at it and maybe find that we did not say the truth. That may be a prohibited action. But at the same time, we may do something which is against the rules of conduct and ethics. Why is the Director of KACA a permanent member, *ex-officio*? Although, it seems as if he does not have power to vote. The only person who has the power to vote is the Permanent Secretary, Secretary to the Cabinet and Head of the Civil Service.

What we are trying to say is that the Constitution of the Republic of Kenya is the basic law of this country. The Constitution says in Section 3 that if any other law is made which is likely to contravene the Constitution, then that law is, to the extent of that inconsistency, void. So, we cannot allow a Bill in this House which is likely to undermine the Constitutional offices. If we want to create an office of Ombudsman, and I hope that is what this Act was trying to do, then we could amend our Constitution and create it. There is, of course, a Constitution Review Process already in place, but if we think it will take too long, then let us amend our Constitution in order to create an office of Ombudsman. That would suffice because that amendment will provide for an office of the Ombudsman and how it will relate with other Constitutional offices. But you cannot bring such a Bill and you expect us to pass it.

Mr. Speaker, Sir, the other day when I took the Oath of Allegiance, I swore to defend the Constitution. I remember standing there and the President was seated there; I raised my hand and swore to abide by and defend the Constitution. So, I cannot stand to see our Constitution being contravened in any manner and let it go. That is the point I am trying to make. I am not the only person who took the oath of allegiance because every hon. Member here took it. The Cabinet Members also took another oath. In all those oaths, there is a provision of defending the Constitution of the Republic of Kenya. The Speaker also took an oath after we elected him. Although I did not have a copy of it, I am sure the Speaker took the oath to defend the Constitution.

**Mr. Speaker:** Correction. I only took the oath here. So, please, do not speculate.

**Mr. Kajwang:** Mr. Speaker, Sir, what I want to say is that the Speaker took the oath here immediately after his election. In that oath, it must have been stated that the Speaker shall defend the Constitution of the Republic of Kenya. The President also took the oath; one as a Member of this House and another as the President of the Republic of Kenya. He swore to defend the Constitution; the only thing which makes this country a country. The only thing that make the Kenya nation a nation is the Constitution of the Republic of Kenya.

So, we cannot by any chance, allow the World Bank and the IMF to take our Attorney-General prisoner to the extent where he seems not to know his work. The Attorney-General, Mr. Amos Wako, is a brilliant man. He was my teacher in the university. But he signs something which is, obviously, contrary to the Constitution. It is a pity that he brings it here and we start debating it and we are almost passing it into law. What will he do when the authorised person writes a letter to the President dismissing him? This is a serious matter. I think the World Bank is taking us too fast. Soon or later, we will riot in this country against the IMF and the World Bank

as it happened in America. We have not done it here.

Mr. Speaker, Sir, we have seen this kind of laws. We saw it in the Finance Bill. We saw it yesterday when we were talking about bank interest rates and now we see it in this Bill. We have created another monster called the KACA which seems to have so much power over everything and everybody. We are even suggesting that it can open our letters and look at our faxes. It can do anything even to our wives!

*(Laughter)*

This country is going a wrong way. The World Bank people are not very clever people. They have to take Kenya very seriously. You have to tell them to go and try these things in their own country. There is no KACA Act in America. Why it is not there? There is no such kind of a committee in America which can summon President Clinton. The only committee that can summon President Clinton is the Senate and it is provided for in the Constitution. We saw it and read about it. They did their work. The Senate is their court, just like this House can turn itself into a court and look at the conduct of the President and pass a vote of no confidence in him. But this cannot be done by some other bodies created by somebody to cause confusion.

Mr. Speaker, Sir, with those few remarks, I beg to move. I request hon. Raila to second the Motion.

**Mr. Raila:** Mr. Speaker, Sir, I would like to second this Motion with a very clear conscience that this Motion is intended to create order. Hon. Kajwang has spoken very eloquently, so that there is no need to say so much about this Motion. I had spoken earlier on and I did draw the attention of the House to several deficiencies inherent in this Bill.

Mr. Speaker, Sir, it is true that this Bill violates provision of our Constitution.

**Mr. Speaker:** Order! Can I just make a clarification because we want to get rid of this amendment as quickly as possible? Those hon. Members who wish to contribute to this amendment, just restrict yourself to the amendment, and you will reserve your right to contribute to the main Bill if this Motion fails. This also means that the hon. Members who have spoken on the main Bill can speak on the amendment. Proceed, Mr. Raila. I suppose you will speak on the amendment only.

**Mr. Raila:** Mr. Speaker, Sir, I do not intend to speak too much because I have already spoken on the Bill itself. I raised the very same issues which have been raised by hon. Kajwang here, that this Bill is deficient in several ways. I am now convinced that this Bill is incorrigibly deficient and, therefore, it needs to be shelved.

Mr. Speaker, Sir, with those few remarks, I beg to second.

*(Question of the first part of the amendment,  
that the word to be left out be  
left out, proposed)*

**Mr. Murungi:** Thank you, Mr. Speaker, Sir. I stand to support this Motion. In my main contribution, I had pointed out a fundamental defect in this Bill. I am convinced that this Bill is incurably defective and this House has no choice, but to have it shelved. I do not need to repeat what I said. But for the benefit of the Attorney-General, we had said that the Committee being created by this Bill violates the fundamental doctrines of the separation of powers upon which our entire Government is based in the sense that it is arrogating itself a supervisory role over the Legislature, the Judiciary and the Executive. That Committee, under Clause 4, is an Executive Committee based in the Office of the Head of the Civil Service and Secretary to the Cabinet. We cannot allow it to interfere and to supervise the conduct of the Speaker of the National Assembly, the Chief Justice of this country, and as Mr. Kajwang' has pointed out, also the conduct of the President. The Attorney-General has no choice but to take this Bill back for redrafting.

With those few remarks, I beg to support.

**Mr. Muite:** Mr. Speaker, Sir, I support very strongly the amendment moved by hon. Kajwang. The traditional constitutional role of the National Assembly as the elected representative body of the people is to make room for the existence of checks and balances. The purpose of separation of powers is so that we can have checks and balances. It is for the Legislature to supervise the Executive. This Bill is seeking to reverse the roles, so that the Legislature is supervised by the Executive. That is a constitutional heresy and it is unacceptable. I wonder how a brilliant lawyer like the Attorney-General could bring a Bill like this one to Parliament. But in fairness to the Attorney-General, we know that he is understaffed. We also know that there are people who bypass his office and contract out the drafting of Bills to other people. I do not know whether that is what happened. However, what this

Bill sets out to do is wrong. It would be irresponsible for this House to pass this Bill in its present form. We are not objecting to codes of conduct, but let the Attorney-General take the Bill back and draft a code of conduct for the Judiciary with a committee to supervise and oversee that code of conduct. He should then come back with a code of conduct for Members of Parliament, including the Speaker. Our mandate is five years from those who elected us, he should not subject this House to the humiliation of being supervised by civil servants. Let him bring our own code of conduct and let it have much more far reaching terms than he is suggesting in this Bill. But let us have our own code of conduct with our own supervisory committee. Let him bring a code of conduct for civil servants and we shall pass it.

I strongly support the Motion.

**Mr. Speaker:** Very well!

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I want to assure this House that the Public Service (Code of Conduct and Ethics) Bill meets the provisions of the Constitution, subject to **[The Attorney-General]** a few amendments here and there. It is true that consultant experts drafted this Bill on behalf of the Attorney-General's Office. I am aware that they followed the precedence of similar Bills in Uganda, Tanzania and Zambia. In fact, most of the clauses of the Bill, the schedules and the forms of declarations follow very closely the provisions of the same Bill in Uganda. The only difference--

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. Is it in order for the Attorney-General, who is the Chief Legal adviser to the Government of this country, to tell us that the Bill is drafted in accordance with another Bill in Uganda without showing us the provisions of the Kenya Constitution with regard to which this Bill complies?

**Mr. Speaker:** Well, I would like to tell the Attorney-General that we do not know the contents of the Constitution of Uganda. So, it may be perfectly in conformity with that Constitution, but we do know our Constitution.

*(Applause)*

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I do agree that we do have our Constitution, but this House is entitled to hear from the Attorney-General the way the Bill was drafted. The House should also hear about the constitutional provisions of Uganda, Tanzania and Zambia. The drafting of this Bill followed very closely the Uganda precedent. As far as the Ugandan Constitution is concerned--

**Mr. Muite:** On a point of information, Mr. Speaker, Sir. I would like to inform the Attorney-General that, that Bill that he is referring to in Uganda, Zambia and Tanzania is as a result of IMF/World Bank prescriptions which are being followed blindly. We should not do that. The time has come for us to draft Bills that are suitable to us rather than being rushed to implement prescriptions from the World Bank and the IMF.

**Mr. Speaker:** Now, you are debating. You are no longer informing him.

**The Attorney-General** (Mr. Wako): Whether hon. Muite is right or wrong, I cannot say. But he may be having information to that effect and it may be true, I do not know. But I know that the Bill follows the Ugandan precedent. The Constitution of Uganda as far as the division of the organs of State and powers are concerned, is very similar to that of Kenya. So, is the Constitution of Tanzania and Zambia. The predicament in which--

**Mr. Raila:** On a point of information, Mr. Speaker, Sir. I would like to inform the Attorney-General that the code of conduct in the Ugandan case is contained in the Ugandan Constitution as an appendix. It was developed along side the Constitution which was discussed by the Constituent Assembly. The case is very different here because we have a Constitution which is existing. So, our code of conduct should be tailored to meet our Constitution.

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I am not talking about the provisions of the code of conduct or the general guidelines and principles of a code of conduct. I am talking about the provisions of an Act of law and what I have said is correct. The problem we are having here is that, this matter did not pass through the relevant parliamentary departmental committee where a number of issues that have been raised here could have been discussed. Had this Bill been subjected to proper discussion in the relevant parliamentary departmental committee, a number of issues that are causing concern would have been addressed and maybe, dealt with there. It is important that a Bill of this nature when passed, enjoys the confidence of Members of Parliament. I would suggest that maybe, in the future, particularly on Bills such as this, the relevant parliamentary departmental committees should do their work and make sure that they consult and bring appropriate amendments to this House. I have found it to be very useful in sorting out a number of areas of disagreement.

Mr. Speaker, Sir, this Bill is also very closely inter-linked with the next Bill on the Order Paper. This is what I want to inform the House. This Bill is also very closely inter-twined with the Anti-Corruption and Economic Crimes Bill. The two Bills, really, go together; this House cannot separate them. So, this is a matter hon. Members should also consider while deciding on how to vote on this Motion of amendment.

**Mr. Speaker:** Mr. Attorney-General, I think we have only one issue now, namely, the Motion of amendment. I will now put it to vote.

*(Question of the first part of the amendment, that the word to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)*

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

*(Question of the Motion as amended proposed)*  
*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, the Public Service (Code of Conduct and Ethics) Bill be read a Second Time six months from today.

**Mr. Speaker:** Hon. Members, the Bill will be read again six months from today. So, let us proceed to the next Order.

### *Second Reading*

#### THE ANTI-CORRUPTION AND ECONOMIC CRIMES BILL

**Mr. Speaker:** Mr. Attorney-General, are you ready to initiate debate on the Anti-Corruption and Economic Crimes Bill?

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I came here prepared for the Bill that has just been deferred. I am not ready for this particular Bill today.

Mr. Speaker, Sir, this Bill has also not been subjected to proper discussions at the Departmental Committee level. I think those discussions have to take place first before the Bill is debated here. Also, as I have indicated, the Public Service (Code of Conduct and Ethics) Bill and the Anti-Corruption and Economic Crimes Bill are inter-related. So, these are issues I have to---

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. The Attorney-General correctly says that these two Bills are inter-linked. He has also indicated that it is desirable for the Bills to, first, go through the relevant Departmental Committee. Would it not be in order for him to take the initiative of withdrawing this Bill and sending it to the Committee first before he brings it back to the House for debate?

**Mr. Murungi:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Who do you want to inform? Me?

**Mr. Murungi:** I want to inform the Attorney-General, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Attorney-General, would you like to be informed?

**The Attorney-General** (Mr. Wako): Yes, Mr. Speaker, Sir.

**Mr. Murungi:** Mr. Speaker, Sir, I am a Member of this House's Committee on Administration of Justice and Legal Affairs. This Bill was committed to the Committee after it was read the First Time. We have scheduled

a meeting for tomorrow to discuss this Bill. The Attorney-General and the Chairman of the Anti-Corruption Committee have been summoned to appear before us. So, with this information, I think the Attorney-General can indicate when he will be ready to move the Bill.

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, right now, I cannot indicate when I will be ready to move the Bill.

**Mr. Speaker:** So, what you are saying is that you do not want to move the Bill now?

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I do not want to move the Bill now. I would like it to be subjected to further consideration. We shall see how to go about it after tomorrow's meeting of the relevant Departmental Committee.

**Mr. Speaker:** All right; the Second Reading of the Bill is deferred. Mr. Attorney-General, the Bill will be put on the Order Paper when you want it put on it next.

*(Second Reading deferred)*

THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) BILL

**Mr. Speaker:** Mr. Attorney-General, are you ready to initiate debate on the Statute Law (Miscellaneous Amendments) Bill?

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, again, this particular Bill is still under discussion at the Departmental Committee. We might finalise the discussion on this Bill tomorrow, so that we can start debating it on Tuesday.

*(Second Reading deferred)*

**Mr. Speaker:** Order! Order! Hon. Members, I think everybody came here to debate the Public Service (Code of Conduct and Ethics) Bill. Given that the Bill has been shelved, and that the Attorney-General is not ready to initiate debate on the Anti-Corruption and Economic Crimes Bill, since he did not anticipate that it would be reached today; and further given that the Statute Law (Miscellaneous Amendments) Bill has also been shelved, again because the Attorney-General did not anticipate debate on it to start today; it would be too far-fetched for me to think that the hon. Members who are supposed to move the Motions on the Adoption of the Ninth Public Investments Committee (PIC) Report and the Public Accounts Committee (PAC) Report are ready to do so.

**MOTIONS**

ADOPTION OF THE NINTH PIC REPORT

THAT, this House adopts the Ninth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on 27th July, 2000.

*(Motion deferred)*

ADOPTION OF THE 1996/97 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1996/97 laid on the Table of the House on 4th October, 2000.

*(Motion deferred)*

**ADJOURNMENT**

**Mr. Speaker:** So, hon. Members, for the convenience of the House, it is now time to adjourn and, therefore, the House is now adjourned until Tuesday, 5th, December, 2000, at 2.30 p.m.

The House rose at 5.25 p.m.