

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 28th April, 1999

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICES OF MOTIONS

IMPLEMENTATION OF DAKAR AND BEIJING RESOLUTIONS

Mrs. Mugo: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, while appreciating the Government's efforts to promote the welfare of women in this country; concerned that there are still initial areas of concern in the development section that call for urgent action to enhance the role of women and their full participation in the national development; aware that the Government of Kenya is a signatory to the Dakar Platform of Action on women; reaffirming our commitment to the Abuja Declaration on women participatory development within the concept of the Nairobi Forward Looking Strategy; this House urges the Government to implement the resolutions of the Dakar Platform of Action and the Beijing Affirmative Action, and that quarterly reports on implementation be made to the National Assembly.

INTRODUCTION OF BILL TO AMEND CONSTITUTION

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House do grant leave to institute a Bill entitled "The Constitution of Kenya Amendment Bill" to amend the provisions of Sections 45 and 107, in order to provide for the establishment of a Parliamentary Service Commission.

Mr. Deputy Speaker, Sir, this is a party Motion which is co-sponsored by all the ten Parliamentary parties---

Mr. Deputy Speaker: Order, hon. Oloo-Aringo! You just give notice of the Motion. You can say that when you are introducing it to the House.

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, it is important that I register that now.

Mr. Deputy Speaker: Order, hon. Oloo-Aringo! You have been given a chance to give notice of the Motion.

PAYMENT OF ALLOWANCES TO COUNCILLORS.

Mr. Murungi: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, in view of the acute financial difficulties being experienced by many local authorities in paying allowances to councillors, this House urges the Government to make the necessary arrangements for all councillors to be paid allowances from the Local Government Transfer Fund

ORAL ANSWERS TO QUESTIONS

Question No.033

DESTRUCTION OF KATHANGATHI
CO-OPERATIVE SOCIETY'S PROPERTY

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

(a) if he is aware that on 11th January, 1998, robbers terrorised the workers and destroyed property of Ndithini-Kathangathi Multi-purpose Co-operative Society Limited, and that no action has been taken to date;

(b) if he is further aware that one of the gate-keepers, a

Mr. Jackson Ngori, was seriously injured, and the case was reported to the police and the District Officer, but no action was taken; and,

(c) if the answers to parts (a) and (b) above are in the affirmative, what he is doing to ensure that these gangsters are arrested and charged accordingly.

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

We are not aware of any such incident, and I think the Member should give us such details because there are no records in the police station that this incident has been reported.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Minister is saying that he is not aware of this incident, and as far as I am aware, this incident was reported to Manaja Chief's Office and to Yatta Police Station. I have all the details in writing and I would like, with the Chair's permission, to pass this information to the Minister so that he can be able to answer this Question effectively.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. After a Question has been asked and an attempt made to reply, it does now remain the property of the House. Would it not be in order for the hon. Member to actually lay the papers on the Table of the House and then the Minister can go and come up with proper investigations and reply?

Mr. Deputy Speaker: Mr. Katuku, what papers do you have?

Mr. Katuku: Mr. Deputy Speaker, Sir, the Minister says that the matter was not reported to the police station. I have records here indicating that the matter was reported to the police station. That is what I want to give the Minister.

Mr. Deputy Speaker: Table them.

(Mr. Katuku laid the papers on the Table)

Mr. Minister, can you respond?

Maj. Madoka: Mr. Deputy Speaker, Sir, I will look at those documents because, as I said, we had checked the records at Yatta Police Station in Machakos, and Makuyu Police Station in Maragwa District but there was no such report. So, we will look at these documents and then come up with the appropriate answer.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. In the circumstances, is the Question being deferred then; and if it is, could the Minister indicate when he will be ready to answer it?

Mr. Deputy Speaker: Maj. Madoka, have you looked at the papers hon. Katuku has laid on the Table?

Maj. Madoka: Mr. Deputy Speaker, Sir, I have not looked at them yet, but I will look at them. Obviously, I cannot give an answer now.

Mr. Deputy Speaker: Well, we will defer this Question but, really, Maj. Madoka, if the matter has been reported to the police, it is effectively in your control!

Maj. Madoka: Mr. Deputy Speaker, Sir, I will check those documents, because as I said, we have checked the records at the Yatta Police Station where he says the matter was reported, and we have no records. So, we will check on those documents.

Mr. Katuku: Mr. Deputy Speaker, Sir, it is common knowledge that the Office of the President, the DOs and the chiefs have a tendency of interfering with the running of co-operative societies involved in sand harvesting, especially in Machakos. It is a cover-up and the Minister cannot deny the fact that this case has not been reported. It is a situation whereby somebody was assaulted.

Mr. Deputy Speaker: Order, Mr. Katuku! I have ordered the Question deferred, so that the Minister can come back with an answer after going through the documents you have laid on the Table.

Next Question.

(Question deferred)

Mr. Michuki: Mr. Deputy Speaker, Sir, I have no written answer to this Question, yet it involves huge figures which are not possible to pick on the Floor of the House. Where is the written reply?

Mr. Deputy Speaker: Ask the Question first.

Question No.047

NUMBER OF LEGALLY ESTABLISHED FUNDS

Mr. Michuki asked the Minister for Finance:-

- (a) apart from the Consolidated Fund set up under the Constitution of Kenya, how many other Funds have been established under the law;
- (b) if he could supply to the House a list of such other Funds and also state their purpose; and,
- (c) what the limit of each of these Funds is.

The Assistant Minister for Finance (Mr. Keah): Mr. Deputy Speaker, Sir, the written reply is on the way to Parliament. I would ask the indulgence of the House that I answer this Question in the second round.

Mr. Deputy Speaker: Very well! Next Question.

Question No.031

NUMBER OF WORKERS IN EXPORT PROCESSING ZONES

Mr. Anyona asked the Minister for Labour:-

- (a) how many workers are employed by the Export Promotion Zones and Sulmac Flowers Limited; and,
- (b) what the conditions and terms of employment of these workers are.

The Minister for Labour (Mr. Ngutu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Export Processing Zone employs 3,255 workers and Sulmac Company Limited employs a total of 3,600 employees. This is inclusive of permanent, seasonal and casual workers.

(b) Sulmac Company Limited is based at Naivasha and is not part of the Export Processing Zone. The terms and conditions of employment are regulated by a collective bargaining agreement signed between them and the Kenya Plantation and Agricultural Workers Union (KPAWU). The terms and conditions are negotiated and set above the minimum conditions prescribed by law. Statutory contributions to NSSF, NHIF and Industrial Training Levy are made. Workmen's Compensation to injured workers is also paid.

The Export Processing Zone, with a total of 23 employers, does not give their employees uniform terms and conditions of employment. Nevertheless, the terms and conditions are above the minimum prescribed by law. The employees, generally, earn minimum wages ranging between Kshs3,500 and Kshs8,500 per month.

The employees are given a minimum of 21 working days annual leave. They work for 45 hours a week and are paid overtime for extra hours worked.

Statutory contributions are made to NSSF, NHIF and the Industrial Training Levy. The only exemption is that the Export Processing Zone is exempted from the provisions of the Factories and Other Places of Work Act, Cap.514.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Minister has a fairly elaborate answer, and yet he refused to avail me a copy of the written answer as required by the Standing Orders.

However, when I was the Chairman of the PIC, we visited both the Export Processing Zone and Sulmac Company Limited in Naivasha, and the workers were being treated like slaves. For one thing, they were not allowed to join the trade union. I am glad to hear, and I would like some evidence, that the Sulmac Company Limited workers have been allowed to join a trade union. Could the Minister explain why the Export Processing Zone Workers are not allowed to join the union, which is right by law?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I am not aware of that. I do not have information at the moment, but I can check and, get the necessary information and bring it to the House later.

Mr. Murungi: Mr. Deputy Speaker, Sir, there have been speculations in the European Press, especially about the Sulmac Flowers Limited. This is a multi-national which is heartless, and which has been exploiting our people. They do not provide even the basic minimum health safeguards for the workers within their farms. Even in the local Press, there were stories that workers in these farms are dying due to lack of basic medical treatment. Could the Minister assure this House that he is going to ensure that adequate medical facilities are provided to the workers of Sulmac Flowers Limited?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I was not aware of what the hon. Member has said, but I will

investigate and make sure that the necessary steps are taken to correct the anomaly.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Minister has said that he is not aware that employees of Export Processing Zone are not allowed to join the unions and he has undertaken to investigate and come up with some information. I just do not know whether, therefore, this Question is regarded as stood over, or whether he is going to offer to bring extra information, in which case he should indicate when. But, yes, he has said that the Export Processing Zone is exempted from the Factories and other Places of Work Act, Cap.514. Now, what would be the reason of denying workers protection that is offered to other workers in other industries at the expense of their own safety?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I gave that kind of information because I did not have a ready answer. I think the answer I have given here gives a lot of information to cover that Question adequately. But for that particular point, I will communicate with the hon. Member, unless, of course, he wants me to come back to the House with the missing information.

Mr. Deputy Speaker: When?

Mr. Ngutu: On Tuesday next week, Mr. Deputy Speaker, Sir.

Mr. Anyona: Mr. Deputy Speaker, Sir, I am grateful to the Minister for trying to do a good job, but he has not yet answered the other question about the exemption from the requirements of the Act.

Mr. Ngutu: Mr. Deputy Speaker, Sir, those employees were employed under the terms and conditions of employment which are adequately covered by the collective bargaining agreement signed between the employer and the Kenya Plantation and Agricultural Workers Union. However, the law exempts those workers from strict observance of the standards set in occupational health and safety requirements as stipulated in the Factories and other Places of Work Act, Cap.514. That is the position. I have not gone through the Act to get the reasons and why it was necessary for this but, as I said, I can bring it to the House later and verify whatever information may be missing.

Mr. Mugalla: Mr. Deputy Speaker, Sir, the Minister has said that the Export Processing Zones are exempted from certain parts of Kenyan law. Does this also prohibit the union from organising its workers, and the workers from joining the union? So, when he comes to this House next time, could he come with an affirmative answer to the effect that unions can organise themselves?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I will look into the issue raised by Mr. Mugalla and bring the necessary information to this House when I bring the answer.

Mr. Shill: Mr. Deputy Speaker, Sir, what action is normally taken against those companies which refuse their workers to register themselves with trade unions? What action does he take against companies which exploit workers?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I am sure that the particular laws or agreements that are signed by the parties concerned are specific on such matters. However, employers sometimes do things on their own when the authorities are not aware of what is happening. So, when we get specific complaints, we can investigate and find out why such things are happening.

Mr. Kajwang: Mr. Deputy Speaker, Sir, the question which was asked by the hon. Member for Fafi was very categorical and clear. He asked the Minister to state the action he takes when a company refuses its employees to unionise, and threatens the employees with sacking if they insist in doing so.

Mr. Ngutu: Mr. Deputy Speaker, Sir, we take the necessary action as provided for by the law.

(Several hon. Member stood up in their places)

Mr. Deputy Speaker: Order! Order! Hon. Minister, that is not an answer. So, what action would you take according to the law?

Mr. Ngutu: Mr. Deputy Speaker, such situations are supposed to be dealt with in courts of law.

Dr. Kulundu: On a point of information, Mr. Deputy Speaker, Sir. If I may assist the hon. Minister, I can speak about M/S Sulmac Flowers Limited with authority because I worked for it for 13 years. The company has been one of the best in the provision of medical facilities in the entire private sector in this country. We do not seem to know that. Secondly, M/S Sulmac Flowers Company Limited employees have been members of the KPAWU for the last 20 years. Probably, hon. Anyona's Question refers to the smaller companies in Naivasha, particularly, M/S Oserian Company Limited, which does not allow its employees to be members of the KPAWU.

Mr. Deputy Speaker: Dr. Kulundu, are you asking a question or are you---

Dr. Kulundu: Mr. Deputy Speaker, I rose on a point of information.

Mr. Deputy Speaker: Yes, but---

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Minister has accepted to be informed.

Mr. Deputy Speaker: Order, Dr. Kulundu! You are giving information to the Minister, who has already agreed to come back with that information later.

Dr. Ochuodho: He is misleading the House!

Mr. Deputy Speaker: Order! Order!

Mr. Kajwang: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to mislead the House that M/S Sulmac Flowers Limited does not have medical cover for its workers when in actual fact the company has the best employees' medical cover in this country? Is he also in order to claim that employees of M/S Sulmac Flowers Limited do not belong to a trade union when its workers are members of the KPAWU?

Mr. Deputy Speaker: Order, Mr. Kajwang! The Minister said that employees of M/S Sulmac Flowers Limited belong to the KPAWU.

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

Mr. Deputy Speaker: On what point of order are you rising now, Dr. Ochuodho? Are you rising on what Dr. Kulundu said?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, my point of order is; since it seems that hon. Kulundu is very competent, could the Government consider appointing him Minister for Labour?

(Laughter)

Mr. Anyona: On a point of order, Mr. Deputy Speaker. I am fairly satisfied with both the demeanour and the answer by the Minister. I would like us to help him and the workers. Now, regarding **[Mr. Anyona]** the exemption in terms of the Factories and Other Places of Work Act, I think it is not fair that the country's Parliament should exempt a company from certain requirements which affect workers' health and safety. So, I would like the Minister to look at the Act and tell us the possible amendments he will bring to the House to normalise that situation.

Mr. Ngutu: Mr. Deputy Speaker, Sir, as I said before, our laws are in the process of being reviewed. So, this one will be considered along with others, as we go through them.

Question No.019

ALLOCATION OF AIR TIME BY KBC

Mr. Deputy Speaker: Hon. N. Nyagah's Question is deferred.

(Question deferred)

Mr. Deputy Speaker: Let us go to Mr. David Musila's Question.

Question No.044

MURRAMMING OF MBONDONI-MIGWANI-KABATI ROAD

Mr. Deputy Speaker: It seems he is not there. We will come back to this Question. Let us go back to hon. Michuki's Question.

Question No.047

NUMBER OF LEGALLY ESTABLISHED FUNDS

Mr. Michuki asked the Minister for Finance:-

- (a) apart from the Consolidated Fund set up under the Constitution of Kenya, how many other Funds have been established under the law;
- (b) whether he could supply the House with a list of such other Funds and also state their purposes; and,
- (c) what is the limit of each of these other Funds?

The Assistant Minister for Finance (Mr. Keah): Mr. Deputy Speaker, Sir, before I reply to this Question, I would like to apologise to the House for not having been able to provide a copy of the written answer to the hon. Questioner. I have just received the typed script of the answer, and it is being photocopied. The answer is lengthy and detailed. When I finish answering the Question, I will table the document for everybody's consumption.

Mr. Deputy Speaker, Sir, with that apology, I would like to proceed.

(Mr. Michuki stood up in his place)

Mr. Deputy Speaker: Mr. Michuki, why do you not let the Assistant Minister finish what he is saying first?

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. I am pleased that the Assistant Minister has confirmed my fears. This is a Question whose answer would contain many figures. So, with your permission, could the Assistant Minister undertake to answer this Question later? It is not possible to raise supplementary questions on this matter now. So, could he tell this House when he can have all the relevant information supplied to me? I do not think it would be fair for the Question to be answered before I study his written answer.

Mr. Deputy Speaker: Well, the easiest solution is, of course, to defer the Question, so that you can have time to study the Assistant Minister's written reply to enable you ask supplementary questions. So, Mr. Assistant Minister, we will defer this Question to tomorrow. That gives you ample time to furnish hon. Michuki with a copy of the written reply.

(Question deferred)

The Assistant Minister for Finance (Mr. Keah): Mr. Deputy Speaker, Sir, I shall duly comply and as I stand, the answer has just been brought; but I appreciate your ruling. We cannot go back. I will duly circulate those copies tomorrow morning. This answer needed detailed research and I appreciate the concern raised by hon. Michuki and as I said, I have apologised to the House and to him that the answer was not available earlier.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Since the Question is a very important one, could the Assistant Minister also avail to other Members a copy of the answer so that we---

Mr. Deputy Speaker: Order, hon. Obwocha. You know what the Standing Orders say in respect of replies from Ministries. If you want a copy for yourself, either go and get it from the Assistant Minister or go to the library.

Mr. Anyona: Mr. Deputy Speaker, Sir, if the Assistant Minister had not seen the answer, how can he, in all honesty, be able to be fair to this House by giving us an answer that makes sense? This is one of the ways in which the Civil Service is emasculating Parliament.

Mr. Deputy Speaker: Order, hon. Anyona. I have already ruled that because of the circumstances of this Question, it be deferred. You are quite right when you say that the Assistant Minister cannot stand in the House to give an answer to a Question which he has not got, or he has just got now. It means that he was not responsible for preparing it.

Mr. Anyona: Mr. Deputy Speaker, Sir, I am just raising this issue and I was laying the foundation. The requirements of our Standing Orders are very clear; that, Members must get written answers of the Questions in good time. Both the Members and the Assistant Minister have not got the copy. Can this Parliament allow the Civil Service to behave like this and compromise the work of Parliament? That is the point that I am making.

Mr. Deputy Speaker: Order! Order! These Ministers are responsible to this House. It is them that we hold accountable, and if the Minister stands up to give an answer, we take it for granted that it is he who has prepared that answer. So, Mr. Assistant Minister, that Question has been deferred until tomorrow afternoon.

David Musila's Question has also been deferred.

Question No.044

MURRAMMING OF MBONDONI-MIGWANI-KABATI ROAD

(Question deferred)

Mr. Deputy Speaker: Right! We go on to Questions by Private Notice.

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir, I still have not got a copy of the answer.

Mr. Deputy Speaker: Hon. Michuki, that Question is now a matter for tomorrow.

QUESTIONS BY PRIVATE NOTICE

IMPORTATION OF CEMENT

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

(a) Is the Minister aware that a company, M/s Hydere (P) Ltd., has imported 3,000 tonnes of cement without following the proper procedures and that the company is about to ship another consignment of 30,000 tonnes?

(b) If the answer to "a" above is in the affirmative, what urgent steps is the Government taking to protect the three cement factories in Kenya from collapsing as a result of these unjustified imports?

The Assistant Minister for Finance (Mr. Keah): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that M/s Hydere (P) Ltd., imported 3,000 metric tonnes of portland cement in the months of January 1999, in our liberalised economy. I am also aware that the company followed the right procedures and paid the full duty which is as follows: on import entry No.3254, 1,000 tonnes, and the duty was Kshs715,500 and VAT was Kshs542,500; On Import entry No.3206, the tonnage was 1,000; the duty was Kshs715,500 and VAT was Kshs572,400, and on Import entry No.3429, the tonnage was 1,000, making a cumulative total of 3,000; the duty was Kshs715,500 and the VAT was Kshs572,400 making a total of duty paid to be Kshs2,146,500 and the VAT Kshs1,717,200. I am not aware that the company is about to import some 30,000 tonnes of cement because we have looked at the shipping guide for the period ending May and there is no such record of cement due for Kenya.

(b) In order to protect our three cement factories, the Government, by Legal Notice No.27 of 26th, February, 1999, raised the import duty on cement from 25 per cent to 32.5 per cent.

Mr. Maitha: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that unsatisfactory answer. We have three cement factories in Kenya; one is in Bamburi, which is in my constituency; the other one is in hon. Keah's constituency in Kaloleni, and the other one is here at Athi River. The capacity of cement per yard in the production of the three factories is 3.1 tonnes. Kenyans consume 1.2 million tonnes per year. The production price per tonne in the three factories is: Bamburi -US\$35, and the two other factories, that is Athi River and Portland - US\$48 per tonne. When you calculate the taxes paid by Hydere (P) Ltd, it gives you US\$23 per tonne of that cement which was dumped in this country. Now, my question is: Because of this cement that was imported into this country, the three factories had to reduce their prices and they suffered a lot. Now, my question is: Who allowed this cheap cement to this factory if Kenya has enough cement and it cannot even consume the capacity which the three factories produce?

Mr. Keah: Mr. Deputy Speaker, Sir, I would like to confirm that the statistics of the plant capacity, the production capacity and the pricing aspects are correct. In terms of who authorised the importation of this cement into the country when we have the capacity, and cement is imported at dumping sort of prices, this is the problem created by liberalisation. The importers are at liberty to import cement or in that matter, any other material [**Mr. Keah**]
under the World Trade Organisation (WTO) rules of which we are a member.

Mr. Deputy Speaker, Sir, let me add further that, we are aware of the need to ensure protection of our young industries and in this regard, this is why the Minister, immediately on learning about the dumping that was being done by this company, increased the tariffs from 25 per cent to 32.5 per cent. We are aware that this is not adequate, but I want to explain that, that is the maximum limit the Minister could have gone to as permitted by this hon. House. I hope and trust that, we can deal with such a situation in future, so that we empower the Minister to be able to raise tariffs to an extent where local industries can be protected.

Mr. Achola: Mr. Deputy Speaker, Sir, could the Assistant Minister explain to the House whether the imported cement meets the requirements of Kenya Bureau of Standards (KBS), and also inform the House what is the shelf life of the imported cement?

Mr. Keah: Mr. Deputy Speaker, Sir, I believe from Treasury that, that cement meets the specifics as determined by our Kenya Bureau of Standards. That is the information that we have in our Treasury and in so far as the shelf life is concerned, I do not have that figure but I believe the standards, having been accepted, will also

take into account the shelf life and, therefore, that the import was good enough for utilisation in our markets.

Mr. Ayacko: Mr. Deputy Speaker, Sir, dumping and importation of goods and commodities into this country threatens our industries. Could the Assistant Minister allay the fears of this House that those imports are not done by "politically-correct" people? Could he tell us the names of the directors behind this company that is threatening Kenyans?

Mr. Keah: Mr. Deputy Speaker, Sir, I do not have the names of the directors of M/S Hydery (P) Ltd, but those names are a public knowledge available from the Registrar of Companies.

Mr. Magara: Thank you, Mr. Deputy Speaker, Sir. This importation under the pretext of liberalisation is killing our industries. Even Rivatex died the same death and the cement industry is likely to die. The sugar industry is also likely to die under the purported pretext of liberalisation. Should we allow our industries to die simply because of the purported liberalisation and importation? Why can the Assistant Minister not state clearly what measures the Government is taking to ensure that our industries are protected for the interest of our people?

Mr. Keah: Mr. Deputy Speaker, Sir, the Minister, the Ministry and this Government, are equally concerned as the hon. Member is, to ensure that we do not lead to demise our young and vulnerable companies. The Government policy is to encourage as practicable as possible, within the ambit of the laws of Kenya and the laws governing international trade, that we do everything we can, particularly through the tariff structure, to ensure that we have protected our local industries. We are committed to do that and we are doing that, and we shall continue to do so.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister has given his word of honour that, although he cannot vouch that this cement meets the requirements of the Kenya Bureau of Standards, he believes that it does. This House cannot go by such beliefs; this House must go by proof of the standards that have been set by law. Would he go back to investigate and then report to us whether, in fact, that cement did meet the requirements of the Act?

Mr. Keah: Mr. Deputy Speaker, Sir, we have checks and balances of importation for this country, including free inspection of the commodities being imported into this country. If a commodity being imported does not pass the test, it is not accepted; that is, before shipment. When the commodity gets into the country, not only do we have our Customs Department and the Kenya Bureau of Standards that also take the necessary steps to vouch and verify that those commodities are---

Mr. Deputy Speaker: Mr. Assistant Minister, if the information is available, why do you not just avail it?

Mr. Keah: Mr. Deputy Speaker, Sir, we do not have documents in the Treasury each time an importation is made that this meets the specification. But the fact that it has passed the test by SGS and the Kenya Bureau of Standards is satisfactory to us that it meets the standards.

Mr. Deputy Speaker: Order! Order! That is very well, Mr. Assistant Minister, but these Members are asking for proof and they are entitled to ask for that information, and it should be given to them. So, it is just a question of telling us when you can avail that information, because it is already available, anyway, in Government offices.

Mr. Keah: Very well, Mr. Deputy Speaker, Sir. I have nothing to hide. Because that is your ruling, I will go back to the necessary Government offices to dig out that information and find out whether it meets the specifications, and what the SGS and all the others did, because that is the right of the House. I have no problems whatsoever on that.

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

Mr. Deputy Speaker: Order! He was rising on a point of order, so, you cannot stand up on another point of order. If you want to ask a question, there is time, I will give you the opportunity.

Mr. Shill: Mr. Deputy Speaker, Sir, this is a Government with double standards. The Assistant Minister is saying that he is going to protect our industries. At the same time, he is accepting that he has given room to liberalisation so that anybody can import commodities into the country. Can he come with a clear policy of safeguarding our industries, because he has got the machinery to bring these things and the House can approve them? Would he come out and tell us what measures they are going to take, or let every Kenyan import commodities?

Mr. Keah: With due respect, Mr. Deputy Speaker, Sir, we have clear policies that we have passed in this House; policies through every Budget Statement are promulgated in there. Through the tariff structure, we are in control of the situation and we can protect the local industries not only through the tariff structure, but also through other measures as are contained in each Budget Speech.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister has said he is in control of the situation.

Therefore, he is saying that he is in control of destruction of our industries like they have done with sugar and textile. Now, they are moving on to cement. Could he bring to this House a gazette notice stopping any importation of products that we produce in this country until further notice?

Mr. Keah: Mr. Deputy Speaker, Sir, I would respond to two issues. One, the Ministry is not in control, shall never be, and will not accept to destroy local industries. So, let the hon. Angwenyi get rid of that idea from his mind. We, as a Ministry, and as a Government, can never, and will never kill local industries. Secondly, bringing here a paper or a ruling that we shall not import anything which is produced locally is an anathema. We are members of the World Trade Organisation (WTO). Indeed, we have pursued, through this august House---

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister repeatedly refer to the World Trade Organisation membership. We know there are treaties of the WTO that we have signed and there are others that we have not signed. Can the Assistant Minister tell us what criteria they are using? Is he in order to keep yapping about WTO as an excuse while they have an option of what to sign and what not to sign?

Mr. Keah: Mr. Deputy Speaker, Sir, WTO is not an excuse. We, as a Government, and in this House, have adopted Sessional Paper No.1 of 1986 liberalising this economy as well as subsequent Papers. It is through that liberalisation policy which has come through this House, and which hon. Members have debated, that we have allowed liberalisation and, therefore, the importation of commodities and goods into this country.

Mr. Maitha: Mr. Deputy Speaker, Sir, I do not want to go deep on M/S Hyder (P) Ltd., because it is owned by three, very influential Ministers in this House, and it is really protected. In Uganda, imported cement--- Uganda has no factory for cement, and they depend on the three factories in Kenya---

Mr. Deputy Speaker: Uganda has cement factories.

Mr. Maitha: Yes, but they still buy cement from us. But for any imported cement, they charge US\$121 FOB just to protect the industry there. Can the Assistant Minister confirm to us that in the next Budget, he is going to increase the 32.5 per cent levy to 50 per cent, so that it can go down well with the producing prices of the three companies so that we are comfortable, if they so wish to bring in any cement by the 'heavy Ministers' who are looking at me and some of them are here?

Mr. Keah: Mr. Deputy Speaker, Sir, I have heard the sentiments. But you know very well that I cannot talk on budgetary matters at this point in time.

Mr. Deputy Speaker: Order, hon. Members! There is no way you can exhaust matters even if it is in relation to importation of goods into this country. Maybe, you should bring a Motion.

Mr. Deputy Speaker: Hon. Ojode.

Mr. Ojode: ---(inaudible).

(Laughter)

Mr. Deputy Speaker: Order! Hon. Ojode! There is nobody of that title in this House.

(Laughter)

Mr. Ojode: Mr. Deputy Speaker, Sir, I was talking to Dr. Kulundu.

(Laughter)

Mr. Deputy Speaker, Sir, I would want the Assistant Minister to tell us the truth about this 32 per cent tariff which was increased in order for the cement not to be imported. Can he confirm to us that this percentage was paid? The reason why I want him to tell us the truth is because influential people are behind this company. I would have even requested the hon. Member concerned to mention the names of these people who are behind the company.

Mr. Deputy Speaker: Hon. Ojode, ask your question?

Mr. Ojode: Mr. Deputy Speaker, Sir, could the Assistant Minister give us proof to show that, that money was paid?

Mr. Keah: Mr. Deputy Speaker, Sir, I am committing the Ministry and myself by saying that this tax was paid.

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

Mr. Deputy Speaker: Order! Order, hon. Members! Proceed, Mr. Keah.

Mr. Keah: Mr. Deputy Speaker, Sir, I would like us to be guided accordingly. The day when we are going to try and micro-manage every single cash payment, we will not be doing business. I think it is important that hon. Members accept my representation that the money was collected.

(A number of hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! You can stand on a point of order without shouting at anybody; the Chair will hear you. The chances are that if you start shouting, the Chair will be deaf on both ears and we will be in trouble.

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

Mr. Deputy Speaker: Mr. Maitha, I will not allow you to stand on a point of order when, in fact, you are out of order. You must remain seated and frozen when the Chair is on its feet.

(Applause)

I will now allow hon. Maitha to speak.

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. Hon. Keah is one of the directors of the Athi River Mining Company.

(Applause)

Mr. Deputy Speaker: Order! Order, hon. Members! Order, hon. Maitha. Can you repeat what you have just said and lay documents on the Table to prove it?

Mr. Maitha: Mr. Deputy Speaker, Sir, hon. Keah is one of the directors of the Athi River Mining Company at Kaloleni. He cannot protect M/S Hydery (P) Ltd., which is ruining our factory. He should now name the other directors who are spoiling the businesses of other cement factories. M/S Hydery (P) Ltd., never paid the 32.5 per cent tariff.

Mr. Keah: Mr. Deputy Speaker, Sir, I categorically deny that I am a director of Athi River Mining company. I call upon hon. Maitha to lay proof on the Table and substantiate that allegation here and now. It is a very serious allegation. I want hon. Maitha to prove that I am a director of the Athi River Mining Company.

*(A number of hon. Members
stood up in their places)*

Mr. Deputy Speaker: Order, hon. Members! I do not think that being a director of Athi River Mining company is a crime.

Mr. Shill: Protecting is a crime!

Mr. Deputy Speaker: Order! In fact, in that situation, it would have been in hon. Keah interests to protect his company, and not to allow importation. But Mr. Maitha has made an allegation that Mr. Keah is a director of that company. So, Mr. Maitha, lay your proof on the Table. There should be no arguments.

Mr. Maitha: Mr. Deputy Speaker, Sir, if I am given time up to Tuesday, I can lay documents on the Table to prove that he is a director of Athi River Mining company.

(Applause)

Mr. Deputy Speaker: Order, hon. Members! Ordinarily, we expect you to lay your proof on the Table when you make an allegation of that nature. So, really, you did not have the proof. I will allow you to lay the documents on the Table tomorrow afternoon.

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

Mr. Deputy Speaker: Order, hon. Members! Yes, Mr. Murathe.

Mr. Murathe: Mr. Deputy Speaker, Sir, I am not interested in those aspects. I am just worried about how we can produce sugar or cement and land it in Mombasa at a price cheaper than our locally produced sugar or cement even before tariffs are paid. One of the things that are happening in the WTO is the quota system. Japan and the USA talk about the quota system and allocations. If we have over-capacity in this country-- If we produce 3 million tonnes and the consumption is about 1 million tonnes, what steps will this Ministry take to have a quota

system, to restrict importation of some of these commodities? You know the reason why some of these---

Mr. Deputy Speaker: Ask your question!

Mr. Murathe: Mr. Deputy Speaker, Sir, the reason why some of these imported products like sugar are able to land in Mombasa at a cheaper price than that of our locally produced sugar is because of the subsidy paid by the countries of origin. What steps will this Government take to make our locally produced products competitive?

Mr. Keah: Mr. Deputy Speaker, Sir, before we continue, an untruth has been stated here; incorrect information has been given here. I would like the hon. Member to substantiate or withdraw it.

(A number of hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! The Chair has ruled that hon. Maitha will lay those documents on the Table tomorrow. If he does not, then he will be obliged to withdraw and apologise.

Next Question! Mr. Sungu.

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

Mr. Deputy Speaker: Mr. Sungu.

Mr. Sungu: Mr. Deputy Speaker, Sir, I want first to take this opportunity to apologise for my absence from the House yesterday.

SALE OF LAKE VICTORIA FISH LTD. ASSETS

Mr. Sungu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Industrial Development the following Question by Private Notice.

(a) Arising out of the Ministerial Statement given to the House on 28th October, 1998, regarding the plight of Lake Victoria Fish Limited (in receivership), is the Minister aware that the company's assets have now been advertised for sale?

(b) Is the Minister satisfied that the Receivers and the bank acted professionally in this matter, noting that there was no attempt to run the factory to prove its viability and thus denying the owners a chance to get their factory back?

(c) Could the Minister stop the sale and give the owner a chance to run the factory in order to pay his debts?

The Assistant Minister for Industrial Development (Dr. Galgallo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the company assets have been advertised for sale.

(b) I am satisfied that the Receivers and the bank acted professionally in placing the company under protective receivership to safeguard the company's properties. Before this company was placed under receivership in January, 1997, many opportunities were given to the owners to raise sufficient funds to run the company profitably but they failed to do so.

(c) According to receivership laws, I have no powers to stop the sale of any company. However, I am happy to report to you that I have intervened in this matter and I have convinced the debenture holders to suspend the sale of the company until July, 31st 1999, thus giving the owners another three months during which time they can make a proposal on how to inject funds into the project in order to revive it.

Mr. Sungu: Could the Assistant Minister tell this House why this company was put under receivership and yet it was given only six months to operate before it was required to repay its loans, which was not sufficient time for it to organise itself and be able to repay that loans?

Dr. Galgallo: Mr. Deputy Speaker, Sir, this was a project which was funded on a loan. They were making repayments initially, however small they were. But after sometime, they were unable to pay back a single cent to the people who loaned them the money. For more than two years, they were given a chance to come up with a proposal to show to the banks that loaned them the money, that they are able to operate profitably. But for a period of two years, they were unable to come up with any viable proposals and that is how they ended up being put under receivership.

Mr. Nguere: Mr. Deputy Speaker, Sir, I hope the Assistant Minister is aware that this factory was inaugurated in 1996 and put under receivership in 1997. Therefore, it was hardly six months after this factory was opened for operation, before it was put under receivership. Last week, we visited this factory which is supposed to be a fish processing factory, but it does not even have the smell of fish; which means that the debenture holders

did not give this company enough time to operate.

Mr. Deputy Speaker: Can you ask your question now?

Mr. Ngure: When this factory was not able to pay the money it borrowed, they mitigated their position by ordering a 25-tonne icemaking machine which is still at the Port of Mombasa. Is the Assistant Minister aware that one of the factors which the debenture holders of this company considered in order to be able to repay their loans was to order a 25-tonne icemaking machine but the company was put under receivership before these machines were paid for?

Dr. Galgalo: Mr. Deputy Speaker, Sir, the 25-tonne equipment, which the hon. Member is referring to, was also acquired on another loan. It is up to the owners of that factory to honour their obligation to the people who funded them. For a period of two years, they were given a chance to come up with a viable proposal and they failed to do so. This is a business venture and not a charitable organisation. It is up to the owners - the chance is still open - to come up with a viable proposal. As a Ministry, we are intervening by trying to bring the two parties together, but we cannot tell the bank to let go that kind of money and yet, this is a business venture. They have to come up with a viable proposal. Even if they come now, the chances are still open.

Mr. Ojode: Mr. Deputy Speaker, Sir, this is a local factory which is owned by a local person. When "the Government" was in Nyanza last year, it ordered that this factory should be opened and that the loan should be rescheduled.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. Can the hon. Member clarify what he means by when "the Government" was in Nyanza?

Mr. Deputy Speaker: Order, hon. Members! Please, take this House very seriously. We are discussing an important issue. Hon. Wanjala, you come from a fishing area and you should be interested in the outcome of this issue. Do not bring frivolous points of order. Otherwise, I will make sure that you go back home and do some fishing!

Mr. Ojode: Mr. Deputy Speaker, Sir, I was asking whether the Assistant Minister is aware that the Government had already ordered that the loan should be rescheduled for the owner of the industry to arrange to pay back the money? Could it be that the implementation has not been effected because this man is in KANU (B)? Could we know why the directive by the Government was not implemented?

Dr. Galgalo: Mr. Deputy Speaker, Sir, I would like to say that the Government has always been in Nyanza and we do not know about KANU (A) and KANU (B), and that too is not pertinent to this Question. What we know is that the owners of this project defaulted in servicing the loan and the bank that financed them had an obligation to the European Investment Bank from which the project was funded. The bank gave these people a chance and a rescheduling of the loans was also done for a period of over two years before they moved in and put it under receivership.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. I had asked the Assistant Minister a very categorical question. I asked the Assistant Minister whether he is aware that the Government had already ordered that this factory should be reopened and that the loans should be rescheduled? That is the only question which I want him to answer.

Dr. Galgalo: Mr. Deputy Speaker, Sir, the rescheduling of that loan has been done, but still the managers of that factory could not operate it profitably and that is how the debtors moved in.

Mr. Deputy Speaker: Dr. Galgalo, how can they operate when it has been put under receivership and this has been since January, 1997?

Dr. Galgalo: Before it was put under receivership, a rescheduling of that loan was done and they were not able to operate profitably.

Mr. Sungu: Mr. Deputy Speaker, Sir, the assets of this company are currently valued at Kshs450 million when the credit levels are only at Kshs200 million. It is not correct to say that the proprietor was given a chance to run the factory because he only had six months to repay this loan. It is not possible to make money within six months to be able to repay a loan. Can the Assistant Minister now confirm to this House that he will give the proprietor enough time to organise the financing, and make sure that the only locally owned fish firm in Nyanza is given a chance to operate, so that it can employ Kenyans?

Dr. Galgalo: Mr. Deputy Speaker, Sir, the total debt as of now is over Kshs300 million. This is a company which owes a lot of money to banks. For instance, DPK, Kshs144 million; National Bank of Kenya, over Kshs100 million; Deposit Protection Fund, over Kshs88 million, and other electricity----

Mr. Deputy Speaker: Order, hon. Members! I will not allow points of order to disrupt a legitimately asked question. So, you must wait until the Assistant Minister has finished answering that legitimate question before you make your points of order.

Dr. Galgalo: Mr. Deputy Speaker, Sir, I was saying that this company has a debt of over Kshs300 million, and what we have done and will continue to do is to bring the two parties together. The three months that the banks have allowed are for negotiations. If the owners of this company have a viable proposal to make, they can bring it forward, and under the auspices of our Ministry, they can come together and come up with something workable.

Mr. Deputy Speaker: Next Order!

PERSONAL STATEMENT

DENIAL OF ALLEGATIONS BY KAMLESH PATTNI

Mr. Muite: Mr. Deputy Speaker, Sir, I thank you for allowing me to make this personal statement under Standing Order No.69. In December, last year, one Kamlesh Pattni, a 30-year old Indian, alleged at a press conference that he had bought my silence on the Goldenberg scam with a Kshs20 million bribe. I decided at that time not to engage Pattni in a press war for a number of reasons. But the main ones were two.

Hon. Members: Shame! Shame!

Mr. Muite: First, I was privy to sincere efforts by some well-intentioned people, who were interceding as intermediaries with the highest levels in the Executive arm of the Government, on a sensible way forward in the resolution of the Goldenberg scam. I, therefore, did not wish to upset those delicate efforts with a press war, particularly because I was also aware of the difficulties those individuals were encountering with powerful hardliners in the corridors of power, who were, and still are, determined to protect Pattni for their own gain.

Hon. Members: Shame! Shame!

Mr. Muite: Secondly, I realised that the intention of Pattni and his protectors in making those scandalous allegations was to divert attention and debate from themselves, in the Kshs68 billion and hang it on to Paul Muite and the bribery allegation. Had I, at that time, engaged Pattni in a press war regarding this cheque or that cheque; this document or that document; this fax number or that fax number, I would have been falling into the very trap of protracted debate on the diversionary issue, and that would have assisted in burying the Goldenberg scam.

Mr. Deputy Speaker, Sir, I have submitted to the *quasi*-Judicial Committee appointed by the Law Society of Kenya to investigate this matter, a detailed memorandum and supporting documents answering all the questions regarding the cheques, my signature on the documents, the company's fax numbers and so forth. I have in that memorandum, emphatically stated that I did not receive any money from Pattni, and that the whole matter was a well contrived fabrication.

Being a *quasi*-Judicial Committee, it would be improper for me to avail that memorandum to the media at this point in time. I shall do so when the committee completes its deliberations and makes its report. When I do so, I am satisfied that those who are interested in facts and truths, as opposed to propaganda and smear, will see that those allegations are wholly false. Permit me, in the meantime, to briefly say this: Every day, there are Kenyans being attacked, beaten up, robbed, raped and killed because of the state of insecurity everywhere in this country. This insecurity is the direct result of the high levels of poverty and unemployment in this country. A major contributory factor to this poverty and unemployment and, therefore, the insecurity, is the Kshs68 billion stolen back in 1992/93 in the Goldenberg scam. Today, many of our roads are impassable. Lives are lost daily in traffic accidents because of the state of our roads. A significant contributory factor is the Kshs68 billion illegally taken from State coffers. Today, there are small children who cannot have one square meal in a day.

Mr. Deputy Speaker: Order! Stick to the provisions of Standing Order No.69 because that is a matter of a personal nature. Stick to your statement so that it can relate to your person.

Mr. Muite: Mr. Deputy Speaker, Sir, I have given very careful thought and this is what I am trying to explain. I am saying that Mr. Pattni, being a bachelor with no children, has no compassion. There are children, women and old men dying every day in our hospitals across the entire country because of lack of drugs due to the Kshs68 billion scam. I am talking about the Kshs68 billion.

Mr. Deputy Speaker: Order! I sympathise with your position, but when you invoke the provisions of Standing Order No.69, you really must strictly stick to it. It reads:

"By the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such matter may not be debated."

So, really, this matter must be personal. The Goldenberg matter is already in court and elsewhere. You should talk about Pattni in relation to you and the Kshs20 million bribe!

Hon. Members: Hear! Hear! You ate!

(Applause)

Mr. Muite: Mr. Deputy Speaker, Sir, I am not aware of any case involving Kshs68 billion in court. But be that as it may, I am just winding up. I am saying that on the relevant issue, I have submitted documents to the Law Society of Kenya and I will make that memorandum available. I cannot prematurely do so now. All I am saying is this: I am calling on this Government to tell this House and the Kenyan public what steps it is taking to recover the Kshs68 billion. If they are not---

Hon. Members: Shame! Shame!

An hon. Member: And the Kshs20 million?!

(Loud consultations)

Mr. Deputy Speaker: Order! Order! Next Order!

(Loud consultations)

Order, hon. Members! I have just read to you the relevant Standing Order. This matter may not be debated, not because the Chair does not want it debated, but because it is against Standing Order No.69.

(Loud consultations)

Order! You rise on a point of order because you expect the Chair to make a ruling. But this is a personal matter. There is going to be no debate between hon. Members and hon. Muite.

(Hon. Shidie stood up in his place)

Mr. Shidie: On a point of order---

Mr. Deputy Speaker: Order, hon. Shidie! You know that you must not do what you have just done. You must never stand while Mr. Speaker is on his feet!

Next Order!

MOTIONS

ESTABLISHMENT OF A GENDER EQUALITY COMMISSION

THAT, in view of the fact that the Kenya Government is a signatory to the Beijing Declaration and the Platform for Action, considering the disturbing increase in gender violence and discrimination in our society and cognisant of the Government's declared policy on gender equality, this House urges the Government to establish a Commission for Gender Equality to promote respect for, and the protection, development and attainment of gender equality.

Mr. Deputy Speaker: Hon. Raila has requested that this Motion be deferred because he was not ready to move it.

(Motion deferred)

INTRODUCTION OF TRUTH AND RECONCILIATION COMMISSION BILL

THAT, this House do grant leave to introduce a Bill for an Act of Parliament to establish a Truth and Reconciliation Commission to investigate the causes and the effects of political and ethnic violence and the violation of human rights in Kenya since 1966 and to recommend just and permanent solutions that will enhance and promote peace, national unity and national reconciliation and expedite rapid socio-economic development in Kenya.

Mr. Deputy Speaker: Similarly, hon. Oloo-Aringo has indicated that he is not ready to move this Motion. He was ready to move another Motion, but it is not on this Order Paper. So, we go on to the next Order.

(Motion deferred)

(Loud consultations as hon. Members left the Chamber)

Order! Order, hon. Members! Please, if you are withdrawing from the Chamber, do so quietly so that hon. Mugalla can move his Motion.

AMENDMENT TO WORKMEN'S COMPENSATION ACT

Mr. Mugalla: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, noting that the Workmen's Compensation Act, Cap. 236, Laws of Kenya, is economically and socially outdated, this Houses urges the Government to urgently introduce a Bill to amend the Workmen's Compensation Act with a view to modernising its provisions to allow for proper compensation for fatal and other cases.

Mr. Deputy Speaker, Sir, this Act, as it is now, is the most outdated Act, and it does not protect workers who have been injured as it is supposed to do. In the first place, the Act itself is not gender sensitive because it talks about "workmen's" compensation. It should refer to all workers, irrespective of their sex.

This Act, Cap 312, limits the definition of "earnings". The "earnings" as stipulated in this Act excludes the majority of the workers. It only caters for workers whose salaries are below Kshs4,000. Most workers in this country earn more than Kshs4,000. That is why I am saying that this Act is outdated because it does not serve the majority of workers in this country.

The worst part of this Act is that the majority of employees in this country are casual workers. The Government has amended the laws that protect monthly workers by removing the necessary stop-gaps. If this Workmen's Compensation Act only caters for workers who earn below Kshs4,000, then it cannot protect the workers of this country. It also excludes casual workers. In this country, over 80 per cent of the working population is casual. If a casual worker is injured, he is not compensated. It is a very hurting thing if a worker dies on the job and he cannot be compensated because he is a casual. This is a part of the law that has loopholes on workers' welfare in this country.

Mr. Deputy Speaker, Sir, we have so many workers in county councils; for example, in Narok County Council and North Eastern Province, who work in the parks. If an animal kills a worker, then that worker is not entitled to workmen's compensation even if he was killed when he was on duty. This is a very deplorable situation.

Notwithstanding that fact, Mr. Deputy Speaker, Sir, we have a lot of sugar plantations in this country. Workers in those plantations are bitten by snakes on many occasions, but a worker who dies because of a snake bite is excluded from this workmen's compensation.

It is a very sad thing, Mr. Deputy Speaker, Sir, that if a worker in this Parliament is sent to County Hall and he is knocked down by a car in the middle of the road, this Act does not cover him. Why? Because he has been injured outside his working place. It is also a pity that when one is reporting on duty and he is hit by a car at the doorstep of his working place, he cannot be paid workmen's compensation. It should be considered that once a worker leaves his house, he is committed to his employment because he has to report to his duty. There is a case I know of a worker who was sent to North Eastern Province. He was killed by the *shiftas*, but he was denied this workmen's compensation. So, that is why I am saying that this Workmen's Compensation Act must be amended to protect and compensate workers.

Mr. Deputy Speaker, Sir, compensation is paid according to this Act and the percentage. For example, the Act states that if you cut your two fingers, you will get 10 per cent and so forth. The maximum compensation on death is very small and, therefore, the workmen's compensation should be based on the value of a human being.

It should not be based on a given monetary minimum or limit. It should be made to fit with the changing economic trends. At the moment, it has no relevance at all to the economic trends.

QUORUM

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. Is there a quorum in the House?

Mr. Deputy Speaker: No, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: Order! We have a quorum now. Proceed, Mr. Mugalla.

Mr. Mugalla: Mr. Deputy Speaker, Sir, I was saying, the Workmen's Compensation Act is incomplete. For example, if a worker is sent on duty and he or she dies on the way, he or she is not entitled to workmen's compensation. This is because he or she was not at the working place. So, the Workmen's Compensation Act should cover workers who are travelling from duty and going to duty. This Act excludes environmental pollution and other harmful elements that workers usually suffer during their working time.

Therefore, for the Workmen's Compensation Act, to be meaningful, it must be linked to safety insurance schemes, for example, the National Hospital Insurance Fund (NHIF), and the National Social Security Fund (NSSF). The whole Act is obsolete, and requires total overhaul. For example, it provides that if a worker is hurt and he has to visit a doctor, the fees is Kshs15. Which doctor will accept a fee of Kshs15? So, it means that the employer is only obliged to pay Kshs15 for a worker who visits a doctor because he has been hurt. To say the least, workers pay enormous fees and yet they are helpless. Some of them cannot go to court to demand what is right for them! Furthermore, if a worker has to make an application for a document in court, this Act provides that he will pay Kshs2. Which document will one get in court for two shillings?

Therefore, I would like to propose that the Workmen's Compensation Act be changed so that we can have comprehensive occupational health and safety insurance schemes that will adequately compensate workers for injuries and other hazards based on the actual cost of treatment.

Thank you very much, Mr. Deputy Speaker, Sir.

Mr. Ayacko: Thank you very much Mr. Deputy Speaker, Sir, for giving me this opportunity to second this very important Motion. I do not wish to belabour the importance of this Motion, neither do I wish to specifically deal with sections that require amendments or overhaul in the Workmen's Compensation Act, Cap 236.

I would like to urge the Government side, and the House at large, that as we approach the next century, we should carry our workers with us. We should carry them with us in terms of emoluments and compensation for any injury that they might suffer where they work. The situation is very bad right now, when we know that unemployment is rampant. The situation is terrible when we know that when one is employed as a worker, the salary he or she gets is very little. The situation is also worse, considering that even with the little salary the worker gets, when he suffers an injury in the course of his work, he is inadequately compensated.

This Motion is very important and it does not require belabouring. This is because we know that the Workmen's Compensation Act came into force in 1949. We know that at that time, when it came into force, the employers were the colonialists. We also know that at that time, the people that the Workmen's Compensation Act intended to protect were the employers and not the employees. That Act has not been amended to date. It has not been revised and made to tally with modern times. When the Act came into force, it had in mind people whose aggregate earning per annum was Kshs48,000. That means that the Act had in mind people whose earnings were about Kshs4,000 per month. The maximum compensation, if one suffered any injury from which he died and was covered under that Act, was a paltry Kshs35,000. That is untenable! If we look at it against other injuries--- If somebody was injured while travelling by public means, or while travelling in his vehicle, he had an accident and sought compensation under the common law--- If somebody suffered a fatal injury and his dependants claimed to be compensated, the amount of money would certainly be over Kshs35,000. So, even on that aspect alone, the Workmen's Compensation Act needs overhaul.

Mr. Deputy Speaker, Sir, if you look at the penalty that is provided for against employers who fail to take out insurance to cover their employees who may be hurt or injured in the course of their duty, you will find that it is a fine not exceeding Kshs1,000.

Mr. Deputy Speaker, Sir, we know that some of the employers are very wealthy people; the Asians, foreigners and locals. If, for defying the law that is intended to protect workers, they are only liable to payment of a fine not exceeding Kshs1,000, it appears that law encourages them to defy it. The compensation that they are supposed to pay workers is also very low. It appears that the law also encourages them to mistreat workers. So, if you look at that Act again, you will find it provides for going to court and the court that the Act has in mind is a subordinate court of first class; the normal court that everybody goes to. We know that the normal courts are currently bogged down with matters that they cannot resolve. They have several criminal and civil matters, and if a worker under emergency went to court today, particularly in, Nairobi, that worker would access justice six years down the road. I think, and I suggest, that this Act needs overhaul and amendment to provide for specialised

courts where workers who have dependents can access courts that can handle their matters promptly, without putting them on the waiting list of other matters that are not of priority. That provision should be attended to, so that workers get compensation. There is a phrase in the system of justice that sweet justice is sweet justice. We want these workers to get sweet justice, which is sweet justice, in good time.

Mr. Deputy Speaker, the Workmen's Compensation Act provides for representation by advocates and that the remuneration that is supposed to be given to advocates is the one that is given under the Advocates Remuneration, Order which is another Act. If the compensation being sought is Kshs35,000, that matter will not be touched by an advocate. We know that many employees, who having lost their jobs by virtue of having been injured, do not have the money to approach advocates. Many employees who have been injured in factories require charity. Now, if the very nature and the very amount of compensation sought by these employees is not attractive to advocates, this leads to miscarriage of justice, because if you are not represented, and the employer against whom you are litigating is represented, you are certainly not going home with justice. This is because in this court system, it is a matter of legal theatrics and if you are not represented, you will be unable to argue your matter and you might go home and end up with nothing, having suffered in your employment. So, that particular provision also needs to be looked into, so that litigations of this kind also become attractive to advocates, so that they are able to argue these matters for the aggrieved, persons for them to be able to access justice.

Mr. Deputy Speaker, Sir, as I had said earlier, this Motion does not need belabouring because at this juncture and at this age and time of our country, we are trying to alleviate poverty. As we are trying to do so, we know that people will suffer from incapacitation because they have been injured in their places of work, and they will be unable to earn or fend for themselves. So, this is one of the steps and ways of fighting poverty, and I believe that this House will concur that this Motion be allowed and the Government should introduce amendments to the Workmen's Compensation Act, so that it conforms to the needs of modern times.

With those few remarks, I wish to second this Motion and hope that it will be allowed.

(Question proposed)

The Minister for Labour (Mr. Ngutu): Thank you, Mr. Deputy Speaker, Sir. I beg to move an amendment to this Motion as follows:-

By deleting the word "urgently" appearing on the third line and all the words immediately after the word "Bill" on the third line, and that the following words be inserted thereof. "To repeal the Workmen's Compensation Act with a view to replacing it with the Work Injury Benefits Insurance Scheme.

The Motion as amended, will read as follows:

That, noting that the Workmen's Compensation Act is economically and socially outdated, this House urges the Government to introduce a Bill to repeal the Workmen's Compensation Act with a view to replacing it with the Work Injury Benefits Insurance Scheme Bill."

I therefore, support the Motion as amended.

The Minister for Agriculture (Mr. Mudavadi) seconded.

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

Mr. Muite: Mr. Deputy Speaker, Sir, I infer from the amendment which is proposed by the Government that, perhaps, this is one of the Motions which are likely to be followed by implementation. I am supporting the Motion as amended. I am going further to say that we have scores of Motions, maybe, 20, 30 or 50 Motions, which have been passed by this House and which have never been implemented. When we pass this Motion as amended, we expect to see implementation. This is because when Motions are passed in this House and they are not implemented, this Government is turning this House into a toothless bulldog. A toothless bulldog looks very healthy on the outside. It is very well fed, but it has no teeth and so, it cannot bite. It does not matter how much noise it makes; everybody knows that it cannot bite. We do not want this House to be reduced to a toothless bulldog. Although that term is used by the white people in their countries, perhaps, a more appropriate example is a castrated bull. We do not want this House to be reduced to a castrated bull. A bull which is castrated, again, looks very healthy and very strong on the outside, but it is useless in the vital matters. Even if a heifer is passing around there and it is in great need, that bull, being castrated, cannot rise to the occasion. We do not want this House to be reduced to that position of a castrated bull.

(Laughter)

Mr. Deputy Speaker: Order, hon. Muite. A castrated bull--- That is offensive to many Members. I do not know about you, but that is certainly not the kind of language we want in this House. So, please, use another allegory.

Mr. Muite: I have tried to emphasise as strongly as I can, the need to have Motions that are passed by this House being implemented and followed. We used to have an Implementation Committee. Without an Implementation Committee, again, this House is being reduced into a talk shop. We debate and make very good contributions but there is no follow-up in terms of implementation. I am saying that besides supporting this Motion and making good speeches and rhetorics in this House, the Motion should be followed by implementation for the benefit of the Kenyan worker. I agree entirely that when the original Act was enacted, it was in an economic environment where the then colonial masters running the economy of this country wanted to protect the employers at the expense of the employees. That has got to be radically altered. In order to be effective, we need to implement it.

The other thing that I would like to say is this: It is all very well to pass this Motion and to try and implement it. We have got to conceptualise it and see it in the wider sense. What is the state of the economy? Is there going to be enough money in order for the Government to come up with this Work Injury Insurance Compensation Scheme? Is the economy going to permit that? These are relevant questions that the Government must address. That is the wider sense in which I am saying this. Even as we pass the Motion as amended, that issue will go hand-in-hand with the intentions and objectives of this Bill. Unless the economy is able to afford, and the Government is able to actually put the money together to realise the objective of this Motion the objectives will not be realised. In my submission, if the meeting in Mombasa last year, which was discussing about the economy--- The economy in this country is actually clinically dead. It is being kept alive artificially by life supporting machines. Switch off the machines and it will collapse. These are relevant questions that we must address.

That state of the economy has been brought about by 16 Indians in this country who, together with their godfathers in the Government, have brought the economy of this country to its knees. The time is coming when, if this Government is not prepared to tackle this issue, we are prepared to take matters into our own hands. When we do so, it is not just those Indians who will be in for the high jump. They will be in for the high jump together with those godfathers who are supporting them. I support this Motion very strenuously. We want it implemented and followed by action because we want to benefit the majority of the poor workers who, today, are reeling under the weight of economic hardship. It is not just the workers, although their situation is much worse. Every honest Kenyan in Kenya today is reeling under the weight of economic hardship, the Members of Parliament included. I am sure I speak even for the Chair. This is all because the economy has been destroyed. As we pass this Motion, we have got to address urgent measures of rectifying this economy if the country is not going to collapse.

With those few words, I do beg to support.

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

(Question of the second part of the amendment, that 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)

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to support the Motion as amended. This Motion is indeed long overdue because the workers of this country are really the backbone to the development of this economy. You can bring all the machinery and equipment, *etcetera* to work through your economy but unless they are operated by the workers, those machines

cannot operate on their own. It is, therefore, very important to recognise the place that is occupied by the workers as an engine of growth of the economy. This being the case, I want to subscribe to the Motion that, indeed, the Present Workmen Compensation's Act, Cap.236 of the Laws of Kenya is, indeed, economically and socially outdated. We have had many instances where the application of this Act is not only inadequate, but in some cases it is even not applied because it does not really relate to a case. There are several cases that can be quoted where the Workmen's Compensation Act has failed the test.

Even where the test has succeeded, the amount of compensation is absolutely peanuts and totally inadequate to give redress to the injuries that have been incurred by the worker. I want to thank hon. Mugalla for bringing this Motion, therefore, and I want to urge the Minister to try and make sure that the new Workmen's Injury Benefit Scheme comes up as early as is expedient. I trust and hope that this new scheme will be thoroughly debated on, not only before it comes to the House, but that the workers themselves will have an opportunity to make an input before the document comes to this House. Crying on the malaise of the existing compensation, I can cite instances where members of my constituency have been burned by furnaces. One particular incident happened a couple of weeks ago where a black furnace poured molten lava on to the body of this worker. He was rushed to hospital in Mombasa and from there he was transferred to Nairobi. Unfortunately, the poor man, Kazungu, died. When he died, he did not have anybody here in Nairobi to help him. The only man they could think of was the area Member of Parliament.

Therefore, the area Member of Parliament was contacted. When I contacted the company, they washed their hands and said: "We are waiting for the Workmen Compensation Act, the process of which does take a long time." I left to go round begging friends to make sure that not only was the hospital bill paid, but also that the body to was transported to Kaloleni for burial. The company totally washed its hands and said: "Our responsibilities lie with the Workmen's Compensation Act and when that is done, that is when we will pay." That was very dehumanising, indeed, and the pains that I went through were so enormous that I am glad to see that we will have an opportunity to make redress through the new scheme the Minister is proposing.

As it turned out, to date, they have not paid a penny because the processes of going through the labour laws *etcetera* of processing the Workmen's Compensation are so outdated. They are long and arduous, and I hope that in the new Bill, the hon. Minister will bring to this House these shortcomings, and that these shortfalls, will be taken into account. I trust and hope that this Bill will not take too long to be brought to the House. Once it has been brought to the House, I would like to agree that it be speedily implemented.

Mr. Deputy Speaker, Sir, all workers should be covered in the new Bill. We have companies that specialise in employing people to do their permanent work on a casual basis. They are employed for three months and then sacked. Some of these employees do not even have letters of appointment. I trust and hope that this new Bill will cover every class of workers, whether permanent or casual, because they are all working for the benefit of the company. Some companies have abused their manpower; the people who work and make the company tick. Some companies are totally inhuman in the treatment of their workers. Not only do I ask the Minister for Labour to look at this new benefit scheme, but to look also at the entirety of the labour laws in this country. This is because, as I said, without that worker, we cannot have productivity in this country and our economy cannot tick. No matter how highly mechanized we may be, that worker is still very useful indeed.

Mr. Deputy Speaker, Sir, the Minister for Labour is aware of what I am saying and I am aware of the fact that the Secretary-General of COTU has the interests of the workers at heart, and I want to urge him to continue to fight for those many people who have no opportunity of fighting for themselves. I would also like to suggest that because workers are important to the productivity of our economy, unnecessary strikes should be avoided as much as possible. In this regard, I would like to call for mutual dialogue between the workers and the employers, so that we all work towards the benefit of each other; the benefit of the workers, investors, the company and the entire economy. It is important that we do have mutual dialogue where there are problems. The issue of strikes, such as the ones we have experienced in this country, really do reduce the productivity of the economy. Strikes have a direct effect in the growth rate of the economy and it is important, therefore, that our workers and employers do have dialogue. In this connection, I want to commend those companies that spend some money to invest in their workers by training them. Capacity building and training are critical to good productivity.

With those remarks, I support the Motion.

Mr. Ngure: Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion as amended. This is because to the hearts of everybody in this country, the workers are the mainstay of the economy. It is unfortunate that we start attracting foreign investors in this country with the words that we have excess capacity of workers in this country, who will provide cheap labour for production, so that our manufactured goods can compete internationally. But while bearing in mind that we are attracting foreign investors, we must put into position Acts that will make our workers also become tourists, not just locally, but overseas. It is a pity that fellows who work in

factories overseas can afford to go for holidays overseas while our workers cannot. Some of our workers work throughout the year, and they have to even sell their meagre leaves to make ends meet and when they die, the family remains poor. We must look at the Act again and the workman's insurance compensation and make it meaningful. It should be meaningful. There is no need for the Government to sit back and protect the factory that is minting money instead of putting into position the Act that will force this factory to spend a bit of the money on the workers. Some of these factories hire expatriates at exorbitant rates, and they even pay for the treatment of their dogs. They fly their dogs in, they pay for their treatment, and these same companies cannot even afford to pay a worker when one is injured on duty.

When travelling on the road to the airport at lunch time, you get surprised when you see very beautiful buildings and these buildings do not even provide eating facilities for the workers. During lunch time, the workers rush to the road reserves to have their meals and this is equally injurious. Why has somebody not looked into it and ensured that these workers are provided with eating facilities within the factories, even if they do not like meat being cooked in their factories because they are Asians? It is saddening to see that our workers; people who work to produce the wealth for these fellows, cannot even be allowed to sit and eat in those factories. They have to eat in the road reserves, breathing in all the fumes from the cars and at the end of the day, these companies say: "We have made profits; we have brought in export material, or we earned foreign exchange for the country".

Mr. Deputy Speaker, Sir, it is really hurting that at the end of the day, a worker who is injured has to be transported all the way from, maybe, Parklands to Kenyatta National Hospital because his own company cannot afford to pay for his treatment at that hospital, while another employee of the same company who is an expatriate is hospitalised there. Whatever money that these factories spend in treating the Asian expatriates should be spent in treating the indigenous African workers.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, we have had situations where workers were provided with what was called "labour lunch" in this country. Gailey and Roberts had its own estates. Shell Company had its own estates. Now, what happened to these estates? BAT had their Nyumba za Tumbako. What happened to these companies? Where are they spending the money that is meant for the welfare of the workers? This is because we have relaxed our laws, because we think that we are attracting investors. We have to attract investors within our own terms and, in fact, let the investors know that when you are investing in Kenya, you must respect the laws of Kenya and the Kenya citizens. You must make sure that Kenyans are working under conditions that will take care of their welfare.

We are not only talking about people who get injured in factories, but we are talking about people who work in factories that are slowly dying because of the fumes from these factories, just because nobody has inspected those factories and ensured that these fellows have protective clothes, masks and gloves.

Mr. Deputy Speaker, Sir, when you go to some of these construction sites, it is a pathetic situation. People work in those places in tattered clothes; they walk around with unprotected feet and without helmets. The regulations require that a worker in a factory must be given gloves and helmets. But the employers keep them for Ministers to adorn on their heads when they are visiting the factories. Why do they protect a Minister who has just visited a factory and yet they are not protecting the people earning the money for them?

Mr. Temporary Deputy Speaker, Sir, we must now wake up and realise that the few workers we have are the ones who are taking care of 80 per cent of our population who are on the streets. It only feels good for politicians to meet people by the road side and get cheered. But what we fail to ask ourselves is: If they like work so much, why do they stop work to come and cheer us, or are they idle. Somebody must be taking care of these idlers we see in the streets. So, those that are taking care of them should be adequately compensated because, when one worker dies and is not well compensated, all those fellows on the streets have no means of survival. Street children will even double just because somebody has not been compensated well. Sometimes they are even given Kshs35,000 the sort of money anybody with a Mercedes Benz 320 vehicle would blow in petrol to travel to and from Kisumu. A worker who is dead is only given that amount of money. That is why we always have funeral collections Harambees.

These workers must be protected and provided with transportation to their burial places and school fees for their children. Most firms in this country do not, and will never ever, ask a worker the number of children they have, their ages and the schools they attend. The only way they know a worker has children who go to school is

when they seek loans year in, year out, for school fees, so that at the end of the day, a worker's sweat goes to waste and they die poor.

Mr. Temporary Deputy Speaker, Sir, all of us know that not even a single factory in Industrial Area has produced a parallel industrialist. Most of their workers die poor just because we have not got in place Acts and laws that protect the worker. We must now wake up to the demands of this century and realise that the mainstay of any country is a satisfied worker, who is certain of adequate compensation both in life and death.

With those few remarks, I beg to support.

The Minister for East African Co-operation (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion.

This Motion is very important in the sense that, what we are actually concerned about is the welfare of those who are left destitute as a result of the incapacitation of the person who is being compensated, and the welfare of those who are dependent on the person who is injured. We are concerned because, today, workers are more vulnerable than ever before, in the sense that we are dealing with an industrialised world. The kind of industries being set up here could easily have been set up as a result of the purchase of obsolete and second-hand equipment from abroad. If such a factory is established and the owner is unscrupulous, then it is possible that those who will work under those conditions will be exposed to a very serious and dangerous atmosphere.

Mr. Temporary Deputy Speaker, Sir, it is, therefore, incumbent upon the Minister for Industrial Development to ensure that our industries are modern, and that any equipment that is being brought into this country is modern. If second-hand equipment is brought here, it should be inspected, so that we are satisfied that the equipment is capable of operating with minimum risks to those who are operating it.

Mr. Temporary Deputy Speaker, Sir, there is also the aspect of chemicals that are used in the process. Many of them are pollutants, and it is quite possible that human life can be endangered if safety precautions are not enforced strictly. It is also incumbent upon the Minister responsible for science and technology, and especially the Kenya Bureau of Standards, to ensure that the conditions under which workers operate are, indeed, satisfactory or meet the minimum standards. Pollution is perhaps the worst offender in incapacitating the people who will eventually, require compensation. It is also important to accept that any form of harm to a worker must be recognized so that the worker is compensated.

Mr. Temporary Deputy Speaker, Sir, workers have no other way of earning money, because many people do not own land, and they depend entirely on salaries and wages. Therefore, it is important that we protect those workers by passing in this Parliament a Bill that can truly compensate the workers, so that if they are not at work and if they have been injured on duty, those who are dependent on them can continue to enjoy life and meet the basic expenditure that must of necessity, be expended, if normal life is to continue. For example, fees which are critical for one's education, medical bills, food, and normal sustenance are wholly dependent on the worker. And in most cases, most of the workers do not have supplementary income from subsistence economy as it used to be. It is quite obvious that the present Act was enacted during those days when a worker was taken as a tool, and it was not even intended to recognize a worker as an important contributor to the normal production of goods and services in this country. Workers were simply tools of those who were at that time in authority and wanted to prosper at the expense of the ordinary mwananchi.

Mr. Temporary Deputy Speaker, Sir, while talking about compensation, we should talk about compensations similar to those awarded to injured workers in most advanced countries. So, the laws we should pass here should be of international standards. We, ourselves, are an independent nation, and we should not be mourning all the time as if somebody else were our master. We should not be complaining that a white person is being treated better than a black person when, in fact, the black person is in authority. It was okay to do so when the black person was not in authority, but now that we are our own masters, to whom are we complaining? We are the ones who are supposed to act. We are supposed to be proud of ourselves and our own colour, so that we can take control of our nation and guide it for the welfare of our people, who have entrusted us with the authority to guide them in this House, in Government and, indeed, in employment.

It is true that private investors must be given opportunities to manage their own companies. However, even the proprietors of these companies come from countries where laws regarding to workers' compensation are very strictly enforced. It is in those countries where pollution is recognised as the worst offender to human life and hindrance to human enjoyment at the moment. Therefore, in drawing up the Bill the Minister is going to introduce here later on, we should relate it to the best such provisions in the world, so that Kenyans can feel that they are safeguarded by their Government. Compensation is one thing, and adequate compensation is another. The economy's ability to sustain compensation is another important factor. Therefore, it is important for us to work towards an insurance scheme that does not discriminate.

As the previous speaker quite rightly said, there is discrimination in the treatment of persons, yet the

injury suffered may be the same. Some people are provided with better facilities by insurance companies. You will find that some people are taken to Nairobi Hospital, while other people who may have suffered the same fate are taken to hospitals such as Pumwani or Kenyatta National Hospital and just dumped there. So, we need a scheme that does not discriminate. Also, we need to ensure that every Kenyan is treated with dignity, so that his welfare and that of his children and their posterity are taken as one. This way, we will be showing the way for a nation that is proud and which is truly itself. Those who are responsible for endangering the lives of people in factories should also be penalised and held responsible for some of the carelessness that may have led to the need to compensate a worker.

Mr. Temporary Deputy Speaker, Sir, compensating a person is not the same as protecting him from getting hurt. Anybody who is compensated only gets a less consideration than if he were alive, active and able. Any person who gets compensated for getting crippled is not the same as a person who is able to take care of his children, move about, *et cetera*. So, the best thing we should do is to ensure the existence of conditions that will minimise the risks that may lead to injuries and, therefore, the need for compensation.

With those few remarks, I beg to support the Motion.

Mr. Katuku: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Motion. First of all, I would like to thank the Mover for taking the initiative to bring this Motion to the House, having in mind the fact that Kenyan workers, especially those who get injured while at work, do not get adequate compensation.

It is regrettable to note that some employers, instead of compensating workers who suffer injuries while on duty, sack them. It is high time that the Minister concerned ensured that such employers change their attitudes towards our workers. It is these workers who enabled them to acquire what they have. These workers, who work all through, even though they are poorly paid in most of our industries, especially those in Nairobi's Industrial Area, trek long distances from, say, Kibera all the way to the Industrial Area, not because they like trekking, but because they cannot afford bus fare to get to their place of work. Trekking is a sign of underpayment to those workers.

As the House has been told here, more than 80 per cent of our industrial workers are employed on casual terms. These terms are so poor that these workers are not even able to reach their homes. What they earn from the work only caters for their subsistence. If any little money is left, they send it to their wives to buy food for the children at home. You will find that most of those workers who work in big towns such as Nairobi, Mombasa, *et cetera*, go back to their homes, maybe, once a year.

Mr. Temporary Deputy Speaker, Sir, what do you expect to happen in a situation where a father does not go home to see his children and wife? Such things have happened. People have left their wives to sub-chiefs, village headmen, *et cetera*, and such a situation is unbearable. It is high time that the Minister looked at all the labour laws with a view to reviewing them to provide better payments for our workers, so that we can sustain a worthy workforce.

I am very grateful that the Minister is coming up with an amendment to enable us come up with a medical insurance scheme for compensating workers who may get hurt while at work. You will find that somebody gets hurt in a factory, or wherever his place of work is, but getting him compensated involves a long process; it involves lawyers. The problem is that most lawyers exploit our workers. A lawyer may take up a case and get paid the compensation money for the victim, but he may not surrender it to him. Whenever the victim contacts the lawyer, he is told: "The case has not been determined", and yet there is no way the victim can know whether the case has actually been determined or not.

Mr. Temporary Deputy Speaker, Sir, it is high time that the Minister and his officers got down to assist our workers. This is because one should go through a lawyer and all these channels. It should be a very fast situation whereby, immediately you report such a matter, you are assisted because you need the same money to use for your treatment, and upkeep for your family or yourself, especially at this time that you have been affected by whatever injury it is. It is high time the Minister got down with his men. It is a bad situation when you find that the workers of the Ministry of Labour collude with employers in situations like this, so as not to assist them. They are given money which causes a lot of damage on our workers. You report a case to the Ministry of Labour and the officer goes to the company where the worker was employed and he is given money. He then starts going round the case, since he does not want to assist the employee. It is high time that the officers of the Ministry of Labour became straight and assisted our workers because it is unfair in situations whereby somebody has been injured and instead of getting assistance, the officer who is supposed to assist the worker is given money or is bribed to deprive the worker of his rights.

Mr. Temporary Deputy Speaker, Sir, it is common knowledge that most of the employers do not give the necessary advice to our workers. The workers do not even know where to go in such situations. They are kept in

darkness, and as I said before, in such situations they are just sacked. It is high time we educated our workers, in such circumstances, on what is supposed to be done. As I talk, the Bill which is to be introduced in this House should be thorough in the sense that the medical and insurance schemes should be adequate to cater for whatever injuries one has sustained. The medical scheme should be adequate to cover the medical expenses for that person within that time. It should be adequate to ensure that within that time, the worker is still paid. Sometimes, you will find that some employers, when their employee gets into such a situation, he is just sent home without pay and nothing is done. So, it is high time the Minister comes up with a very thorough Bill, so that we take care of our workers, because unless these workers feel that they are being recognised and remunerated well, they cannot be productive and it is through this high productivity that our economy can improve.

Mr. Temporary Deputy Speaker, Sir, we have cases of compensation which have been pending in court for so long. I would appeal to the Minister to get into this matter and get these people compensated even before this Bill is introduced. Within the time, they have been injured for years. You will find that somebody was injured ten years before and yet, the date of the mention of his case has not been set. It is quite unfair. You will find that even some people died and their families have not been compensated. It is high time the Minister and his officers sat down and got these people compensated as early as possible.

Mr. Temporary Deputy Speaker, Sir, we have also seen cases whereby workers who may be working in factories and all these places get sacked, not because they want but because their employers want cheap labour. You find that somebody is engaged to work on a machine and he is sacked because the employer does not want to get this person employed on a permanent basis. He wants a casual who he will pay peanuts and, maybe, after three months, sack him and another worker is recruited who, in the process of operating the machine, injures himself. It is high time that we got serious on these issues. Take, for example, if somebody has been working in a factory on a temporary basis and after three months he is supposed to be employed permanently. He has the experience to run the machine but if you are to employ a new worker, at the end of the day he will not be able to run the machine effectively and he may injure himself. This is greed and we are calling upon our employers or investors to be honest with our workers. If somebody has served a company for whatever time, let him be employed permanently so that he can run that machine. It is not a question of getting a new worker because he will be underpaid and this is all because of the unemployment situation that we have in this country. These days there is even no negotiation on the salary that you need to be paid. You are just told: "Go and run that machine". There is no time even to ask: "How much will I be paid?" At the end of the day, you are given Kshs50 and you have no question because of the unemployment situation in this country.

Mr. Deputy Speaker, Sir, so, I am calling upon our Ministry of Labour to get into these situations and get the workers remunerated well. They should get our workers employed permanently but not on a temporary basis, whereby one is employed for three months as a casual worker and then, one is out of employment for a month and employed again in the same company. Let us employ our workers on permanent terms. Let us have a scheme whereby these workers can be catered for medically and in terms of emergencies. As I have said of injuries, you find that the issue of the parameter of working situations must be extended. You find that if you are hurt around this Parliament, you can be compensated since this is your work place, but if you are hurt outside Parliament, you cannot be compensated. This should be amended and in our new Bill, we expect it to be very clear.

With those few remarks, I support the Motion.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I arise to support this Motion as amended. It is a Motion which is calling for the repeal of the Workmen's Compensation Act, and after general comments, I would like to say and repeat that we are in the era of legal reforms and in this era, the labour laws of this country will not be left behind. It is not that we have ignored to look at those laws; in fact, we have been very active behind the scenes, looking at those laws and that is why the Minister has amended this Motion to inform this august assembly on what is coming.

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

[Mr. Deputy Speaker resumed the Chair]

Mr. Deputy Speaker, Sir, the labour laws generally in this country are outdated and this has been the concern of the Attorney-General's office, and also of the Ministry of Labour. We are both in consultations with the International Labour Organisation (ILO) to put together a mechanism under which we can have a comprehensive review of all the labour laws, a mechanism which will involve not only the employer, such as the Federation of Kenya Employers (FKE), but will also involve the Central Organisation of Trade Unions (COTU) in making

suggestions on the amendments of labour laws.

Mr. Deputy Speaker, Sir, the Workmen's Compensation Act is just one of such laws. The Workmen's Compensation Act came into force on 1st October 1949 and, therefore, it is clearly out of date. For example in Section 6 (a), it states:

"The maximum amount payable to the family of the worker who has died is Kshs35,000".

What is Kshs35,000 today, even if the worker was earning Kshs4,000? Can that really sustain that family for as long as that worker would have remained in force? And even if you come to injuries; for example, if the injuries are to the extent that a person is totally incapacitated and assuming that person is earning Kshs3,000 per month, then the money payable to that person who may be on a wheelchair and cannot work or, help himself or do anything is, according to the Workmen's Compensation Act, Kshs180,000. If the person is earning Kshs2,000, it is less. If he is earning Kshs4,000, it is slightly more. But the amounts we are talking about are really a pittance compared to the amounts that would be earned today. For example, if a man earning Kshs3,000 lost his eye, then the maximum payable would be Kshs54,000. If he lost both ears, the maximum payable would be Kshs90,000. If he lost one arm, the maximum payable would be Kshs110,000. So, those amounts are clearly out of line with the value of money today.

Of course, there is also a scheme for medical reimbursement, attention and so on, but again, the amounts given are really a pittance. For example, if a worker visited a doctor, he would only be entitled to be reimbursed Kshs15 per visit. If the doctor visited him, he would only be entitled to be reimbursed Kshs30 per visit. We know that doctors are charging far much more today. Therefore, I think a clear case has been made out that this Act is due, and has long been overdue, for review. Because the amounts of the compensation under the Act are very small, the law gives the worker the right to sue the employer in court for what is called "damages" under the Common Law which would entitle that worker to be paid a fair and reasonable compensation. But that, again, is very cumbersome. It involves the worker getting the advocate, filing the case in court, waiting for a decision to be made, ultimately getting the money and, maybe, at the end, he would not be paid that very adequate compensation.

Therefore, what has developed, Mr. Deputy Speaker, Sir, because we have these parallel systems -, damages under the Workmen's Compensation Act and damages under what we call Common Law - is that, we now have a proliferation of very many cases in courts which could have been adequately taken care of if the Workmen's Compensation Act was awarding a reasonable figure by way of compensation. Again, because that has happened, a terrible system called "ambulance chasing" has caught up with the issue. Ambulance chasing, on the part of the advocates; chasing for clients so that they take up those clients and bring their cases to court is causing untold harm to this country. We know that there are many ambulance chasers. Ambulance chasing is, very briefly, an advocate either by himself or through an agent, more or less going to the person who has been injured, maybe, at the work place, or through an accident, and getting instructions from him to be represented in a particular case. Sometimes, if he gets proper instructions, well and good. But what has happened is that--- And here, the policemen and the doctors are also involved. So, the whole issue rotates around the advocate, the policeman who was there at the scene of the accident, and, maybe, some officer in a company in case of the Workmen's Compensation; some doctor also gets involved. Actually, a number of cases today are being filed in the courts without even the knowledge of the injured person; even without the injured persons having properly appointed advocates to represent them. Advocates are just representing them merely because they have to confirm accident abstract reports as injured persons. The situation is now so critical that the Federation of Kenya Employers, the tea industry, the sisal industry and the insurance industry have made complaints. They have, in fact, said that if this situation is not curtailed, then it will very negatively affect the economy of this country. In fact, in one such letter that I got today from the Sisal Growers and Employers Association on this issue that we are just talking about, it states:-

"Ambulance chasing is threatening the very economic development of this country and it is time something was done."

So, in the repeal of this Act, we are not only recognising that the Act is out of date, but also dealing with an evil that has arisen because of the inadequacies partly caused by the law that is now there in force. We want to replace it with one system where the compensation would be certain; compensation would be adequate, and there would be no need to have the two parallel systems which are going on now. We are doing this because in Kenya, as a developing country, there are few people who can be called "people in the working class". In a family, you may get one or two people working, and the rest of the family, both immediate and extended, will depend on that one person. We, as the other developing countries, apart from the extended family system, do not have a social system where, if somebody is out of work, at least, he can create a buffer for the family. We do not have such a system. Therefore, we must have a system where adequate compensation is there to take care of the immediate members of the family should their sole breadwinner be incapacitated because of the work he has done.

With those few remarks, I beg to support.

Mr. Maitha: Asante sana, Bw. Naibu Spika, kwa kunipa fursa hii ili niunge mkono Hoja hii ya kuwafidia wafanyikazi katika viwanda. Sheria hii imewaumiza wafanyikazi wa Kenya kwa muda mrefu.

Hoja hii ni muhimu sana kwa watu wa Kenya. Si sheria hii peke yake ambayo inahitaji marekebisho kwa wafanyikazi; kuna sheria nyingi ambazo zinahitaji kurekebishwa ili wafanyikazi wa Kenya wafurahie matunda ya Uhuru. Ninasema hivyo kwa sababu sheria zetu ambazo tunazitumia sasa, nyingi ziliundwa wakati wa ukoloni. Wakati huo, Wakoloni waliwachukulia Wafrika kama watu duni, watu wasiojua chochote, au watu wanaochukuliwa kwa njia yoyote ile; afadhali ng'ombe wako ambaye unamfuga na kumtunza vizuri kuliko vile wafanyikazi wetu wa viwanda walivyokuwa wakitumiwa wakati ule wa ukoloni. Basi, kuna haja kubwa sana, hasa kwa Wizara hii ambayo inahusika na mambo ya wafanyikazi, kuangalia mambo mengi yanayowaumiza wafanyikazi wetu.

Ni kweli, kama vile Wabunge wenzangu walivyozungumza hapo awali, kwamba viwanda vingi vimeshindwa kuwapatia wafanyikazi wao vifaa vya kuwalinda kutokana na mikasa. Wakati wanaumia, pia, fidia ambayo wanatakiwa kulipwa inakuwa shida kuipata. Mfanyikazi akifa katika kiwanda, inachukua familia yake muda mrefu na mateso mengi kudai malipo hayo. Hii ndiyo sababu ninaunga mkono Hoja hii na marekebisho ambayo yanaweza kufanywa, ili wafanyikazi wa viwanda katika Kenya wawe na uhakika kwamba familia zao zitilindwa na kulipwa marupurupu yao mapema ikiwa wafanyikazi hao watakufa.

Bw. Naibu Spika, hata ingawaje tumepata Uhuru, kuna viwanda vingi ambavyo vimewaumiza wafanyakazi wao. Kule Pwani, ambako mimi natoka, shirika kama Kenya Ports Authority (KPA) lina wafanyakazi wengi ambao sisi tunawaita "dock workers" kama mahamali, na kila aina ya wafanyakazi. Utakuta ya kwamba kuna mizigo mingi ambayo inaletwa Kilindini, kama vile gypsum. Gypsum ni poda ambayo inaletwa hapa nchini. Utakuta ya kwamba meli ya gypsum, simiti, soda ash au mahindi ikija, wafanyakazi ndio wanahusika hasa kwa kuingia ndani ya meli na kutayarisha vile itakavyopakuliwa. Lakini utakuta kuwa wafanyakazi hawa wanaingia katika meli wakiwa hawana vifaa vyovyote vya kuwalinda. Utakuta ya kwamba hawana viatu maalum vya kuvaa, kofia ya kazi, na hata hawana gowns za kuvaa ili kujikinga na vumbi lile ambalo lingetokea kutokana na kazi hiyo ili ziwasaide kutopata madhara yoyote. Utakuta wafanyakazi hawa hawana hata kifaa cha kuvutia pumzi ambacho wangevaa katika pua zao, ili waonekane kwamba wanafanya kazi hiyo huku wakijilinda. Unakuta ya kwamba baada ya kazi hizi, wafanyakazi wengi wanapatakina na matatizo ya ugonjwa hasa kutokana na madhara ya gypsum. Wafanyakazi wengi wamekufa kwa ugonjwa wa ini kwa sababu wakati wanapopumua, na vumbi la gypsum liingie katika maini yao, mara moja wanapatikana na ugonjwa. Ini halifanyi kazi kwa sawa sawa na umri wa kuishi wa mfanyikazi huyu unafupishwa. Tumekosa wafanyakazi wengi kwa kutokuwa na vifaa vya kuwalinda.

Si viwanda vikubwa pekee, lakini hata mashirika mengine ya Serikali kama manisipaa. Kule manisipaa ya Mombasa, utakuta ya kwamba katika idara ya cleansing, wafanyakazi hurokota takataka kama vile mizoga ya mbwa na kila kitu. Lakini utakuta ya kwamba wanafanya kazi hiyo kwa mikono yao mitupu; hawana gloves na viatu. Utakuta ya kwamba ndani ya lile gari la takataka, watu wanaokota vifaa vichafu kwa mikono yao kwa sababu hawana nguo rasmi. Utakuta kwamba pesa za kununulia nguo rasmi zinakadiriwa katika bajeti ya manisipaa hiyo, lakini zinaliwa na maofisa wakuu. Wafanyakazi hawapewi nguo rasmi, wala hawapewi vifaa vyovyote vya kujilinda katika kazi chafu kama ile ya kuokota takataka zinazonuka.

Kwa hivyo utakuta ya kwamba wafanyakazi wengi, hata baada ya kupata Uhuru wetu hapa Kenya, bado wanatumiwa kama wakati ule wa ukoloni. Utakuta hata sheria yetu ya vibarua inatumiwa, hata ingawaje Waziri wa Wafanyakazi yuko hapa. Viwanda vyetu vingi bado vinaweka vibarua. Mtu anafanya kazi kama kibarua kwa karibu miaka mitano, sita na hata saba, kabla hajaafiriwa kirasmi. Kulingana na sheria za vibarua wewe hulipwi ridhaa. Juzi juzi, wiki mbili zilizopita, hapo KPA wafanyakazi watatu ambao walikuwa vibarua walianguka kwa meli. Mmoja wao alikatika miguu yote miwili; mwingine alikatika mikono yote miwili. Hivi sasa wako Coast General Hospital. Lakini wakuu wa KPA wanasema ya kwamba hawawezi kuwasaidia hawa wafanyakazi kwa kuwapeleka hospitali nzuri ili watibiwe sawa sawa kwa sababu walikuwa vibarua. Tulipowaeleza kwamba wafanyakazi wale wamefanya kazi kama vibarua kwa muda wa miaka mitano, hiyo pia haikuweza kusaidia.

Kwa hivyo, utaona ya kwamba watu hao watapoteza mikono na miguu na hawataweza kufanya kazi tena. Tena hawatalipwa chochote kwa sababu wao walikuwa vibarua. Maonevu kama haya katika Kenya hii yetu kwa wafanyakazi wetu ni mambo ambayo ni lazima Wizara ya Wafanyakazi iyaangalie. Inafaa sheria ambazo zinahitaji kurekebishwa, kama hii ambayo tunazungumzia hivi leo, ziletwe kwa pamoja katika Bunge hili zirekebishe, ili wafanyakazi wetu wawe wanaweza kula matunda ya jasho lao.

Hata viwanda vile ambavyo viko hapa nchini, utakuta ya kwamba mtu anajiona kwa sababu yeye anajulikana sana na Waziri fulani; saa nyingine wewe unaenda kwa mkubwa wa kiwanda fulani, na yeye anakuelezea kwamba yeye anajuana na wakubwa wa Serikali. Hata wengine wanapiga picha na Rais na

wanaiweka kwa mlango. Ukifika pale, hata kama wewe ni Mbunge unayezungumza na huyu mkubwa, atakuonyesha hiyo picha. Atasema: "Unaona picha hii? Mimi najuana na huyu mtu. Sijui maneno yako." Yeye alipiga picha hiyo na Rais pengine wakati Rais alikuja kutoa zawadi au kitu kingine. Picha ya Rais inawekwa katika mlango ili wewe Mbunge au kiongozi yeyote utakapofika pale, unatishwa ya kwamba yeye anajuana sana na Serikali na hata Rais. Kwa hivyo, hana haja ya kusikiza maneno yako. Tumefukuzwa katika viwanda vingi sisi Wabunge. Tumepiga simu katika viwanda vingi lakini tunadharauliwa kwa sababu wadosi hawa wanajuana na wakuu wa Serikali. Mambo kama haya ni lazima Waziri wa Wafanyakazi awaonye matajiri kama hawa ili wasitumie jina la Rais kama ngao yao wanaponyanyasa wafanyakazi. Hiki ni kitu cha aibu sana kama picha ya Rais anapopigwa na watu, inakuwa kama ngao. Hata wafanyakazi pia wanaambiwa: "Kwenda pahali popote unapotaka. Serikali yenu iko mfukoni mwangu. Kama unataka kujua Serikali iko wapi, kuja ofisini mwangu." Mfanyakazi akienda ofisini, anaonyeshwa picha ya Rais ambayo alipigwa akisalimiana na tajiri wakati tajiri huyo alipokuwa akimpa Rais pesa za Harambee, na kisha tajiri anadai Serikali iko katika picha hiyo.

Bw. Naibu Spika, hiki ni kitu cha kushangaza na cha aibu. Lakini kwa sababu Wizara yetu inayohusika na wafanyakazi ndiyo haijaingilia maneno haya, hatuna la kusema. Ingewaonya matajiri ili wasifanye mambo hayo.

Kwa hayo machache, Bw. Naibu Spika, naunga mkono Mjadala huu.

The Minister for Agriculture (Mr. Mudavadi): Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion. But at the very outset, let me take this opportunity to commend hon. J. J. Mugalla, who is also the Secretary-General of the Central Organisation of Trade Unions (COTU), for bringing this Motion forward and also sending a very clear signal to the Government that this law has been with us for a very long time, and it is no longer supportive to the working society, but it is, indeed, now an impediment to their welfare and is suppressive to very many Kenyans.

Mr. Deputy Speaker, Sir, many hon. Members have highlighted a number of important issues. I would just like to stress some of them because, indeed, they are worthy revisiting. One of them is really that this law has created major problems; the amount of compensation is completely inadequate. It is delayed and we have seen it being dodged, even in cases where small funds are supposed to be paid as compensation. We must condemn those employers who end up dilly-dallying even though the amounts involved, when it comes to compensation under the existing Act, are really minimal. This is a matter that we must take very seriously and ensure that when we do come up with the new requirement, it must be a very structured approach to ensure speedy compensation of those who are injured and suffering in one way or the other.

Mr. Deputy Speaker, Sir, it is common to find situations where families have lost because an employee has been removed from his place of work because he does not have the capacity to work any more and he is still waiting for his compensation to this date. That is a very serious issue and I hope the new law will be able to take care of this so that there is speedy clearance of any amounts that are rightly owed to an employee.

Mr. Deputy Speaker, Sir, the other aspect is that I would like to urge the Minister for Labour that, when he is working on this issue, he should ensure that there is adequate compliance by the employers to the new regulation. Forcing is one thing but I think he should work very closely with the Ministry of Finance to be able to provide some scheme or tax incentive that would encourage an employer to ensure that he, in turn, has got this new benefit scheme quickly in place whenever he wants to employ those people. If we have an employer that knows very well that he is ready to support such a scheme for his workers, that employer must find a way of getting some reasonable degree of support from the Central Government to ensure that the scheme is in place and is functioning. Otherwise, it might be very difficult for us to move from the Workmen's Compensation Act and enter into a benefit scheme for injured workers, and yet there is no clear structure on how this is being put in place. So, it is something that needs to be thought through by both the employee, the labour organisation and, of course, the relevant arms of the Government.

The other aspect that I think is particularly important is to support the view that the Attorney-General has taken, that the defective deeds of this law have given rise to the notorious ambulance chasers. While we hate those employers who want to misuse Kenyan labour, we must equally condemn a scenario where lawyers have engaged together with doctors, policemen, magistrates and other players, to develop rent-seeking mechanisms from this kind of approach.

Mr. Deputy Speaker, Sir, I deal a lot with areas which are major economic pillars in this country; the tea industry, the horticultural industry and the sisal industry. You may not believe it, but from the tea growers, for instance, in an area like Kericho, today, there are more than 1,000 cases of ambulance chasers engaged in trying to find out whether they can find solutions for certain employers. You will find that the so-called personnel managers of these institutions, instead of working and being productive within the factory, are spending virtually all their time putting up defences and appearing in one Magistrate's Court after the other. This is a tragic situation

and unless it is arrested, it could lead to a situation where we, as Kenyans, and especially those who engage in this kind of activity, will render factories out of production. This is a very serious matter and unless it is addressed, we may not, even under the new regulations, be able to deal with our economic problems adequately.

We must also bear in mind that the impact of such activities has a knock-over effect on the premiums that one has to pay when it comes to the premiums one has to pay when it comes to insurance. If there are such obstacles in any economic activity, then the premium which one has to pay, for insurance, is going to be much higher and sooner or later, so many people will not be able to have any insurance cover. So, it is a serious issue that needs to be addressed, and those who are involved in this thing should be condemned very seriously.

In fact, it seems to have taken too long for institutions like the Law Society of Kenya to come to terms and tackle this problem seriously, and yet these cases are appearing day in, day out. Even as we speak now, there is the tragic case of the officers who died and the lawyer who has gone underground after having received what was due to these particular officers. This is a very serious problem which needs to be addressed seriously. Even in the area of insurance companies, I have an inkling that these benefit schemes will have to go hand in hand with the structured amendments to the compensation structure within the insurance industry. Equally, just as much as we have problems with ambulance chasers, we have notorious insurance companies. We have fellows who would do whatever they want to do to ensure that they do not compensate. So, I think that in looking at this issue, the Minister, jointly with the Minister for Finance, the Attorney-General and other people, must also look very clearly into bringing very closely, an amendment to the Insurance Bill when it comes to settling their claims. This thing has been long overdue and it has been affecting so many other things. Even today, the kind of premiums that we have to pay to insure a vehicle, house or office or factory equipment is becoming prohibitive. I can tell you that so many of these institutions are going by the grace of God without any insurance cover, because it is now out of reach for them. Unless we also come and table in this House a proposition that will make insurance compensation reasonable for all Kenyans, it will be extremely difficult to implement the proposed scheme that the Minister will be bringing to this House.

Lastly, I just want to urge the Minister for Labour to take a keener look at the so-called factory inspectors.

It is an open secret that very few factories maintain standards and keep them in accordance with the regulations. These fellows are all over the provinces and districts claiming to be inspecting the factories, but you can rest assured that there must be money changing hands. When you visit some of the institutions or complexes in those places, what you are left with is a very sour taste in your mouth. This is because those factories have not been inspected. I think this area needs to be looked at very clearly. There are people who are qualified to do that job, but they must be told that they are not just doing it for the sake of doing it; the lives of many Kenyan employees are dependent on their reports or findings. A stitch in time saves nine. So, I would like to urge the Minister to make sure that he scrutinises this particular department of his Ministry very closely, so that we can have genuine and proper inspection; and we can have corrective measures put in place wherever they are supposed to be put in a timely manner.

With those few remarks, I beg to support.

Mrs. Sinyo: Thank you, Mr. Deputy Speaker, Sir. I would like to support the Motion as amended. I would like to concur with what the Attorney-General has said. This Act is one of the laws in the labour laws that are long overdue. I would just like to underscore and agree with the tremendous contribution of hon. Members who have contributed before me. I must also appreciate the speaker who has spoken before me. Before I say what I would like to say, I would like to emphasise on two issues that he raised, and I would request the Minister for Labour to take note of them. He mentioned about the insurance scheme.

I would like to reiterate here that when it comes to compensation; if you are hurt and you are sacked and become unemployed, you are definitely rendered disabled. So, when you become a person with a disability, it is very difficult for insurance companies to give you any cover. In fact, even if you are covered, you have to pay triple, or many more times, just because you are rendered a vulnerable category. So, I would like to reiterate that when our workers become unemployed - and as a result of their unemployment - it is very important that the amended Bill, the Insurance Bill, is also catered for, in order to look into the concerns of the insurance companies, and the interests of the employees who definitely lose cover, if they were to get any employment anywhere. I would also say that it is an open secret, if I may repeat, that the people with disabilities are always the last to be hired and first to be fired. So, it is common knowledge that once somebody becomes unemployed as a result of an accident, it is definitely very difficult for him to be employed anywhere else. So, for this amendment Bill to be effective, I would want to advise the Minister for Labour to put in place a provision that when an employee is involved in an accident in his work place, then the company should improvise a way to retain him in the same employment. They should only change the job description to such workers so that they are not rendered unemployed because nobody else will employ them. I know a case of somebody who was working as a security

guard. He came and told me that he was involved in a road accident on his way to work and he broke his arms. He is now rendered jobless. He cannot get any other job as a security officer because he cannot hold a gun anymore. How does such a man support his family? That is just one example. There are many serious cases. So, an employer should not be allowed in the amended Bill to give an ultimatum to an employee who has become disabled in the process of his duty to leave his working place.

Mr. Deputy Speaker: Order, hon. Sinyo! Hon. Members, you will recall that you passed a resolution to limit debate on Private Members' Motions. It allows only two hours for debate on Private Members' Motions. It requires that ten minutes before the expiry of those two hours, the Mover be called upon to reply. I have no alternative, but to stop the gracious Lady from continuing with her contribution, unless hon. Mugalla is magnanimous enough to allow her to complete her two or three minutes. If not, I will now call upon hon. Mugalla to reply.

Mr. Mugalla: Mr. Deputy Speaker, Sir, many of my colleagues would have liked to contribute, but since we have a time limit, they cannot do so. I would like to give seven minutes of my time to the hon. Lady.

Mr. Deputy Speaker: Thank you very much. Hon. Sinyo, you may continue.

Mrs. Sinyo: Mr. Deputy Speaker, Sir, I would also want to say that it is important that the employers get some incentives in order to retain employees who have been maimed. This should categorically be expressed in the Bill. They should have incentives to do so because once somebody becomes disabled, there is an extra cost that goes with it.

Another point, Mr. Deputy Speaker, Sir, that I also would want the Minister for Labour to bear in mind is that the Attorney-General raised the categories of maimed persons as spelt out in the Workmen's Compensation Act. There is a lot of underrating of some disabilities. For example, a hand is compensated under the Workmen's Compensation Act at Kshs100,000 plus. If you lose two ears, you will be paid Kshs90,000, which means that one ear is Kshs40,000. An eye is Kshs50,000. I would want to recommend that in the amendment Bill, disability to any limb or any sensory part of the body should be considered in the same weight because, at the end of the day, all disabilities incapacitate a person totally and you will never work as before.

Mr. Deputy Speaker, Sir, I would also want to recommend to the Minister that in the amended Bill, as it were, there should be a provision of educating workers of their rights. It is very important to start awareness campaigns among workers. We know of workers who have been hurt in their working place. But they tolerate it because, at the end of the day, they are barred by the time limitation of this Act. They do not report their injuries lest they lose their jobs. If they were aware of their rights, that when they are hurt or maimed, they can then be compensated adequately and have their employment guaranteed, then they can disclose their injuries and not suffer in silence. In such cases, you will find that many of them would not suffer with the injuries they get in their working place.

Lastly, I would like to propose that the Workmen's Compensation Act should be looked closely, and, particularly, its provision for casual and permanent employment. This is so because many employers take advantage of casual employees. I would like to reiterate what another colleague said about the officers of the Ministry of Labour. They really collude with the employers to exploit the employees. So, the Employment Act and all the other Acts plus the Compensation Act should be looked at closely. I hope that the Minister will take into account the Civil Service because it should be the beginning of an overhaul of the whole labour law regime. This is because the Government is a big employer. Civil servants have been there and I know that they are equally having these problems, which we need to address in a nutshell.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I now call upon the Mover to reply.

Mr. Mugalla: Mr. Deputy Speaker, Sir, I would like to thank hon. Members, particularly the Ministers, who have contributed to this Motion. The Workmen's Compensation Act has been something that has been hurting workers for along time. I would also like to thank the Minister for Agriculture for his reference to the Factory Inspectorate Act. This Act is ineffective and does not work. I am sure that since the workers have been asked to assist in creating employment, they will be happy to hear that Parliament is sympathetic to their problem. Therefore, I support the amendment moved by the Minister for Labour.

Thank you.

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

Resolved accordingly:

THAT, noting that the Workmen's Compensation Act, is economically and socially outdated, this House urges the Government to introduce a Bill to repeal the Workmen's Compensation Act with a view to replacing it with the Work Injury Benefits Insurance Scheme.

ESTABLISHMENT OF COAST DEVELOPMENT FUND

Mr. Maitha: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the significant economic role supposed to be played by the Coast Development Authority (CDA), as a prime mover of regional development and being aware that the authority is operating on scanty financial resources thus making it difficult to meet its objectives, this House urges the Government to:-

- (i) establish a Coast Development Fund to generate revenue for the Authority; and,
- (ii) give the Fund statutory powers under the ambit of the CDA Act to source revenue from established institutions in both public and private sectors operating in the region.

Mr. Deputy Speaker, Sir, in bringing this Motion, I do not want people to think that I am bringing regionalism in this country by discussing CDA affairs. The Coast Development Authority is like any other Authority and it takes care of the region's development and any other aspect related to development. It has done a good job at the Coast and it has really been used by the Coast people as an Authority which can steer them to many other developments.

Mr. Deputy Speaker, Sir, if I may cite Authorities from other parts of the country, we have a lot of development authorities in the country which have been allowed to source funds from their regions, to make those authorities healthier or have more money to meet their objectives, for example, we have Ewaso Nyiro North Development Authority; the one in Rift Valley - Sorry, I do not have the list - and other Authorities which in that region, are allowed to source revenue from institutions which are based there. Those funds are used to make those authorities healthy financially.

Mr. Deputy Speaker, Sir, in the Act which was enacted in this Parliament to form CDA, that is Cap.449, section 11 (iv), it talks about financial resources and control. It Says:

"The funds of the Authority shall consist of:

- (a) such money that may from time to time be provided by Parliament.
- (b) Money borrowed by the Authority on the terms and for such purposes as the Minister, in consultation with the Minister for the time-being responsible for Finance, may approve and any money accruing to the Authority from any other source.
- (c) Subject to the written approval of the Minister and the Treasurer, funds of the Authority shall be invested in such a manner as the Authority may deem proper."

Mr. Deputy Speaker, Sir, as leaders from the Coast, CDA having been an Authority which has been taking charge of most of our development at the Coast, we sat down and thought that this Authority must be given all such powers in money sourcing, so that it can take care of our problems; for example, in research, mining, livestock, environment, tourism, Integrated Coastal Area Management, which will enhance surveillance of Kenya's exclusive economic zones and, especially, legal fishing, and also to facilitate training on fisheries stakeholders. We also thought that it should be made to do a lot on industrial infrastructure of the region, water and education.

Mr. Deputy Speaker, Sir, we found that this Authority must be made to have more funds to facilitate more finance from the Exchequer, external sources and private investments and other sources to realise programmes and projects in the categories which I have already mentioned. We also found that the same Authority must be recognised as a prime mover of development in the area, in conjunction with the District Focus for Rural Development, so as to promote the level of awareness of people in that region. We had a very interesting Motion which approved the palm wine industry. The palm wine industry is a very big industry for the coastal people. The way we saw it is that no Ministry at the moment could take a lead and start it in the Coast Province. The coastal people have now thought that the Coast Development Authority should take the lead and, in fact, start this industry. It should have money to take people to other areas where the palm wine industry has done research for that and all other things. We also found that there are other areas where the coastals cannot benefit. The Coast Development Authority could source funds so that it can start it. The coastal people have never had a university for so long. They have everything at the Coast to start a university but we found, as leaders, that in other areas they have a steering body which makes these people bring such development. In the Coast Province, we found that if it is empowered with money they could easily propagate and bring things that we do not have, such as the university I have been talking about this and the other areas which I have mentioned. When you go to areas where

tea is grown, the Government has allowed people in those areas to get cess so that they can improve their own lot. When you go to livestock areas, there is a little amount of money which is tapped and retained there, as well as in the coffee areas and other areas you will find that Coast Province has the biggest port in that region, which gives this country a lot of money in revenue, but the coast people are very poor because all that money is channelled to the Central Government.

A lot of money is collected from the tourism industry but you will find that the coastal people do not get anything because we have not made any efforts, or we do not have an authority which wants to collect any revenue with a little of it to remain at the Coast. For this reason, this Motion is to facilitate, by the provision of this Act, the Minister to be given the powers to allow the CDA to propose a percentage of money which can go to the CDA. Let us say if the total revenue earned by the KPA is Kshs100 million, we do not mind getting at least 30 per cent to remain at the Coast Province. This will include even the customs duty. All the industries based at the coast, whatever revenue they could collect for the Central Government, the coastals could at least be given a little share then CDA would just look into the problem of the coastal people. The coastals have been very poor for so long by history. It is not that the Government has made them poor; we were ruled by the colonialists, the Arabs and all these people. It is a process which has produced a lot of money for the Government by collecting revenue from various aspects. For this reason that is why I have brought this Motion so that Parliament can approve that the Minister be given power to allow the CDA to tap some little percentage of the revenue from institutions based in this region so that we can have more money, and this authority can now work for the development of this region. This is not regionalism, because it is just like when you say tea cess in Central Province coffee cess in Central Province; hydro electric power which is based in Rift Valley, where they are charging for electricity, with little funds remaining in that region to help it. I want to bring to this House how this authority would help the coastals if this Parliament approves and accepts that the Minister gives power to this authority to tap funds from institutions which are based in this region.

ADJOURNMENT

Mr. Deputy Speaker: Order. Hon. Members, it is now time for the interruption of our business. The House, therefore, stands adjourned until this afternoon, Wednesday, 28th April, at 2.30 p.m.

The House rose at 12.30 p.m.