

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Thursday, 3rd April, 2003

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### NOTICE OF MOTION FOR ADJOURNMENT: UNSATISFACTORY ANSWER ON IMPORTATION OF SUGAR

**Mr. Deputy Speaker:** Hon. Members, I have received a written notice from the Nominated Member, Prof. Oniang'o, of her intention to move a Motion for Adjournment under Standing Order No.18 on a matter of unsatisfactory answer to a Question by Private Notice on Wednesday, 19th March, 2003, in the afternoon sitting, concerning the importation of sugar into the country. I have considered the matter and acceded to her request. I would, therefore, call upon the hon. Member to move the Motion of Adjournment at the interruption of business on Wednesday, 9th April, 2003.

Thank you.

*(Applause)*

### ORAL ANSWERS TO QUESTIONS

*Question No. 167*

#### MURDER OF HON. ZEDEKIAH MAGARA

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

(a) whether he is aware that on the night of 14th December, 2002, hon. Zedekiah Mehenye Magara, former Member of Parliament for Bomachoge, was killed by unknown assailants and his body was found lying near the gate of his Menyinkwa home in Kisii Town, and the matter reported at the Kisii Police Station on 15th December, 2002; and,

(b) what action he has taken to have the culprits apprehended.

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

(a) I am aware.

(b) The police recorded statements from suspects but after investigations, no connection was established between them and the murder. A warrant of arrest has been issued for the three principal suspects who went into hiding before they could be interrogated by the police. We are still appealing to anybody with information about the murder of the late Magara to volunteer it to the police.

**Mr. Onyancha:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for the answer he has given, although I have not received a copy of the written answer. May I say that the late Magara was the only breadwinner of his family. In a case that involves a Kenyan and a former hon. Member of Parliament, one would hope that the Government would move faster to finalise those investigations about his death.

**Mr. Deputy Speaker:** Mr. Onyancha, that is more or less a statement you have made and it is not a question! Before that, you complained that you had not received a copy of the written answer to the Question. Could the Assistant Minister explain why a copy of the written answer has not been given to the hon. Member in accordance with our Standing Orders?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, while I regret the fact that the hon. Member has not been given a copy of the written answer, I would like to assure this House that this problem will not be repeated.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, he was our colleague and a prominent man in the society. It is very sad that the suspects have not been arrested. May I request the Assistant Minister, through the Chair, to publish the names of the suspects in the newspapers, so that those people can be sought anywhere in the Republic of Kenya and outside Kenya? Even if they have gone to Iraq, we will give a price so that they can be brought back to this country to face trial.

**Mr. Tarus:** Mr. Deputy Speaker, Sir, a warrant of arrest No.33, 2003 and court file No.33, 2003 were issued in respect of Mr. David Kengere, George Mobei and Joel Onyango who are suspects in the murder case. They, however, went into hiding before they could be interrogated. Those are the few names I have.

**Mr. Angwenyi:** Thank you, Mr. Deputy Speaker, Sir. As we know, the murder was actually political because the late Magara was the chief campaign manager for Mr. Onyancha. Why is our Government incapable of arresting people who commit political murders in this country? We had the case of the late J.M. Kariuki, the late Dr. Ouko, now the case of the late Magara and the late Ndilinge. It appears as if our Government is incapable, all the time, of arresting people who commit political murder. Is our Government actually incapable of arresting those people, or it has just decided not to arrest them?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, the hon. Member has given a historical problem, and I would like to assure this House that this new Government will be effective.

**Dr. Manduku:** Thank you, Mr. Deputy Speaker, Sir. Mr. Magara was murdered outside his House at very early hours of the evening, between 7.00 p.m. and 8.00 p.m. in Kisii Town. Is the Assistant Minister aware that there is rampant insecurity in Kisii Town which has even made the traders there to close their shops at 5.00 p.m. because they fear being attacked? Rampant insecurity in Kisii Town has also made people to go to their houses early in the evening. What has the Assistant Minister done to minimise that kind of thuggery in Kisii Town?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, I am not aware of rampant insecurity in Kisii Town. But since the hon. Member has said that, indeed, there is a problem in the town, we shall give firm instructions to ensure that people are secure in this town.

**Mr. Mwanicha:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that the Government is taking serious action to curb insecurity while in Mong'oni Village, which is in my constituency, a family of three, a father, mother and a toddler were killed and to date not a single person has been arrested? In fact, earlier, another mother was killed. This Government is not doing much for the security of its people. The Assistant Minister is misleading the House!

**Mr. Tarus:** Mr. Deputy Speaker, Sir, I am not misleading the House. We are saying that when we have problems of security nature, we would like them to be reported to our police stations and we promise that we will address such situations.

*Question No. 161*

CONSTRUCTION OF GARSEN-MOKOWE ROAD

**Mr. Twaha** asked the Minister for Roads, Public Works and Housing, how much money has been set aside for the construction of the ongoing Garsen-Mokowe Road Project.

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

During the 2002/2003 Financial Year, Kshs305 million has been set aside for the construction of Garsen-Mokowe Road. However, the total contract sum is Kshs727,944,637.19.

**Mr. Twaha:** Mr. Deputy Speaker, Sir, the Assistant Minister has told us that the contract sum is Kshs727,944,637.19 and the road in question is approximately 100 kilometres. Could he confirm to me in this House that it will be a tarmac road and not a *matope* road?

**Eng. Toro:** Mr. Deputy Speaker, Sir, as the hon. Member might be aware, I have mentioned the total contract sum. However, in the estimates for this financial year, the allocation for this road is Kshs305 million. Part of the loan is from KFW of Germany. This road is to be constructed in two sections. Section 1, which will be a tarmacked-bituminous section comprises of 29.5 kilometres and the scope of the work involves river diversions in two locations and draining works, repair of three washed out sections, additional culverts and pavement repairs. However, by October, 2002, the first river diversion on Section 1 was completed. The work on the second river diversion was stopped by a High Court injunction order after a case was taken to court by some residents who did not want to be displaced from the proposed new river channel.

Mr. Deputy Speaker, Sir, this has already caused a delay and the matter is still in court. As long as the

matter is still in court, the section of the road will remain undone.

**Mr. Twaha:** Mr. Deputy Speaker, Sir, the Assistant Minister has raised the issue of a court case which is impeding a major development project in this country. Could he take steps to settle this matter out of court with the people concerned because the court injunction was instituted by the hon. Member for Garsen, the hon. Mungatana, and bearing in mind that they are both in the same party? Could they try to sort this matter out of court so that we do not have inordinate delays because court cases in Kenya take between five years and ten years to be determined and we cannot wait for ten years for this matter to be resolved?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I would be very glad if the hon. Member would talk to the residents of that area so that they can agree to withdraw the case from the court because it is the residents who are aggrieved that the diversion of the river would leave about 2,000 residents without water. So, I would appeal to the hon. Member to have dialogue with the residents so that they can withdraw the case from the court and then we can proceed with the construction of the road.

**Mr. Twaha:** On a point of order, Mr. Deputy Speaker, Sir. How can I talk to the residents and yet he is the one who has been sued?

**Mr. Deputy Speaker:** Order, Mr. Twaha! I understood your Question. The residents of that particular area have sued the Ministry of Roads, Public Works and Housing. Now, are you telling the Assistant Minister to go and tell the residents to withdraw the case? I think you should hold dialogue with the residents so that they can withdraw the court case because he will be too pleased if it is withdrawn. So, I think that Question has been satisfactorily answered. Could we move on?

Next Question by Mr. Bifwoli!

*Question No. 164*

CONSTRUCTION OF KIBABII TTC

**Mr. Bifwoli** asked the Minister for Education, Science and Technology:-

- (a) how much money has been spent on purchasing land and the construction of Kibabii Teachers Training College (TTC) to date;
- (b) who was the contractor for the TTC and why the construction has stopped; and,
- (c) when the construction is going to resume and when the TTC will be opened.

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

(a) Kshs1.2 million was spent for purchasing land and only Kshs177,000 was spent for the construction of Kibabii TTC.

(b) The contractor for Kibabii TTC was Ms. Latik General Contractors Limited. The construction work stopped after African Development Bank (ADB) cancelled the loan facility in August, 1997.

(c) The construction of the Kibabii TTC will resume when the credit facility is reinstated by the ADB.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, why was the loan stopped and yet the title deed of Kibabii TTC was given to the ADB as security?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, as you know, we have been experiencing a lot of problems with most of these development partners and that is why they stopped it because they thought that the project was not really viable.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, in 1997/98, the Ministry of Education, Science and Technology released a statement that Kshs30 million had been paid to Ms. Latik General Contractors Limited towards the construction of Kibabii TTC and, in fact, the Government lamented that, that money had been swindled by the contractor. Is the Assistant Minister aware of these facts and if he is, what is he doing about them?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I am aware of those facts, that Kshs33 million was paid to the contractor as mobilisation fee by the Government. Since the contract was cancelled, the Attorney-General has been instructed to recover the money from the contractor.

**Mr. Akaranga:** Mr. Deputy Speaker, Sir, a bank cannot unilaterally cancel any agreed facility to its client, unless the client has flouted certain conditions. Could the Assistant Minister tell us who were the directors of Ms. Latik General Contractors Limited, since the ADB cancelled the facility because the directors were not people of good integrity?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, that construction company was blacklisted by the Ministry of Roads, Public Works and Housing. But I can still bring the names, if I am given time.

**Mr. Bifwoli:** Mr. Deputy Speaker, Sir, what would be the fate of the Kibabii Teachers Training College (TTC) if the African Development Bank (ADB) does not resume the loan facility?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, it is the policy of the Government that most of the colleges which were to be constructed including Voi TTC, will have to be constructed. As you know, I am very much interested and I will make sure that those two colleges are constructed.

**Mr. Bifwoli:** On a point of order, Mr. Deputy Speaker, Sir. I want to know when he will give us the name of the contractor.

**Mr. Deputy Speaker:** But that is not the substance of the Question. I think parts "a", "b" and "c" have been satisfactorily answered. But I believe---

**Mr. Bifwoli:** He has promised to give us the name of the contractor.

**Mr. Deputy Speaker:** Let him go ahead and give you. I have not told him not to give you, but we cannot keep on deferring Questions. As far as the Chair is concerned, the Question has been satisfactorily answered. If there is further information, you can get it in writing from the Assistant Minister.

**Mr. Akaranga:** The Assistant Minister has already told us that the ADB cancelled the loan facility because they found the project not to be viable. At the same time, he has said that the construction of the college will start when the ADB, again, approves the facility. Could the Assistant Minister tell us which is which, is the project now viable or not?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I am sure we are aware that most of the donors withdrew their facilities and very many projects were stopped then. That was one of the projects that were stopped at that time, but we are still negotiating with them. If they are ready to resume, then we shall go ahead and build it. If they are not, then we shall look for somebody else to finance the project.

**Mr. Waithaka:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to leave the House confused as to who are the directors, when it is notoriously known that the contractor is one Stephen Mburu Kinyanjui, who was the KANU parliamentary candidate in my own constituency? He is also my constituent. He is very much known.

*(Applause)*

**Mr. Deputy Speaker:** Other than you mentioning Mr. Kinyanjui really, the Assistant Minister is not out of order.

**Mr. Waithaka:** He also knows that!

**Mr. Deputy Speaker:** Order, Mr. Waithaka! You cannot claim that the Assistant Minister knows that. How do you know that he knows it?

Next Question, Mr. Mwanicha!

*Question No. 157*

ALLOCATION OF STABEX FUNDS  
TO KITUTU MASABA FARMERS

**Mr. Mwanicha** asked the Minister for Agriculture and Livestock Development:-

(a) how much STABEX funds were allocated to Kitutu Masaba Constituency; and,

(b) why the funds have not been disbursed to the farmers to date.

**The Minister for Agriculture and Livestock Development (Mr. Kirwa):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The European Union (EU) has released two tranches of STABEX funds amounting to Kshs1.913 billion since 1996. These funds are available to the coffee sector.

(b) Since the funds are not allocated to specific areas, I suggest that the hon. Member for Kitutu Masaba does advise the farmers in his constituency to access the funds through their respective co-operative societies.

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, there are four co-operative societies in my constituency and these are Girango, Kimera, Murumba and Gesarara. Which co-operative societies have received the funds and how much?

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, as explained earlier on, the co-operative society is supposed to make a resolution and state the requirements of the farmers and the amount of money that is required by each farmer. It is from there that the bank can give the money.

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, the Assistant Minister is also aware that STABEX funds were also to be used to assist fishermen. How many co-operative societies belong to fishermen and have they benefited from the STABEX funds and by how much?

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, unless there is a programme of STABEX funds for the fish industry, the information available to me is that the money was meant for the coffee sector.

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House that STABEX funds were meant for coffee only, when they were meant for tea, poverty alleviation, fish, cotton and any other export crops?

*(Applause)*

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, this is the information I have. If the hon. Member has any information contrary to the one I have, he can avail the documents to that effect and I will be able to respond accordingly.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the Minister has said that since 1996 to date, the EU has released Kshs1.97 billion. Mid last year, there was Kshs3 billion which was supposed to go to coffee; Kshs250 million to cotton, and Kshs125 million to sugar. Also, there was another lot which was supposed to go to fisheries. Could he confirm that this arrangement still stands? How much money has been released by the EU, because the figure he gave us is not correct?

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, the figures I gave relate to the money that was released in 1996. If there is any other money that has been released, it has not been given to farmers, as I speak to you.

**Mr. Angwenyi:** Thank you, Mr. Deputy Speaker, Sir. The issue of STABEX funds has been a long-standing subject in this House. We do know that STABEX funds have been misappropriated by the Ministries concerned, including the Ministry of Planning and National Development, which used to be headed by Mr. Ndambuki. Could the Minister undertake to audit the STABEX funds and bring a report to this House?

*(Mr. Ndambuki stood up in his place)*

**Mr. Deputy Speaker:** Order, Mr. Angwenyi Mr. Ndambuki has the Floor!

**Mr. Ndambuki:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to allege that the funds were misappropriated by my Ministry, when he knows very well that the money goes directly to the Ministry of Agriculture and Livestock Development, which is supposed to sit down with the other Ministries and allocate the funds as per the requirements?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, we forget things quite easily. Last year, when Dr. Adhu Awiti and that former Minister were heading the Ministry of Planning and National Development, they were dishing out our money. So, I am asking for an audit of the STABEX funds and he should bring a report to this House, so that we can dispose of this matter once and for all. Could the Minister undertake to do that?

**Mr. Deputy Speaker:** Could you ask the question? What question have you put to the Minister?

**Mr. Angwenyi:** Could the Minister undertake to do an audit of these funds and bring a report to this House?

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, the most rational answer is yes; and I say so.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, the Stabex Funds are grants given by the European Union. It is money given free without any conditions in order to stabilise the coffee industry, and it is channelled through the Co-operative Bank of Kenya. Could the Minister consider ensuring that the high interest charged by the Co-operative Bank of Kenya, as high as 75 per cent, is reduced to about 0.5 per cent because it is money given out freely without any condition?

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, I would like to correct the erroneous position that there is money that is given without condition. However, the information available to me is as follows:-

(i) Two per cent goes to Co-operative Bank of Kenya as service charge.

(ii) Three per cent goes to Stabex Funds for sustainability of the same. Therefore, the Co-operative Bank of Kenya is lending at 5 per cent, which is lower than any lending rate within the country.

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, the Minister is telling the House that a total of Kshs1.913 billion has been released to this Fund. Is he satisfied with the administration of this Fund, because it is high time we stopped giving lip-service to the farming community in this country? What criteria is used in issuing out these funds?

*(Mr. Wamalwa and Prof. Saitoti were  
applauded as they entered the Chamber)*

**Mr. Deputy Speaker:** Order! Order, hon. Members! Let the Minister answer.

**Mr. Kirwa:** Mr. Deputy Speaker, Sir, to answer the hon. Member's question, and also responding to the question initiated earlier by hon. Jimmy Angwenyi; if that position obtains, therefore, some of the issues raised by hon. Mwanicha shall be covered by an audit to be carried out on these particular funds.

**Mr. Deputy Speaker:** Very well. Next Question, Mr. Ngoyoni!

*Question No. 182*

GOVERNMENT SUPPORT TO LAISAMIS  
HEALTH INSTITUTIONS

**Mr. Ngoyoni** asked the Minister for Health:-

(a) how many Government-supported health centres/dispensaries are in Laisamis Constituency; and,

(b) what measures the Minister is taking to ensure that the people of Laisamis benefit from the Government's policy of accessible and affordable health care.

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

(a) There are two Government-operated dispensaries in Laisamis Constituency, namely, Koya and Merile. Hitherto, the Government also supports health facilities built by religious organisations.

(b) The Ministry has initiated community-based health care services in the constituency through community health workers who provide outreach services like immunization, treatment for TB and family planning.

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for attempting to answer the question, but he is misleading this House. The fact is that there is not a single Government facility in that constituency. As he is saying, in fact, there are nine missionary-run health centres in that constituency. Therefore, could the Assistant Minister tell this House that, whoever gave him the answer has actually misinformed him and by extension this House, because there is not a single Government institution in that particular constituency?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, there are two Government-operated dispensaries in Laisamis Constituency, namely; Koya and Merile. There are other eight health facilities operated by the missionaries; AIC, Catholic Church and the Lutheran Church.

**Dr. Godana:** On a point of order, Mr. Deputy Speaker, Sir. In view of that fact I presume the Assistant Minister knows that private mission hospitals and health facilities; and in particular, hospitals with surgeries such as, Sololo in Moyale, Laisamis and Mt. Kulal in Marsabit, and Wamba have turned out to be the principal health facilities where people in that part of the world are increasingly taking their health problems, could the Assistant Minister, as a matter of policy, increase Government budgetary contribution to those mission hospitals from 1 per cent of the current expenditure to something more serious?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Government has been extending services to those hospitals up to last year. However, because of the support of the NARC Government by church groups, the then Government withdrew that support. But we are restoring it again.

**Dr. B. Galgalo:** Mr. Deputy Speaker, Sir, one service which the Government provides to all rural health facilities without fail is health kits which are comprised of the most basic drugs that are commonly required by people in this country. In view of that fact, we have now learned that many of the facilities in Laisamis Constituency are actually run by missionaries and we know missionaries are running into problems, could the Assistant Minister undertake to supply medical kits to the dispensaries in Laisamis District, which are now facing problems because missionaries are unable to do so?

*(Applause)*

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the hon. Member may wish to discuss the requirements of the dispensaries, and the Ministry will support them accordingly.

**Mr. Rotino:** On a point of order, Mr. Deputy Speaker, Sir. A specific question has been asked and most

of us also depend on those missionary hospitals. The Assistant Minister has been asked to consider providing simple kits in those mission hospitals. Is it in order?

**Mr. Deputy Speaker:** Order! Mr. Rotino, I agree that the question was asked, then you stood on a point of order. What is your point of order?

*(Several hon. Members stood up in their places)*

Order! Order, hon. Members! You see, the whole question of "is it in order" does not constitute a point or order. So, the Assistant Minister did respond to that question, but just because you wanted to catch my eye, you just say, "point of order" and then the point of order turns out to be a question!

**Mr. Sasura:** On a point of order, Mr. Deputy Speaker, Sir. I stand on a point of order to seek guidance from the Chair. You heard the Assistant Minister clearly say that there are two dispensaries, one in Laisamis and the other one at Koya. When I go to Saku, I pass through Merile. The hon. Member has said that there is not a single Government dispensary in that constituency and the Assistant Minister has said that the dispensaries are there. Now, he is talking about subsidizing the missionary dispensaries when the Government dispensaries are not even there. This is where we need your guidance.

**Mr. Deputy Speaker:** Mr. Assistant Minister, you have heard the question; can you now respond?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I said that there are two dispensaries. What is happening is that, because of the nomadic life of the people there, a hospital is operational for only four months, and the rest of the months people are away. Therefore, we are forced to redeploy personnel to other hospitals because the people are not there.

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, for the benefit of the Assistant Minister and the Government---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Could you consult in low tones so that the Assistant Minister can hear the question?

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, for the benefit of the Assistant Minister and the Government, I would like to inform her that work on Koya Health Centre was abandoned five years ago because of insecurity and there is no single health centre there now. Between Merende and Cholo, there is no single health centre. Could the Assistant Minister subsidise the mission hospitals by providing them with drugs and personnel so that we can benefit from the NARC policy dreams by accessing all the facilities like any other Kenyan?

**Mr. Deputy Speaker:** Mr. Konchella, the question is very clear: Could you consider subsidising the mission hospitals by giving them drugs?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Government has already provided a few facilities, like vaccines for immunization, refrigerators for storing vaccines, tuberculosis drugs, family planning commodities and supplementary drugs. Nurses have also been deployed in those dispensaries. If there are more requirements, the Government will consider and deploy more nurses accordingly.

**Dr. Ali:** On a point of order, Mr. Deputy Speaker, Sir. I would like to seek your indulgence. Whenever hon. Members from North Eastern Province ask Questions, Ministers always talk about people roaming from place to place and give that as the reason why services are not available. Is the Assistant Minister in order to mislead the House when these settlements have been there for the last 50 years? He is still giving excuses that people are moving from place to place and that there is nobody in that area.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, with due respect to the hon. Member, the Ministry of Health does not take care of security problems. If people are moving from place to place because of insecurity, we should address the issue to the Ministry concerned with insecurity because we are ready to support all Kenyans.

*Question No.155*

REPOSSESSION OF ILLEGALLY ALLOCATED  
PUBLIC LAND IN EASTLANDS

**Mr. Ndolo** asked the Minister for Local Government:-

(a) what measures he has put in place to ensure that all parcels of land that were initially meant for recreational activities within Eastlands estates and which were illegally allocated to private

developers are recovered; and,

(b) what circumstances led to the change of ownership of Tom Mboya Social Hall within Makadara Constituency from public to private.

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

(a) I have directed all local authorities, including Nairobi to repossess all public utility plots illegally allocated to private developers. For Nairobi, the Council is in the process of conducting a search and also identifying means of serving notices of repossession on allottees of irregularly allocated plots. The Council has also been directed to freeze any development approval on such land.

(b) Information available to me reveals that Tom Mboya Hall with an area of 1.25 acres was reserved as a community hall under the Ministry of Public Works through a reservation letter by the Commissioner of Lands Ref.6068/4 on 26th June, 1957. However, on 16th May, 1966 the Government allocated it to KANU on a three year lease. After expiry of the lease, KANU requested for the renewal of the lease in January 1985. The Government consented, and a letter of allocation was issued granting KANU a lease of 99 years with effect from 12th April, 1985. KANU was requested to accept the offer within 30 days, but it never did so, and accordingly, the offer lapsed and the land reverted back to the Government. No title or lease has ever been issued, and the land now belongs to the Government.

**Mr. Ndolo:** Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for that answer, could she explain to this House who is occupying that hall right now and when it is going to be given back to the public?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, sadly, currently, the hall is used by private individuals under very unclear circumstances. I think KANU went to sleep at that time. There is a church, a kiosk, a private school and contractors operating from there. It has been turned into a private business premises. The Nairobi City Council has expressed interest in the property to be used as a rehabilitation centre for street children. My Ministry is in the process of liaising with the Ministry of Lands and Settlement to have the property transferred to the Council for this very noble purpose.

**Mr. Keter:** Mr. Deputy Speaker, Sir, the Assistant Minister has said clearly that she has directed all the local authorities to repossess land. Has the Malindi Stadium land which belongs to Mr. Maitha been repossessed?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, we have already repossessed that land.

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir. You have clearly heard the Assistant Minister telling the House that they have repossessed the land in Malindi, and yet in yesterday's newspaper, the Minister for Lands and Settlement was very candid that Mr. Maitha sub-divided the land and sold it to some people. Is she in order to mislead this House?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, if it is the question of the title deed, it takes quite some time to revert it to the council. It is in the process of being finalised and I would like hon. Members to be patient.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, since the Tom Mboya Social Hall is of very great political and historical importance to this country, when is it going to revert to the rightful Ministry for gazettelement as one of our national archives?

*(Loud consultations)*

**Mr. Deputy Speaker:** Ms. Tett, did you get the question?

**Mrs. Tett:** No, Sir.

**Mr. Deputy Speaker:** Could Prof. Olweny repeat the question? I would also like to ask hon. Members to give Prof. Olweny a hearing.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, since this structure is of great national and historical importance to this country, when is it going to be handed over to the rightful Ministry for gazettelement as one of our national archives?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, we have an even bigger problem in our hands with regard to street families. This hall should be utilised for this purpose which is very noble. I wish this House could support such purposes.

**Mr. Sungu:** He has given me that chance, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Mr. Ndolo!

**Mr. Ndolo:** I have given that chance to Mr. Sungu.

*(Laughter)*



**Mr. Deputy Speaker:** Order! Mr. Syongo!

**Mr. Syongo:** Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that the intended user notwithstanding, that monument will retain the name of the great politician Thomas Joseph Mboya?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, I agree with that.

*Question No.154*

SALE OF PUBLIC UTILITY LAND BY EATEC

**Mr. Samoei** asked the Minister for Lands and Settlement:-

(a) whether he is aware that EATEC Company Limited has sold the land where Chemosot Primary School stands to a private developer,

(b) whether he is further aware that the company was given approval to sub-divide 6,000 acres of land without the provision of any public utility land as required by law; and,

(c) what plans he has to compel the company to surrender public utility land for use by the residents of the area.

**The Assistant Minister for Lands and Settlement (Mr. Ojode):** Mr. Deputy Speaker, Sir, I am not very happy with the answer which I was given. It is not satisfactory. I would, therefore, want to seek the indulgence of the Chair to allow the Government to answer this Question by Wednesday, next week.

**Mr. Deputy Speaker:** The Chair will accept that, but I think it is becoming very common for Ministers to come with answers and tell this House that they are not happy with them. The time that is given before a Question comes to the House is sufficient enough for hon. Ministers to satisfy themselves. We have accepted the Assistant Minister's request, but please, let us put more effort into these Questions, so that we do not keep deferring them. Yesterday we deferred three Questions on the same account, that the Ministers were not happy with their answers. This time round, we have accepted that, but let us not be hearing that too often.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, while I appreciate the efforts that have been made by my hon. colleague, the Assistant Minister, in trying to get an answer to this Question, the issue of this primary school is a very serious crisis. The Government promised to provide free primary education and yet this primary school is under threat. Two weeks ago, there was a very serious fight between the developer, who was trying to evict the pupils from this primary school, and the parents. The longer this issue drags on, the more we are likely to run into a lot of problems. I am requesting that this Question be answered on Tuesday.

**Mr. Deputy Speaker:** Mr. Samoei, I hear your concern and the Chair rules that the Question be deferred to Wednesday morning.

*(Question deferred)*

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. Yesterday you were very firm with Ministers and you can see now that the Front Bench is full.

**Mr. Deputy Speaker:** So, what is your point of order?

**Mr. Angwenyi:** Could you be firm with the Ministers on the issue of deferring Questions?

**Mr. Deputy Speaker:** Order, Mr. Angwenyi! Do not teach the Chair his job. He knows his job. Next Question.

*Question No.121*

RE-OPENING OF KCC COOLING PLANT IN RUNYENJES

**Mr. Wambora** asked the Minister for Agriculture and Livestock Development when the Kenya Co-operative Creameries (KCC) milk cooling plant at Runyenjes which has been inoperational since the year 2000, will be opened.

**Mr. Deputy Speaker:** That Question is addressed to the Minister for Agriculture and Livestock Development, but it is in fact meant to be directed to the Minister for Co-operative Development.

Mr. Minister, did you have an answer to that Question?

**The Minister for Agriculture and Livestock Development (Mr. Kirwa):** Mr. Deputy Speaker, Sir, I actually wanted to concur with you that I am passing

on the Question to the Ministry of Co-operative Development.

**The Minister for Co-operative Development** (Mr. Ndwiga): Mr. Deputy Speaker, Sir, with the indulgence of the House, we have a Question by Mr. Sambu on the KCC and the House did allow us to answer that Question next week. Now that we have another Question on the same issue, I would like to issue a Ministerial Statement on the KCC on Tuesday so that we can cover both Questions.

**Mr. Deputy Speaker:** Mr. Wambora, is that okay?

**Mr. Wambora:** Mr. Deputy Speaker, Sir, what he has said is okay, but we had already received the answer.

**Mr. Deputy Speaker:** But he says there is a similar Question and he would like to combine your Question and Mr. Sambu's and answer them through a Ministerial Statement that he will issue on Tuesday. I suppose it will be comprehensive enough to cover the two Questions.

**Mr. Wambora:** Tuesday is okay.

**Mr. Deputy Speaker:** Very well, Mr. Minister. It is granted.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I would like to seek the direction of the Chair whether indeed, there are provisions in our Standing Orders that Questions from hon. Members can be answered through Ministerial Statements. Is that provided for in our Standing Orders?

**Mr. Deputy Speaker:** Very well. If the Questioner will not be satisfied, the Question will not be removed from the Order Paper. If the Minister comes with a statement to the satisfaction of the Questioners, there will be no need to give a reply.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I would like to request the Chair to give the Minister for Co-operative Development time to come up with a reply. My Question was one of the first ones. I would like my Question on the KCC answered as a Question and not via a Ministerial Statement. I know the difference between a Ministerial Statement and a Question. I have been here long enough.

**Mr. Deputy Speaker:** Very well. As I have indicated, the Questioner has a say in the Question. Mr. Sambu has a say and he has indicated that he wants an answer to his Question. So, the Question will be put on the Order Paper next week for the Minister to answer. The same applies to Mr. Wambora's Question.

*(Question deferred)*

Very well. Let us move on to the next Question.

*Question No. 114*

REVOCATION OF GACHERU AND COMPANY  
SAW MILLERS LICENCE

**Mr. M. Kariuki** asked the Minister for Environment, Natural Resources and Wildlife:-

(a) whether he could explain why the Ministry revoked the milling licence of Gacheru and Company Saw millers in 1994; and,

(b) why he exempted IWC and Viabrose Milling Companies from the general ban on logging.

**The Assistant Minister for Environment, Natural Resources and Wildlife** (Prof. Maathai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) M/s Gacheru and Company Saw millers licence was revoked by the National Forest Licensing and Review Committee through a recommendation made by the Rift Valley Provincial Licensing and Review Committee meeting, on security grounds.

(b) The general ban imposed on forest logging since October, 1999, affected all saw millers in the country. Operations by the Nakuru-based companies, that is Integrated Wood Products and Viabrose Milling Company in Nakuru District was in contravention to the licensing procedures and in total disregard of the ban. They were erroneous and have since been stopped.

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, throughout history, all dictatorial and oppressive regimes have used the pretext of security to muzzle the freedoms of individuals. I am surprised that the reason given for part "a" of the Question was on security grounds. I am aware that in 1994, there was ethnic cleansing in Nakuru. I would like the Assistant Minister to clarify what, in her understanding, constitutes security grounds as far as the licensing of saw mills is concerned. Secondly, having established the---

**Mr. M. Kariuki:** Order, Mr. Kariuki. Could you ask one question at a time? Assistant Minister, answer that one.

**Prof. Maathai:** Mr. Deputy Speaker, Sir, M/s Gacheru Saw millers operations were originally concentrated in Likia, Teret, Sululu and Nessuit forests. We all know that in 1992, these areas were seriously

affected by tribal clashes, making it impossible for the saw miller to extract forest material.

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, my Question has not been answered. What constituted security grounds to warrant the revocation of the licence for saw milling?

**Prof. Maathai:** Mr. Deputy Speaker, Sir, I thought that I answered that Question when I said that during that time, there were very serious tribal clashes going on and we do have records of people who were actually killed in the forest. So, it was proper for the Government to withdraw all licences so that logging in the forest would stop.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, for several years now, the Government has imposed a ban on many saw millers, including harvesters of mangroves. However, Timsales Limited, Rai Plywood and Pan Paper Limited which are owned by Indians are still operating. Most of the forests in this country are on trust-land, particularly in the Rift Valley. Why is this ban discriminative? I would like to inform the Minister that if this ban continues to be in force---

**Mr. Deputy Speaker:** Order! Mr. Sambu, you have already asked your question. Let the Assistant Minister answer you now.

**Prof. Maathai:** Mr. Deputy Speaker, Sir, I do not have the answer to the question that has just been asked, but I promise to go back and find out why.

**Mr. Sasura:** Mr. Deputy Speaker, Sir, the Assistant Minister has said clearly that Messrs. Gacheru and Company Saw Millers were denied the licence because of the insecurity prevailing at that time. Could she tell us how many licences have been issued between 1994 and 2003, considering the fact that there are no more tribal clashes in the said area?

**Prof. Maathai:** Mr. Deputy Speaker, Sir, in 1999, when we realised that our forests were desperately threatened to the point that we now have only about 1.7 per cent of our country covered by forests, the Government imposed a ban on any logging for anybody, with the exception of the companies mentioned by the hon. Member. The ban is still in force. Now, it has more to do with the threat to our forests than insecurity.

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that there was really no blanket ban on licensing in 1994? Indeed, Integrated Wood Products and Viabrose Milling Companies continued to enjoy their licences in 1994 despite the pretext of security. I would like to know what action she has taken about the officer who licensed them after the ban. What disciplinary action has been taken against that officer?

**Prof. Maathai:** Mr. Deputy Speaker, Sir, a former Permanent Secretary known by the name of Mr. Mohammed Isahakia took it upon himself to allocate forest plantation areas to saw millers without reference to the National Forest Licensing Review Committee. Normally, the Permanent Secretary chairs that committee when it meets annually. The Integrated Wood Products happens to be a saw milling firm with no installation for the industry. It was owned by a powerful KANU operative whose name I was not asked to mention. Viabrose Milling Company was owned by an industrialist of Asian origin who was the main buyer of logs from the Integrated Wood Products in Nakuru Town.

**Mr. Muiruri:** On a point of order, Mr. Deputy Speaker, Sir. It is not right for the Assistant Minister to mention the name of a former Permanent Secretary and refuse to mention the name of the powerful Rift Valley KANU baron.

**Mr. Deputy Speaker:** Mr. Muiruri, what do you want the Assistant Minister to do?

**Mr. Muiruri:** Is it in order to have some sort of discrimination or double standards in this matter? Is she serious about destruction of our forests?

**Prof. Maathai:** Mr. Deputy Speaker, Sir, it was not an accusation and there is no secret about it. The powerful KANU operative was Mr. Hosea Kiplagat.

**Mr. Deputy Speaker:** Next Question by Mr. Kagwima.

### QUESTIONS BY PRIVATE NOTICE

#### CLOSURE OF SCHOOLS DUE TO INSECURITY

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) When will the following schools which were closed in Tharaka North in 1997 due to insecurity, be opened:-

Mpunguru Primary School,  
Karimba Primary School,  
Macabine Primary School, and  
Kioru Primary School?

(b) What urgent security measures will the Minister put in place to facilitate opening of the schools so

that children in the affected area resume learning?

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

(a) The schools will be reopened as soon as those families that were displaced due to clashes, are settled in the area.

(b) The District Security Committee (DSC), in consultation with the elders from both districts, are involving the *Njuri Ncheke* elders towards securing a peaceful solution to the dispute. Following the DSC's recommendation, we are urgently considering the following: Upgrading of Makutano Police Post into a full police station and opening a patrol base at Gatithini. These measures are expected to increase the presence of the security officers and build the confidence of the area residents.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I am happy because the Minister has tried to answer the Question. However, I would request that he be specific in terms of time because children in that area have lost five years. In fact, some of them will soon be marrying. Could he tell us whether it is next week or month when he will beef up security in that area?

When will those families be resettled, so that the children can go to school?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, I did say that we are opening a patrol base at Gatithini. I promise to do this immediately.

**Mr. Deputy Speaker:** Mr. Tarus, here we are talking of lives of school children from four primary schools and who have been out of school since 1997. We know that first term is ending this week. Could you tell us when these schools are likely to open? I think that is what the hon. Member wants to know. When will those schools be opened?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, we shall take action immediately. However, I cannot say they will be opened tomorrow because we have to follow the normal procedures.

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, I think the Assistant Minister is not aware of a very serious situation in that part of Mt. Kenya. The two districts have serious problems. Those children have not gone to school for all those years. Could my friend, the Assistant Minister, do more than just opening a police post, because that will not solve the problem? He should move very quickly and send appropriate people to go and sort out the problem, so that those children can enjoy free and compulsory primary education provided by the NARC Government. If he does not want to do that---

**Mr. Deputy Speaker:** Order! Mr. J. Nyagah, you have asked your question. This is not debate time!

**Mr. Tarus:** Mr. Deputy Speaker, Sir, I do know that there is a border problem between the two districts. However, we are doing our best to make sure that the communities agree to live harmoniously. We are not only relying on installation of the police post in that area, but we are also trying to build inter-communities confidence, so that we can have a lasting solution to this problem.

**Mr. Deputy Speaker:** Could you ask the last question, Mr. Kagwima?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, the Assistant Minister has been told that he requires to move with speed and initiate action. The person who created the problem, Mr. Kalweo, no longer holds public office. He is neither a Member of Parliament nor a Minister of State in the Office of the President. He is the one who ordered the relocation of the people in those areas. Since we now have a new Government, I would like to request the Assistant Minister to take action. He should order the District Commissioner to tell the people to go back to their homes and provide them with security, so that the schools can be re-opened. Finally---

**Mr. Deputy Speaker:** Order! Order, Mr. Kagwima. You cannot speak forever. This is not debate time. Could you respond to the hon. Member's request, Mr. Assistant Minister?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, we will do exactly what the hon. Member asked.

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

**Mr. Deputy Speaker:** What is it, Mr. Kagwima?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, could the Assistant Minister also---

**Mr. Deputy Speaker:** Order, Mr. Kagwima! You have asked the Assistant Minister whether he can arrange to order the area DC and everybody else to deal with the problem, and he agreed to do so. Your Question, therefore, has fairly been answered.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I am happy that you are saying so.

**Mr. Deputy Speaker:** Order, Mr. Kagwima! We must have order. You have asked a question. You cannot go on asking one question after another.

Let us proceed to the next Question.

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

(a) Is the Minister aware that there is a state of systematic raids and robberies in Matungulu Division of Kangundo Constituency, where recently the houses belonging to Dr. Mulinga, Messrs Mbondo, Muindi, Mbatha Ndilu and Thomas Munyaka were broken into and property worth millions of shillings stolen?

(b) Is he further aware that the house of the area Member of Parliament was broken into by robbers on the night of 10th February, 2003 where the family members were seriously injured and household goods stolen?

(c) Could he state what goods have been recovered in all the incidents in "a" and "b" above and how many suspects have been arrested as a result?

**Mr. Deputy Speaker:** Is Mr. M. Maitha not here? The Question is dropped!

*(Question dropped)*

Let us proceed to Mr. Obwocha's Question.

CORRECTION OF ANOMALIES IN  
NSSF SUSPENSE ACCOUNT

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Labour and Manpower Development the following Question by Private Notice.

(a) In view of the recent admission by the National Social Security Fund (NSSF) trustees that Kshs7 billion lies in a suspense account because the beneficiaries cannot be identified immediately, what is the Minister doing to correct the anomaly?

**The Assistant Minister for Labour and Manpower Development** (Mr. Odoyo): Mr. Deputy Speaker, Sir, I beg to reply.

I am aware about the Kshs7 billion in the said suspense account. This has a lot to do with employers who have been forwarding workers contributions to the NSSF without indicating the names of the contributors. Secondly, many employers who remitted funds to the NSSF misquoted the workers' membership numbers. Thirdly, some employers remitted accounts without indicating the names of their workers. Also, the NSSF has remittances from workers who have not been registered by it. However, the Ministry has taken full note of this anomaly and we are taking some measures to rectify the situation as follows: In the short-term, we are complementing the process where employers forward funds to the NSSF by posting our field officers to make physical verification in various companies. We are also undertaking a full evaluation of all those accounts to ensure that we reduce this figure substantially. We have formed an internal committee under the chairmanship of the Managing Trustee, and we will reduce this figure substantially within 90 days.

*(Loud consultations)*

Mr. Deputy Speaker, Sir, we are talking about Kshs7 billion that the NSSF has put in a suspense account. So, could I have your intervention?

**Mr. Deputy Speaker:** Order! Order!

**The Assistant Minister for Labour and Manpower Development** (Mr. Odoyo): Mr. Deputy Speaker, Sir, I was saying that we are going to verify the ownership of a substantial amount of the Kshs7 billion within 90 days. Within that period, we intend to look at all the invalid membership numbers, identify all unregistered employees, and ensure that the employer/employee education programme is implemented. As a medium-term measure, we are installing a new computer system with an on-line link to all the employers in the country. That will help us to ensure that we receive all the required information on time, and that the information is correct.

Mr. Deputy Speaker, Sir, at this juncture, I wish to table a document of the breakdown of our records for the period between 1971 and the year 2003, showing how we arrived at the Kshs7 billion suspense account.

*(Loud consultations)*

**Mr. Rotino:** On a point of order, Mr. Deputy Speaker, Sir. Some hon. Members are consulting so loudly

that we cannot hear what the Assistant Minister is saying.

**Mr. Deputy Speaker:** Order! Order!

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, this a very serious matter, when you consider that sometimes, the NSSF fails to raise funds to pay retirees. If you look at the list that the Assistant Minister has tabled, you will realise that the figure in the suspense account has, in fact, risen to Kshs8 billion. As we all know, the NSSF is a "cow" which has been milked left and right, by looters in this country. The Assistant Minister says that the funds have been put in a suspense account because the NSSF does not know the persons who contributed them. So, could he set up a task force within the NSSF, or his Ministry, to get down to workers and companies and come up with the amounts of money the workers have contributed to the NSSF. Particularly, during the period between 19990 and the year 2003, about Kshs4.5 billion was put into the suspense account. If the NSSF identifies the contributors within that period, the problem will be lessened.

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, I concur that it is a serious matter when you have Kshs8 billion whose owners cannot be immediately identified. When we table our findings later on, we will prove to this House that this was actually a case of immorality committed against the workers of this country by the previous regime. It was not a mere case of corruption but rather, that of a more serious vice which I wish to refer to as "immorality".

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

**Mr. Deputy Speaker:** Order, Mr. Sasura! Let the Assistant Minister answer the question.

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, I wish to assure Mr. Obwocha that we have formed an internal committee under the chairmanship of the Managing Trustee, which is mandated to work on the suspense account. For the next 90 days, the members of the said committee will do nothing, other than looking into the suspense account. So, I assure the hon. Member that after 90 days, the amount in the suspense account will have been reduced substantially.

**Mr. Deputy Speaker:** Mr. Odoyo, you should give that assurance to the House, and not to Mr. Obwocha.

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, thank you for your guidance. I wish to assure the House that within 90 days, we will reduce the figure in the suspense account to a minimal level.

**Mr. Owino:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us - because we know a suspense account is very sensitive and could easily be misused - the steps he has taken to safeguard the money which could easily be misused by funny characters in the National Social Security Fund (NSSF)?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, I share the fears of my brother that, indeed, the NSSF has been misused by the previous regime in a manner that is totally unacceptable. But I wish to assure the House that---

**Mr. Sasura:** On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister repeating that twice! Could I be in order, considering the fact that he was an Assistant Minister in the previous regime, to ask him to substitute the words "former regime" with "our regime"?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, I think I am very much on record that the failure of that regime to reform made me resign from it!

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, this is a very serious matter! The Assistant Minister has said that, that money is in a suspense account. Could he assure this House that, that money is actually in the NSSF? Could he tell us in which bank it is?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, we are undertaking several reforms in the NSSF. There were some monies which were deposited in what we call "politically correct banks"! If the House so wishes, I can lay on the Table, a list of those banks!

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! The question is very specific! You have mentioned the suspense account with so much money. The question is: In which bank is that money banked? That is the question! Could you answer it?

**Mr. Odoyo:** Mr. Deputy Speaker, Sir, let me answer the main component of that question, which asks whether the money is safe! Let me say that the money is safe and cannot be touched by anybody else in this country! If this House so wishes, I can lay on the Table, a list of the banks where that money is deposited. But I may wish to request for more time!

**Mr. Deputy Speaker:** Order! In view of the importance of this Question, particularly to the workers of this country, the House would consider the Assistant Minister's request and give him time to lay the information regarding the whereabouts of the money on the Table by Tuesday, next week.

Next Question!

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the Assistant Minister to lay on the Table, the names of the accounting firms that have been auditing that organisation for the last 20 years?

**Mr. Deputy Speaker:** You are out of order! The Question as asked is about the suspense account and the Assistant Minister has undertaken to show where the money is. Matters as to who audited the NSSF is not part of the question!

Next Question!

#### FOOD SUPPLIES TO BARINGO NORTH SCHOOLS

**Mr. Boit:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that schools in Sibilo Location are on the verge of closure due to non-supply of food?

(b) What action is the Minister taking to ensure that food reaches all schools in Baringo North?

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

(a) Yes, I am aware that schools in Sibilo Location did not receive their food allocations for first term, 2003.

(b) The Ministry has contracted transporters to transport food commodities from Mombasa and any other point of delivery to schools in Baringo North during the month of April.

**Mr. Boit:** Mr. Deputy Speaker, Sir, my friend, Mr. Gumo, who is also an Assistant Minister, has answered me correctly for the first time! Is it Mr. Gumo or Gumu! It is Mr. Gumo, Sir! It must be the presence of Mr. Wamalwa that has made him answer very quickly! But he has not told me the specific points of delivery in Baringo North!

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I have said that in April, we are going to start delivering food to the schools in Baringo North. Those are the schools covered by the Schools Feeding Programme! Na kila kitu!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, if the food was supposed to be used during the first term, what is the use of it being given during the second term? Could the Assistant Minister make sure that if food is meant for first term, it is taken there during the first term? Otherwise, they starve those children and they are not able to study.

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I am assuring my good friend that food will be there before the schools open. So, when the schools open, there will be enough food. If not, then come and ask me again!

**Mr. Muite:** Mr. Deputy Speaker, Sir, given the national priorities of reassuring the people of Baringo North and, in fact, the entire Baringo District that they are part and parcel of the Kenyan nation, could the Assistant Minister ensure that food is taken to Baringo? He should not allow them to go even for one term without food. It is in your political interest to assimilate those people. Could he make sure that they get priority?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I have a lot of interest in Baringo and I will make sure the food gets there before the schools open.

**Mr. Boit:** Mr. Deputy Speaker, Sir, I want to tell him "thank you", but could he assure the House that he will not harass Baringo North children in future?

**Mr. Deputy Speaker:** What is the question?

**Mr. Boit:** He did not give me the specific points of delivery!

**Mr. Deputy Speaker:** Mr. Boit, I think you said "thank you very much", and that is enough!

Let us move on to the next Question.

#### DESTRUCTION OF LIETA SECONDARY SCHOOL CLASSROOMS

**Dr. Awiti:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Lieta Secondary School had three classroom roofs blown off by strong winds recently?

(b) Is he further aware that due to the calamity, over 100 students are being taught under a tree?

(c) What measures is the Minister going to take to ameliorate the situation, especially with the coming of the long rains?

**The Assistant Minister for Education, Science and Technology** (Mr. Gumo): Mr. Deputy Speaker, Sir, I have many Questions to answer and I do not know which one I am supposed to answer now!

**Mr. Deputy Speaker:** It is Question No.5 by Private Notice from the Member for Karachuonyo!

**The Assistant Minister for Education, Science and Technology** (Mr. Gumo): Mr. Deputy Speaker, Sir, I have not been able to get an answer for that Question, but I have already contacted the officials in Karachuonyo to give us an answer. I should be able to bring the answer next week. That is because he wants to know whether we are going to repair that school.

**Mr. Deputy Speaker:** Dr. Awiti, the Assistant Minister has no answer for your Question, but he has promised to bring it next week. Would Wednesday be okay with you?

**Dr. Awiti:** Mr. Deputy Speaker, Sir, I think the Assistant Minister is an honest man! That is because he has agreed that he will bring the answer next week. Could I know specifically which day next week?

**Mr. Deputy Speaker:** Wednesday afternoon!

**Dr. Awiti:** That is fine.

**Mr. Deputy Speaker:** The Question is deferred until Wednesday afternoon.

*(Question deferred)*

Let us move on to the next Question by Mr. Kembi-Gitura!

#### ACTION AGAINST ILLICIT BREWS MANUFACTURERS

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Trade and Industry the following Question by Private Notice.

(a) Why has the Minister allowed the manufacture of illicit brews to continue unabated despite his assurance to the House on 6th March, 2003 that all such industrial concerns would be closed down?

(b) What action has he taken to close down the following manufacturers of illegal brews:-

Mega Distillery

Tornado Holdings

Reuben Cheaper Enterprises

Ganjo Orchards Kenya Limited

Fai Amarilo Winery.

(c) What urgent action will he take to ensure a complete closure of all manufacturing outfits in (b) above?

**The Minister for Trade and Industry** (Dr. Kituyi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry has not allowed the manufacture of illicit brews. As was promised to this House by my Assistant Minister on 6th March, 2003, the Ministry has embarked on a systematic investigation and closure of firms found to be manufacturing sub-standard brews. Closing down these industrial concerns, however, has to be done according to the procedures of the law. Many times when we have closed down firms which were found to be producing illicit brews, they have found some recourse to the legal system and were allowed to continue operating.

To give an example of Keroche Industries Ltd, my officers got a court order, went to Naivasha, closed down the factory and locked the offices using two big padlocks that we had purchased. The owners of Keroche Industries Ltd went to Justice Mbiti and got an ex-parte ruling to stay the execution. They went to the factory on a Saturday night, broke the locks and started manufacturing the brew again.

My Ministry applied for an injunction against lifting of the court order, and the original case is on-going at the Kibera Magistrate's Court. I should further state that the Ministry has taken an inter-Ministerial approach on some of these matters, because not all licences necessary for operations are issued by my Ministry. When firms get a stay order against the suspension of their licences, they still manage to continue brewing the illicit brews.

(b) We have taken the following measures:-

(i) Fai Amarilo Winery Ltd was closed down on 7th March, 2003 through a seizure, and a court case was filed against it on 17th March, 2003. An application was made to the Nakuru court for orders to reinforce the closure of the factory pending hearing of the case on 4th April, 2003.

(ii) Hail and Cotton Ltd was closed down on 4th March, 2003 through seizure, but the closure was lifted again by Justice Mbiti, allowing the firm to continue operation. There is an on-going case at Kibera Court



coming up for hearing on 17th April, 2003.

(iii) We closed down Global Beverages Ltd on 4th March, 2003 and it remains closed up to date. There is an on-going case in Kibera Magistrate's Court, coming up for hearing on 17th April, 2003.

(iv) Nico Wineries Ltd was closed down through seizure on 17th March, 2003 and remains closed. The case preferred against the firm is coming up for hearing on 14th April, 2003.

(v) Becem Enterprises Ltd at Katheri in Meru was closed down on 26th March, 2003 through seizure and charges have been preferred against the firm.

(vi) Mitindiri Ltd in Naivasha, officially known as 'Lakit' was also closed down through seizure on 17th March, 2003 and charges are being preferred against the firm.

(vii) Lugen Enterprises Ltd was closed down on 4th March, 2003 through seizure and still remains closed. We are also preferring charges against the firm.

(viii) Tornado Holdings was closed down on 6th March, 2003 through seizure. A court case was filed in Nakuru at the Chief Magistrate's Court on 17th March, 2003. A court order reinforcing the seizure and the closure of the said factory was obtained on 31st March, 2003, and the case will come up for hearing on 14th March, 2003.

M/s Fai Amarilo Winery and Tornado Holdings Ltd are closed down. The other three firms, namely, Mega Distillery, Reuben Cheaper Enterprises and Ganjo Orchards Kenya Ltd are under investigation with a view to instituting a legal action against both of them.

(c) My Ministry is seeking an inter-Ministerial effort from all the relevant parties of the Government, so that if we are satisfied that anything is injurious to the public interest, none of the agencies of the Government will give it legitimacy through any licensing procedure.

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I want to thank the Minister for giving a very comprehensive answer, and stating the measures that have been taken to date.

I would like to point out that the Keroche Depot in Muranga Town is still open. It is supplying Keroche products throughout Muranga District, and in particular, to Kiharu Constituency which I represent. People have taken it upon themselves to destroy those wines as soon as they are delivered to shopping centres.

**Mr. Deputy Speaker:** Mr. Kembi-Gitura, ask your question!

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, jurisprudence and the Bible teach us that it is right for a citizen to disobey immoral laws. The Minister has tried to close down those firms, but the law is allowing them to continue operating. Is the Minister aware that people have taken the law into their hands, and are destroying these wines when they are delivered to shopping centres? Could he assure us that the poor women in villages will not be prosecuted when they destroy those illicit brews?

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I do not think I could even be as generous as the hon. Member to call them poisons wines. We are using wrong names to legitimise criminal conduct.

I feel frustrated because when we try to stop the poisoning of our people, people go behind our backs and get ex-parte rulings from courts to continue marketing poisons to our people. Something has to be done about that. More fundamentally, this problem must be addressed at the root. The agro-chemicals firm is supplying poisons to people and they pretend to be distilling products. There are no distillers in those firms. The firms just mix up chemicals, label and sell them. The problem has to be addressed at the source, namely, at the agro-chemicals firm, which supplies industrial chemicals in the name of spirits.

**Mr. Waithaka:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to complain as if he is not in the Government? It is actually the Government of the Republic of Kenya which is licensing distillers to buy agro-chemicals from Muhoroni Sugar Factory and other places. In fact, here, the Government is squarely to blame and not the distillers.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, a statement of getting to do things right as a Government must start with identifying a problem. The Government inherited this problem, and has started to address it both at the end, the killing of people by that poison, and at the source, the supply and the under-taxing of the produce of agro-chemicals and the illicit way in which they are supplied. The Government has identified the problem, and I can give an assurance that we will deal with it the way the former KANU Government never did.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, you will remember that last week, I requested for a Ministerial Statement on the same issue. The Minister has said that Keroche Industries Ltd was reopened through a court order issued by Justice Mbiti. The case is now being heard in Kibera Magistrate's Court. The Minister also said that M/s Hail and Cotton Ltd was also closed down, but Justice Mbiti again issued a court order to have it opened. Again, the matter will be heard in Kibera Magistrate's Court.

This does not explain the position. Is it the same Justice Mbiti who has issued a court order to stay the

proceedings of the Goldenberg Commission of Inquiry? If he is the same judge---

**Mr. Deputy Speaker:** Order, Mr. Muiruri! We are not here to discuss a judge. Ask your question. If you want to raise an issue touching on the judge, you will be out of order.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, could the Minister explain the legality of this matter? Why has a judge issued a court order to stay the closure of Keroche Industries Ltd? The matter has then been referred to a magistrate's court. Can a magistrate's court overrule a judge?

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I share the sense of frustration that my colleague feels. It is the same Justice Mbitio who has even tried to issue orders to stay confiscation of some counterfeits. But when you have an order from a lower court, a judge has a right to stay the execution of that order pending some appeal against it. I think what Justice Mbitio has done is correct by our laws. But as to whether it is fair to Kenyans, that is a different matter.

**Mr. Deputy Speaker:** Ask the last question, Mr. Kembi-Gitura! Hon. Members, we have overshot Question Time by 40 minutes!

**Mr. Kembi-Gitura:** Thank you, Mr. Deputy Speaker, Sir. I feel that unless there is inter-ministerial reaction to this situation, these illicit brews will continue to be sold. This is because we know that the chiefs and the assistant chiefs collect a lot of money so that they can protect the people who sell these illicit brews. Will the Minister involve the Provincial Administration, through the Office of the President, to ensure that those chiefs, since they are known, who continue to condone the sale of illicit brews are disciplined or sacked? Would he ensure that a firm action is taken against those chiefs and DOs who condone the sale of the illicit brews?

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I thought I said that at the beginning that we are trying across the boarder initiative which involves the relevant authority which licenses agro-chemicals to sell this poison, the officers who allow it to be transported and licence the pretended manufacturers and retailers. I agree that it takes more than one agency of the Government to deal with this matter, but we have taken an initiative to stamp out this poison once and for all.

*(Several hon. Members stood up in their places)*

**Mr. Deputy Speaker:** Very well! We are now through with Question Time! I have a number of requests for Ministerial Statements.

Let us start with the Attorney-General!

### MINISTERIAL STATEMENTS

#### INTERNATIONAL WARRANT OF ARREST FOR MR. SOMAIA

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, on Tuesday, 1st April, 2003, Mr. Wanjala asked me to issue a Ministerial Statement on Mr. Ketan Somaia. I would like to state as follows:

First, I have never told this House that I had issued a warrant for the arrest of Mr. Somaia, and that I had asked Interpol to assist in his arrest, as was alleged by Mr. Wanjala. This allegation by Mr. Wanjala is incorrect and false. I would like to add that I have never made such a statement outside this House.

Secondly, I am aware that the Public Accounts Committee (PAC) did request that an international warrant of arrest for Mr. Somaia be issued. There was also a news item appearing in *The Daily Nation* issue of 23rd February, 1995, under the heading: "PAC asks Wako to bring Somaia". I did write a letter dated 24th February, 1995 to the Speaker of the National Assembly which was copied to the Permanent Secretary, Administration, Office of the President and the Permanent Secretary, Ministry of Finance, which outlined the procedure under the National Assembly Powers and Privileges Act. I concluded that if the PAC wanted me to take action on the failure of Mr. Somaia to appear before them, then, they should give me a brief together with supporting documents, which included a summons under the hand of the Clerk issued under the direction of the Speaker. I believe that is under Section 15 of the Act. I never received any request from the PAC in accordance with this procedure.

Thirdly, on a more substantial issue, an international warrant of arrest is only issued after a criminal investigation file has been completed to enable me to frame the charges. The PAC had recommended on page 78 of its 1995/96 Report that the Accounting Officer - and when I talk about the Accounting Officer, I mean the Permanent Secretary, Office of the President in charge of Provincial Administration and Internal Security -

ascertains the correct value of the undelivered items. This was the basis upon which the investigations, prosecution and the obtaining of an order for the international warrant of arrest would have been undertaken. I am not holding the brief for the PAC, but it does appear that this Committee held further meetings with the Accounting Officer on this issue. Among the things which the Accounting Officer told the PAC were:-

(i) All the equipment previously undelivered worth US\$1,891,386 have since been delivered, received, installed and tested.

(ii) The balance of the undelivered goods worth US\$38,771.06 (Kshs2,888,891,000.50) had been refunded to the Government through the Office of the President, Account No.R0101012001 with the Central Bank of Kenya. The PAC urged the Accounting Officer to ensure that the accrued interest was also paid. All the foregoing which I have just read out are reported on pages 88 and 89 of the 1996/97 PAC Report. In the 1997/98 Report, the PAC did not see the necessity to report on that issue. I also received a letter from the Accounting Officer, who said that in his opinion, the contract had been fully performed. Consequently, apart from the very initial report, both the Accounting Officer who would have been the complainant had the criminal case been instituted to warrant now the international warrant of arrest to be issued and the PAC treated the matter, as it appears to me, as a civil matter and not a criminal one. In the light of the foregoing, the conditions precedent for the issuing of an international warrant of arrest were lacking. Fourthly, Mr. Wanjala and some hon. Members stated that criminal law should not be applied selectively. This is, in fact, the firm policy of the Attorney-General.

Let me assure this House that this Attorney-General has never exercised his powers under the Constitution to require the Commissioner of Police to investigate any matter selectively. Let me also assure this House that this Attorney-General has never on the criminal investigative files submitted to him, where there is sufficient evidence to prosecute, decided on whether or not to prosecute in a selective manner. The rule of law must be upheld at all times.

Thank you.

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, you must be aware that even yesterday, Mr. Somaia was interrogated. Could the Attorney-General tell us why he was being interrogated?

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, the fact that Mr. Somaia was being interrogated is proof that law will be applied without fear or favour. But Mr. Somaia was not being interrogated on the issues which were raised by the PAC, but he was being interrogated on other complaints.

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, listening carefully to the Statement the Attorney-General has made, we seem to be in a dilemma in this House. The PAC, in this particular case, presented its Report to this House and it was adopted. It was the responsibility of the Government to implement what was adopted by this House.

*(Applause)*

This was not a case, say, for the PAC, again, to go back and start following up Mr. Somaia. It was upon those responsible for ensuring that recommendations were implemented to take up the issue. The question of the Attorney-General telling us what PAC did should not arise. What was required after the House had adopted the Report was action to be taken.

*(Applause)*

**The Attorney-General (Mr. Wako):** This House accepted the 1995/96 Report. The Attorney-General of the Republic of Kenya, as I have clearly stated, followed up the issue and neither received any request from the very PAC, nor did I receive letters from the would have been complainant, to give me the documentation, which would have formed the basis of initiating investigations and the process of framing the charges. I never received that. But what I received both from the PAC and the would be complainant was information that they had treated this matter as civil.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, listening to the Attorney-General, it is clear that he has distinguished himself as a very good lawyer for Somaia.

*(Applause)*

In fact, this is the most eloquent defence Somaia would ever get in any court any where.

*(Applause)*

If the Attorney-General knows the meaning of corruption, a lot of money was paid to somebody before he supplied any goods. Hundreds of millions of shillings were paid and then for seven years, the person did not supply those goods. Then after the PAC raised that matter, then he started supplying them *nusu nusu*. What is the meaning of corruption to the Attorney-General?

**The Attorney General** (Mr. Wako): Mr. Deputy Speaker, Sir, the issue here is, as far as the Attorney-General is concerned, a criminal prosecution. A criminal prosecution can only be undertaken on a complaint lodged. A complaint was lodged, but the very people who lodged the complaint plus the complainant - the Permanent Secretary, Office of the President - did not enable the Attorney-General to have the information which would have enabled me to order the investigations or frame the charges. Instead, as I was saying in this statement, both parties appeared to have treated this matter as a civil matter rather than a criminal matter.

*(Loud consultations)*

**Mr. Muite:** Mr. Deputy Speaker, Sir, Section 26(4) of the Constitution of the Republic of Kenya, places on the Attorney-General, the responsibility of directing the Commissioner of Police, to investigate any matter relating to any offence, and I am reading, or an alleged offence. You cannot hide behind the PAC. Could the Attorney-General table the letters he had written to the Commissioner of Police, directing him to investigate matters of suspected offences by Ketan Somaia?

It is not just the question of Ksh400 million. Go to the National Bank of Kenya and you will find that the man did not pay taxes. More offences are there. Then go to Muhoroni Sugar Factory! What steps have you taken to discharge your responsibility under Section 26(4)?

*(Applause)*

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, now, this is where the problem lay because as the PAC requested, we had to know the exact amount of the balance that was outstanding. The Office of the President began doing it, but in the end they said that everything had been supplied, and, therefore, the complaint was not there.

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

**Mr. Deputy Speaker:** Order hon Members! I know the importance of this issue to this country and that is why I have given it more time than usual, but it cannot go on and on. The last clarification from hon Obwocha.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I am the former Chairman of PAC. I want to join hon Muite, and would like the Attorney-General to tell us the meaning of corruption.

Mr. Somaia, and his companies were paid over Ksh500 million in 1990/1991 and I do have the 1996/97 Report here. It is only after Mr. Njoroge, the Controller and Auditor-General, raised this matter, year in-year out, until 1994/1995, when we started dealing with it. Now, when was he appointed the Attorney-General? He was plucked from the private sector as a very good man and spoilt by the KANU Government.

*(Applause)*

Mr. Deputy Speaker, Sir, what we are saying is this: He should not run away from this responsibility, because the PAC - and you were a Member of the same Committee - wrote to the Attorney-General to call Somaia and then he turned down the request of PAC just because he was receiving orders from elsewhere.

Mr. Deputy Speaker, Sir, the Report I have here - he has read out a part of it and conveniently tried to defend Somaia - states:-

"Somaia still owes the Government of Kenya, over these 11 years that he has had this money, interest on all the money that was paid in advance."

He has not even paid back that money. Since Somaia is in this country and the Attorney-General is now "free" in the NARC Government, could he arrest him now?

*(Applause)*

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, first and I would want to make it very clear, the PAC never wrote to the Attorney-General of the Republic of Kenya. If there is such a letter, table it.

Secondly, it is true hon. Obwocha is quoting the PAC Report of 1995/1996, when he was a member, but the Report of 1996/97, if you were still a member of PAC, then you are bound by that and you should support the recommendations that were made by PAC. This is exactly what I am reading from that report of PAC. What is that report saying? It is saying that everything had been delivered, everything has been done, the only outstanding---

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

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, on pages 88 and 89, the PAC has forgotten the issues of prosecution and assisting the Attorney-General to prosecute and has instead said: "Try to claim interest". That is there in the Report of 1996/97. If you were still the Chairman of that PAC, then you were bound by this Report.

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

**Mr. Deputy Speaker:** Order hon Members! I did rule that that was to be the last clarification.

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

**Mr. Deputy Speaker:** Order! Mr. Sungu, sit down, or you go out.

#### INDUSTRIAL UNREST IN EXPORT PROCESSING ZONE

**The Minister for Trade and Industry** (Dr. Kituyi): Mr. Deputy Speaker, Sir, yesterday in the morning, Mr. Munya sought a Ministerial Statement on matters of industrial unrest in the Export Processing Zone (EPZ). In his request, Mr. Munya sought to know whether the exemptions given to the industries operating in the EPZ were any longer tenable and what exactly the Government is doing to bring the unrests---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, Mr. Minister! Order, hon. Members! The Minister is giving a statement as requested by Mr. Munya. Would you, please, listen to him? If you want to withdraw from the Chamber, do so quietly.

Proceed, Mr. Minister!

**The Minister for Trade and Industry** (Dr. Kituyi): Mr. Deputy Speaker, Sir, I beg the indulgence of the House since I was not here yesterday. I confirm that I received this request and I would like to make a substantive Statement at the end of Question Time on Tuesday next week.

**Mr. Deputy Speaker:** Very well!

#### POINTS OF ORDER

##### MISREPORTING BY THE *DAILY NATION*

**The Assistant Minister for Co-operative Development** (Mr. Kenneth): Thank you, Mr. Deputy Speaker, Sir. I wish to clarify a statement I gave on Tuesday in response to the Question raised by Mr. M'Mukindia regarding the Meru Central Farmers Co-operative Union, and which was reported in yesterday's dailies.

Mr. Deputy Speaker, Sir, I did say that the Meru Central Farmers Co-operative Union was under no threat of being put under receivership, and the HANSARD wrote exactly what I said. So, I want to stress that at no point did I say that the Meru Central Farmers Co-operative Union was under receivership. I think it was reported wrongly in one of the dailies.

**Mr. Deputy Speaker:** Yesterday, I did undertake to compare the HANSARD and a report by the *Daily Nation* with regard to that matter. It is true, as Mr. Kenneth has said, that there is complete misreporting. Therefore, I order the *Daily Nation* to make a correction of that misreporting with regard to the answer by the Assistant Minister for Co-operative Development.

*(Applause)*

*(A mobile phone rung in the Chamber)*

Order! Order! Be sincere and own up! Whose mobile phone is that? Is it yours?

**An hon. Member:** It is not a mobile phone, but a watch.

**Mr. Deputy Speaker:** Order! Order! If you are caught next time---

*(Laughter)*

#### INSECURITY IN SOUTH KINANGOP

**Mr. Waithaka:** Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State, Office of the President in charge of internal security concerning the state of insecurity in Njabini Location of South Kinangop Division. Sometime in February, 2003, a person by the name Kamau Ngugi was murdered under very mysterious circumstances and no action has been taken by the police. On the night of 2nd April, 2003, a man by the name Dominic Thuguya Theuri was also murdered under very mysterious circumstances. His body is now lying at the Naivasha District Mortuary. We have a problem in that particular location. In 1998, we sought the assistance of the then Government for a police dog and we were requested to put up a dog kernel for that police dog. We did it on self-help basis and a police dog was brought to Njabini. However, that police dog was secretly withdrawn from Njabini without any notice---

**Mr. Deputy Speaker:** Mr. Waithaka, you are seeking a Ministerial Statement over what? Could you give the facts?

**Mr. Waithaka:** Our fear is that even after the withdrawal of that police dog, there is no police Land Rover, or any vehicle at Njabini Police Station. Also, the DO for the same division has no Land Rover. We have reported the matter and that is why I am seeking a Ministerial Statement. Our people are being killed by the security personnel. We have even discussed this matter in the DDC and in our opinion, police officers are attacking and killing our people in an attempt to carry out robberies. Would the Minister tell this House what action the Government is going to take to curb this menace in this particular division?

**Mr. Deputy Speaker:** Very well! Mr. Tarus, when are you going to give the Statement?

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, I will issue the Statement on Wednesday morning next week.

**Mr. Deputy Speaker:** Very well!

#### ILLEGAL DEDUCTIONS FROM OFFICERS' SALARIES

**Mr. Moroto:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President concerning illegal deductions from the salaries of Administration Police in West Pokot. They were each forced to surrender Kshs100 from their March, 2003, salary to assist an inspector of police who was involved in the killing of four workers of the Ministry of Energy, who were working in the late PC, Chelanga's residence in Eldoret. Although the APs are earning very little salaries, they have been forced to contribute Kshs100 each from their salaries. Could the Assistant Minister order the reimbursement of the amount which was

forcibly deducted from the salaries of the affected officers in that district?

**Mr. Deputy Speaker:** Very well! Mr. Tarus, have you got it?

**The Assistant Minister, Office of the President (Mr. Tarus):** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Very well!

#### SCREENING OF SEVERE ACUTE RESPIRATORY SYNDROME

**Mr. M'Mukindia:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Health regarding the so-called Severe Acute Respiratory Syndrome (SARS). Two days ago, our Rugby National Team returned to this country from Hong Kong. We are aware that in Hong Kong, China, Singapore and generally, the South East Asia region, there has been a deadly pneumonia-like virus, which has affected over 2,300 people. Out of this, 78 have already died. The practice seems to be that whenever people travel, they ought to be quarantined for, at least, a couple of days before they are released to the general public. While we appreciate what our team did in Hong Kong, it entered this country with the knowledge of the Government, but they were not tested or quarantined until six hours after their arrival.

Mr. Deputy Speaker, Sir, could the Minister for Health tell this House the extent of the spread of this virus in this country? Why has the Government not tested the rugby players, as well as other visitors from this region, some of whom come through Bombay and then to Kenya, and Singapore via Bangkok?

**Mr. Deputy Speaker:** Mr. M'Mukindia, that is a very important request for a Statement. I think it has been heard. I just wonder who in the Government is taking notes, because I do not see the Minister for Health. Would someone listen to that because we would like a Statement to be brought to the House?

**An hon. Member:** Hon. arap Wamalwa!

**The Vice-President and Minister for National Reconstruction** (Mr. Wamalwa): I will convey the request to the relevant Ministry, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Very well! We would wish to have a Statement quickly. Mr. M'Mukindia, is Wednesday okay for you?

**Mr. M'Mukindia:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** To the best of my knowledge, those are the only Members who requested for Ministerial Statements.

#### MINISTRY'S POSITION ON UNCOLLECTED TIMBER

**Mr. Mukiri:** On a point of order, Mr. Deputy Speaker, Sir. Last week, I asked for a Ministerial Statement from the Ministry of Environment, Natural Resources and Wildlife. I have not received that Statement from that Ministry. Could I know what is happening?

**Mr. Deputy Speaker:** Mr. Mukiri is reminding the Minister for Environment, Natural Resources and Wildlife that he asked for a Statement. Do you have it, Prof. Maathai?

**The Assistant Minister for Environment, Natural Resources and Wildlife** (Prof. Maathai): Mr. Deputy Speaker, Sir, I did promise that I would check that. Our office is looking into it now that we know when the hon. Member requested that Statement.

**Mr. Deputy Speaker:** Would Tuesday afternoon be alright?

**The Assistant Minister for Environment, Natural Resources and Wildlife** (Prof. Maathai): Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Very well!

#### APPOINTMENT TO THE PUBLIC SERVICE

**Mr. Korir:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President in charge of personnel management. In view of the recent appointments of persons over the age of 55-years in many sectors of our Civil Service and parastatals, I wish to know from the Minister as to whether the 55 year compulsory retirement age has been waived or suspended. Being a young man, like many others in Kenya, I believe the retirement at that age gives the opportunity for young people to take mantle of the Public Service. I also want to know how many of the recent appointees are above the age of 55 years.

**Mr. Deputy Speaker:** Order, Mr. Korir!

**Mr. Korir:** Mr. Deputy Speaker, Sir, I am asking for a Ministerial Statement.

**Mr. Deputy Speaker:** I am informed that there is already a Question that has been accepted by the Speaker to come to the House on that matter. But if it does not come next week, remind the Chair and I will order accordingly that the Statement be forthcoming.

Next Order!

#### MEMBERS SHOULD SEEK CLERK'S ADVICE ON MINISTERIAL STATEMENTS

**Mr. N. Nyagah:** On a point of order, Mr. Deputy Speaker, Sir. I just need to know from the Chair the position we are going to take with regard to hon. Members seeking Ministerial Statements. It appears that sometimes some of the statements that we do seek could come in the form of questions. How is that issue going to be resolved so that we do not have too many Ministerial Statements being demanded?

**Mr. Deputy Speaker:** I believe hon. Members should realise that it is the scope of the matter that determines whether it is a Question to be asked or a Ministerial Statement to be sought. In this respect, I urge hon. Members to seek assistance of the office of Clerk before coming to request for Ministerial Statements. This is because, if the Clerk could have registered a Question, for example, and the hon. Member wants to seek a Ministerial Statement, then these matters could be resolved in the office of the Clerk or the Speaker's Chamber. So, I urge hon. Members, and particularly those new

ones, to make use of the Clerk and the Speaker's Chambers so that they could be advised the most appropriate approach; either a Question or a Ministerial Statement.

Next Order!

*(Applause)*

## BILL

### *Second Reading*

#### THE CRIMINAL LAW (AMENDMENT) BILL

*(The Attorney-General on 1.4.2003)*

*(Resumption of Debate interrupted on 2.4.2003)*

**The Attorney-General:** Mr. Deputy Speaker, Sir, I was in the process of replying to this Bill. I had already started, yesterday, paying tribute to all hon. Members who had contributed to this Bill.

If I may go through some of the comments that were made, I think hon. M. Kilonzo had stated that we must include in the Bill an express position that nobody should be held for a period exceeding 24 hours. I want to remind hon. M. Kilonzo, who is a fellow senior counsel, that this is not a matter that should be included in this Bill because it is already catered for under our Constitution. Maybe, he had overlooked that position in the Constitution, and in particular, Section 72(3)(b), because it is all catered for there. I would not want to waste more time on that Section. I think he now understands that we cannot include this position in the Bill because it is already catered for in the Constitution.

Mr. Deputy Speaker, Sir, hon. M. Kilonzo had also stated that we must include in this Bill a law that a person is entitled to an advocate of his choice. Again, this is not a matter for this Bill because it is already catered for under our Constitution. Maybe, he had again forgotten those provisions under our Constitution. I particularly want to refer him to Section 77(1)(II)(b), where a person is entitled to legal representation of his choice.

Mr. Deputy Speaker, Sir, may I dwell a bit longer on that because other hon. Members did touch on the issue of equality before the law. We have very many poor people in this country and, therefore, although those provisions are there, the poor and indigenous persons in this country would not have access to the courts on an equal footing with the persons' sort of advantaged; the rich ones. That is an issue that we are looking into very seriously because Section 84(5)(b)(I) makes it a duty upon this Parliament to pass a law where such persons can be given legal aid. We already have pilot projects in various parts of the country on the issue of legal aid. At this juncture, this country cannot afford the type of legal aid schemes that we have in developed countries, otherwise the entire budget can be wiped out. So, we want to revise a Legal Aid and Advisory Scheme (LAAS) which is consonant with the state and stage of development. Those pilot schemes have already been done and number of workshops held. I want to thank this body for this particular exercise, and very soon, we are going to have access to the Justice Bill, which will take care of that situation, and which will depend very much on the voluntary contributions by the members of the Law Society of Kenya; rendering their services more or less free of charge. So, that issue is being looked into.

Mr. Deputy Speaker, Sir, hon. M. Kilonzo also did state that we must ensure in this law that all prosecutions are done by professional persons; advocates and so on. This is a desirable objective to which we are all aspiring. In fact, we do have in place some plans to ensure that happens ultimately. But again, that is not an issue which must be included in the law. With utmost respect to hon. M. Kilonzo, it is not because the Attorney-General is the prosecutor in this country; whoever is prosecuting, even the police are doing so under delegated power, under some legal notices that were enacted sometimes ago. Therefore, when we reach that stage and we are working towards it, what will happen is that, the legal notice will be revoked and then the professional standards set.

## QUORUM

**Mr. Kimeto:** On a point of order, Mr. Deputy Speaker, Sir. There is no a quorum in the House.

**Mr. Deputy Speaker:** Order, hon. Members! Yes, there is no quorum in the House. Ring the Division Bell.



Ring the Division Bell!

*(The Division Bell failed to ring)*

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. Under Standing Order No.1, where a matter is not specifically provided for, the Speaker has got a discretion. So, could the Speaker exercise that discretion and say that we can continue?

**Mr. Deputy Speaker:** Mr. Muite, the discretion provided for under Standing Order No.1 is where there are no provisions in the Standing Orders. There are very specific provisions for a quorum. When there is no quorum the Speaker cannot proceed with the proceedings of the House.

**Mr. Muite:** Mr. Deputy Speaker, Sir, but there is no provision when the Bell is faulty!

**Mr. Deputy Speaker:** Could the Bell be rung? It seems there is no Bell ringing! What is happening?

*(Laughter)*

Mr. Clerk, could you check and find out what could be happening with the Bell? Why is the Bell not ringing!

*(The Division Bell was rung)*

**Mr. Deputy Speaker:** Order, hon. Members! We now have a quorum. Mr. Wako, you may continue.

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, in fact, I had mentioned all the other points yesterday. For example, the issue of computerization and so on is being addressed, and within the life-time of this Parliament, I think we should be able to computerize at least the High Courts throughout the country. I am glad to say that the donor community is willing to come up very forcefully in support.

With those few remarks, in addition to the remarks I made yesterday, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

## MOTION

### ADOPTION OF PSC REPORT ON EXTENSION OF CKRC MANDATE

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

THAT, this House adopts the Report of the Select Committee on the Review of the Constitution of Kenya on the extension of the mandate of the Constitution of Kenya Review Commission laid on the Table of the House on Tuesday, 1st April, 2003.

Mr Deputy Speaker, Sir, in moving this Motion, I would like to take this opportunity - with your permission - to thank very sincerely hon. Members of the Select Committee. We held a joint meeting with CKRC on 25th March, 2003, and I am happy to report that the Select Committee arrived at a consensus on the issues which we discussed with the Constitution of Kenya Review Commissioners.

Mr. Deputy Speaker, Sir, as a nation, we have come a very long way in the struggle to have a new constitutional dispensation. It is a struggle that has been turbulent during some of its phases. The history is not important. What is important is today and tomorrow. This House has placed on it, by the history of the moment a very heavy responsibility of now shepherding, overseeing and midwifing the birth of a new Constitution. We are in the final lap of having a new Constitution. So, it is the responsibility of this House, all of us and to future generations, to ensure that the delicate stage which is the final stage of giving birth to a new Constitution moves smoothly without any delay. We listened to the Commissioners, and looked at the full Memorandum that was submitted to us running into several pages is annexed to the Report and is available in Room No.8 for hon. Members to read. An abridged version has been circulated to hon. Members here.

Mr. Deputy Speaker, Sir, after consultations, we were told by the Commissioners that the earliest day

which they could practically be able to convene the commencement of the conference was 28th April this year. When we deliberated in-house as the Select Committee we agreed to accede to that request and fix the date for the commencement of the constitutional conference as 28th April, 2003.

Mr. Deputy Speaker, Sir, some hon. Members will wonder why it was not done sooner than that date, but I would like to explain that what was explained to us by the Commissioners was that they needed a bit of time to replace some of the delegates who, for one reason or another are no-longer delegates. Also under the Act, they are required to give a two weeks notice. They also require preparations, because the 600 delegates who will be coming will need to be housed here, be fed and be transported during the time of the conference. So, we will need that time.

Mr. Deputy Speaker, Sir, the second issue which we deliberated upon and again, in consultation with the CKRC was the time of extension or the timeframe. They gave us several scenarios, and although it is the wish of everybody that the delegates will arrive at a consensus as soon as possible, in terms of planning, it is good to look at a worse scenario case which is the necessity of a referendum being conducted. You will remember that according to the terms of the Act, any dispute on the issues being discussed at the conference would be resolved through a referendum. It is because of the length of time that the referendum would take that we decided to take the convenient date which is 30th of November, this year. We agreed on two issues; the date of the commencement of the Constitutional Conference will be 28th of April, this year, and we also agreed to extend the term of the mandate of the CKRC to 30th November, this year. We had the privilege of having the Speaker of the National Assembly with us who gave us an input on the calendar of Parliament. He said that we could take the whole of May and two weeks in early June. He said that in mid June, Members of Parliament would have to come back here in order to debate on the Budget in accordance with the Constitution.

In consultation with the Speaker again, we decided that if we would have finished with the Constitutional Conference during May and early June, then there would be no need to go back there. When we extend the term to 30th November, it does not necessarily follow that we have to wait until 30th November. If consensus is reached before 30th November, we will have a new Constitution much earlier than that. In the event that the six weeks available from 28th April to mid June will not be enough for consensus to be reached at the constitutional conference, we will, therefore, need to break it, come back here and resume for a couple of weeks in August and possibly October. Those are the factors that we took into account when agreeing on this date of 30th November.

The Select Committee is also a servant of this House. The Act is very clear, that the Select Committee can only make recommendations to this House. I would urge with humility that the two recommendations of the Select Committee be adopted by this House so that we can have the constitutional conference on 28th April without any delay. In winding up my remarks, let me say that various views are being expressed by various stakeholders. A decision will have to be made on any of these issues by the 600 delegates who were designated in terms of the Act. Of course, one cannot stop Kenyans from expressing their views. The least we can do, as a Parliament and a Select Committee, is to accord the opportunity to each stakeholder to articulate its views. It is not necessarily a bad thing. In fact, it may be a good thing to have a pre-conference debate on some of these issues so that those delegates who may not find time to be properly briefed by the stakeholders or the constituencies they represent can see the views of the people they represent. When they come as delegates they will not be coming to give their own personal views; they will be coming as delegates. A delegate is somebody to whom authority is delegated and who is an agent. They are supposed to come and articulate the views of the stakeholders or the constituencies which they represent.

Those views that are being expressed by various stakeholders are not those of the Select Committee. In fact, for obvious reasons, the Select Committee wishes to apply brakes to their mouths, including me as the chair, so that we have no views in the matter. This will ensure that we are able to facilitate the smooth commencement of the constitutional conference and the smooth articulation of views by the various members in a very neutral manner. The only thing I would urge is that we adopt the culture of tolerance. Constitution making is a process that calls for tolerance of each other. We may not like the views being articulated by a particular individual or group, but we owe it to that group and to ourselves to listen to them. Even where we do not agree, we must listen to each other because Constitution making is about consensus. We will arrive at a consensus when we accord each other the opportunity to be heard. We should listen to the other person and look for a consensus. A consensus is about giving and taking. I do wish Godspeed to the process. I urge the House to adopt the report. With your kind permission, I would ask Dr. Godana to second the Motion.

Thank you.

**Dr. Godana:** Thank you, Mr. Deputy Speaker, Sir. I stand to second the Motion before the House which has been ably moved by the Chairman of the Select Committee on the Constitutional Review Process, Mr. Muite. I have very few points to add to what he has said.

The extension that he sought, as he has clearly explained, is under Item (ii) on page six of the abridged

version of the Report which has been distributed. It is for us to start the Constitutional Review Conference without delay on the 28th of this month and for us to complete that process with an interruption for the constitutional obligation of debating the Budget and the Appropriations Bills in June/July. The entire Constitution making process is to be completed, at the latest, by 30th November.

The subject of constitutional review, making of a new Constitution and providing for a new constitutional dispensation has occupied the minds and energies of Kenyans, sometimes passionately, over the last four or five years. Indeed at one time it threatened to derail our own conventional tradition of going through a general election every five years because there were a number of Kenyans who felt that we should not go through the December 2002 elections without a new Constitution. We are glad that we went through it smoothly until we reached our present position.

In this kind of process one never runs out of all kinds of tricks which will be conjured by all kinds of interest groups. I think it would be terrible if, this late in the process, having gone this far, we were to succumb to all kinds of tricks and arguments, ostensibly advanced for better conducting of this process, but really designed to derail or delay the process. I say this because it is in the public realm that there are groups of people who feel that, in view of the fact that we went through a sweeping electoral process in which there has been a major turnover both in Parliament and in the local authorities, the profile of the representative body, the conference, has changed and on that account alone, we should therefore, delay the process.

I want to warn that the common denominator is that the people participating in the conference are Kenyans and are one-third representative body. In many ways the most representative part of the Kenyan opinion is the parliamentary group. Two hundred and ten Members of this House elected with a fresh mandate barely three months ago represent, in a sense, the ideal civil society. Why do I say so? In this House we have Members who represent every imaginable interest and region. We have Members who represent every imaginable professional background and experience. We have both genders in this House. We have people who belong to different political shades of opinion. We have professionals like accountants, lawyers, engineers, political scientists, farmers and businessmen. We have people of all age groups; from those who are in their 70s to those who can, by every description, be referred to as the youth in their early 30s. We have former DCs, former general's and even former chiefs in the House. So, in this sense, I think we are such a representative body that you really can safely say that the 210 hon. Members, with a fresh mandate from Parliament, as it is constituted today, can actually take care of the interests and latest views of Kenyans from the countryside.

In any case, the other body of representatives; church, civil and even local authorities have not changed completely. I know there have been some changes in some local authorities. But in every case we know the new members who have come in as councillors might only be one or two in a constituency or district. So, not all are new. Some must be the same old ones. I know that is the case in my own district. For those areas where there have been changes, really, the delegates will still represent the same local interests. So, I want to plead that all of us use our good offices and whatever opportunity we have to advise that we should not succumb to any pressure to delay the process under the pretext of changing the membership of the conference, or otherwise, the structure of the constitutional review process.

Mr. Deputy Speaker, Sir, I say this because the process has gone on for a little too long. Maybe destiny had it that the new Constitution would be adopted in the lifetime of the Ninth Parliament. It has been a drain, without doubt, on our meagre finance resources. I shudder to think that we should delay and carry on with such an expensive process for a further unnecessary one, two or three years. I was not pleased or delighted when I saw the warnings repeated for the second time by the weather men only last evening in the television media that, indeed we are facing poor rains and hard economic times ahead. Under this circumstance, it is important and urgent that we put this business out of our way.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I think the most important and difficult part of the business of the constitutional review has already been carried out. The CKRC was charged with the mandate of visiting each and every corner, locality and constituency in this country. They collected and collated the views of Kenyans. They have done that. It was really a job which was done in a dignified manner. I had the privilege of accompanying the CKRC to the furthest limits of my constituency. Ilaret is the furthest stop point within my constituency. It is a location occupied by a small minority group of about 700 voters, according to the last general election's register.

What struck me is that those people told the commissioners that they were delighted. They could not believe that few as they were, remote as they were, they too were given a chance by being asked to decide or to contribute their views on the destiny of this country. It was really a very empowering thing. I think that must have been the feeling of people of all kinds of groups, particularly ordinary Kenyans, who took the opportunity to appear before the Commission and plead on various positions they had to take.

So, I want to plead that all us of have an interest and we should pursue it to complete this process without delay. It has to be completed within the timetable we have given. It is my earnest hope, indeed, that we will not need another opportunity to come before this House to seek to extend the term of this Commission. Next time when we, as a Committee, come back to this House, it will be to report, hopefully, even before 30th November that the process is finally complete and the draft Constitution is ready.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

*(Question proposed)*

**Mr. M. Kariuki:** Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion. I am aware that Kenyans are very anxious to have a new Constitution. This is a struggle that has been on-going for the last ten years. It is the hope and desire of every Kenyan that this will be the year for a new Constitution.

Mr. Temporary Deputy Speaker, Sir, there are two matters that give me a lot of anxiety in the process of this Constitution making. I am aware that the hon. Attorney-General, on two occasions, had to publish a Bill to entrench the constitutional review process. This is in the light of Section 47 of the Constitution which only allows amendments to the Constitution without replacing it or fundamentally interfering with it. Such a Bill was published in 2000 and another one was published early last year. However, both of them never saw the light of the day.

The law is not a respecter of persons. Much as we are overwhelmed with the desire for change or a new Constitution, if we move in this process and fail to observe the law to the letter, we shall only have ourselves to blame. So, I am one of those Kenyans who desire to have a new Constitution, but I must warn Kenyans that unless and until the process has been entrenched by an amendment to Section 47 of the current Constitution, you may find that our efforts will result into naught. So, I would like the Attorney-General to act expeditiously bring back the Bill to entrench the process in the Constitution before the National Constitution Conference can begin in earnest.

I am equally concerned that since this Parliament passed the Constitutional Review Act in 2000, and which has undergone radical amendments up to 2002; there have been some developments in the law. I am aware of the constitutional court decision which embraces the principle of equal representation. I have looked at Section 27 of the Principal Act which allows three delegates for every district, regardless of the size of population or other factors.

In a recent decision, when Mr. Michuki went to court to vindicate the principle of equal representation, the High Court, in its constitutional decision did, in fact, recognise that principle; that in the process of our law making, we must ensure that the principle of equal representative is observed. I am concerned because I come from, probably, the largest district in this country in terms of population. Nakuru District has 1.5 million people. I am aware that there are smaller districts, for example, Ijara where Mr. Haji comes from, with only 15,000 people. That means that the population of Nakuru District is hundred times more than that of Ijara District. In terms of representation before this Commission, Nakuru District will produce three delegates and Ijara District will produce three delegates. That, in my humble submission, offends the principle of equal representation. These are matters we have to address, given that at the time of Independence we had 41 districts. However, these districts were politically manipulated and, today, we have about 78 districts, most of them ethnic based.

I can give early warning that we shall be raising preliminary matters in this conference; that we want the principle of equal representation for the delegates to be observed. It should be based on the size of the population and not on administrative boundaries that have been politically manipulated. That I think will be a gross injustice to the larger districts. We must ensure this principle is upheld.

Mr. Temporary Deputy Speaker, Sir, I am also concerned about another issue of law. I know that the delegates were picked before we went for the last general elections. In fact, some former councillors had been picked as delegates. So, I wonder whether the Constitution of Kenya Review Commission has the power to revoke the names of the delegates who had been picked in accordance with law as the situation existed in the year 2002.

The fact that we have gone through a general election during which new persons were elected and others nominated as councillors, and the fact that some persons ceased to be councillors will be an issue of law. It will need to be decided whether we have the capacity, in accordance with the existing Act, to now pick new delegates

to attend the conference. These are issues of law, which I am sure will be addressed. The Commission may have to decide on matters of a preliminary nature before the national conference takes place.

The Constitution of Kenya Review Act provides that when there is no consensus on an issue, decisions will be made on the basis of simple majority. That is why the principle of equal representation becomes very fundamental. In effect, the smaller district will, in fact, be over-represented in terms of the decision-making process at the National Constitutional Conference. So, I believe that these are matters we need to look into.

Mr. Temporary Deputy Speaker, Sir, given that 28th April, 2003 is not far away, and that delegates are now being picked afresh, it will be important that these delegates have time to confer with their respective constituents, because they are coming to the conference as representatives of their constituents. So, until and unless the delegates are able to talk to their constituents on a one-to-one basis, and be able to take their sentiments to the National Constitutional Conference, they cannot be true representatives of the people.

So, in supporting this Motion, I am bound to raise these matters of caution and say that the terrain is not going to be very smooth. There is a lot of legal work to be done to ensure that we act in accordance with the law. We have to respect the law despite the fact that we are overwhelmed by the emotions and expectations for a new constitution.

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

**Mr. M. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I equally beg to support this Motion for a number of reasons.

One of the primary reasons that I wish to advance is the fact that constitutions, like any other norm in human society, must change with time. So, this House must pass this Motion to enable this country to realise the dream of changing its basic law, which is the Constitution. I am extremely encouraged by the interest that the Select Committee has shown since its appointment by this House, in seeking to have this constitutional review process kick-started.

I am mindful of the fact that very few people in this country would, in fact, be able to stand up and say with any seriousness that our current Constitution does not require to be revised. If anything, the ongoings in the current Government demonstrate that the over-bearing and enormous powers vested in the Executive must be trimmed at the earliest possible time if this country is to survive with proper governance.

There are very many other areas which require urgent addressing. Even the issues that my learned friend, Mr. M. Kariuki, has raised are, indeed, very serious. Therefore, the fact that in about two weeks' time, hon. Members of this House and many other delegates from across the country will be meeting to discuss the future of this country from the point of view of its basic law, is an event which will probably be much bigger than the constitutional conference that was held in the United States of America in the mid 18th Century. The Americans had the advantage of speaking one language, if we were to ignore the Red Indians. In this country, if we were to put all the communities together, even the Tower of Babel and the languages spoken there would probably be a simple matter.

Mr. Temporary Deputy Speaker, Sir, it is, therefore, my view and firm conviction that time has come for those people who are going to attend this conference to ignore their petty partisan regional issues. In fact, I urge the delegates, particularly the hon. Members of this House, to study not only the Report of the Ghai Commission, but also the Draft Bill very carefully. The Commission has raised fundamental issues which if you could address from the perspective of your mother tongue, or look at them purely from the perspective of whether you go to a church or to a mosque, or whether you are a Catholic or a Protestant, then you will lose the benefit of a document which has been contributed to by nearly every citizen of this country through views presented to the Commission.

Therefore, again, it is essential that, as we start the National Constitutional Conference on 28th April, 2003, we forget our narrow and parochial interests and reason together with a view to seeking a consensus on a document that can bring not only economic, but also political change in this country for many generations to come. I say so because the current Constitution has shown itself to contain enormous weaknesses, having been negotiated, as it was, in a colonial atmosphere. In a few weeks' time, we are going to have free citizens gathering together and talking amongst themselves. In fact, I would urge my learned friend not to worry so much about the number of delegates who will be coming from his home district, Nakuru. It is true that it is a large district, but there are also other very large districts which suffer the same fate. For instance, Machakos District has a population of more than a million people.

However, if we start worrying about our boundaries at this stage, and asking how many delegates, for instance, will come from Machakos, Nakuru and Ijara Districts, I dare say without fear of contradiction that the days that have been assigned for discussing the constitutional review process will, in fact, be taken by us taking a census to determine how many people we have in each particular district. So, I would urge that we accept the past the way it is, take the districts, our religions and our mother tongues the way they are and get there to reason

together in order to produce a new constitution.

Mr. Temporary Deputy Speaker, Sir, in so far as I am very much in support of this Motion, I do not wish to say more than what I have said.

With those few remarks, I beg to support.

**The Assistant Minister, Office of the President** (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion for the following reasons.

For a very long, long time Kenyans have yearned for change. We have realised that mere talk about change without changing the laws of the country will not achieve much. As we know from the history of governance, people in new governments speak of change, but they do not take long before they fall into the traps of the regimes before them, unless they are guided by new laws.

Mr. Temporary Deputy Speaker, Sir, the passage of this Motion will accord the National Constitutional Conference delegates the opportunity to work and complete the process of constitution-making in time, as required by Kenyans. We have already noted that Kenyans are impatient. They are impatient because they have voted in a reform Government which, most likely, will rule during a transitional period. Kenyans would not wish to see again a situation where one person takes advantage of another. This period of the Ninth Parliament is a test period. Kenyans have their ideals. They would like these ideals and aspirations to be weaved together, so that a true history, that reflects the aspirations of the people of Kenya, can emerge.

Also, I support this Motion because I recognise the fact that at this time and age, our country has been greatly polarised. We have noticed that today, we have organisations emerging and we are wondering how far they will go on. Indeed, we hope that the new Constitution will produce the necessary confidence amongst our people, so that we do not regard one another in terms of ethnicity, but as Kenyans. We would not like to remind ourselves about the history of how long Kenyans have wanted to see a new Constitution. As one hon. Member has said, we know that before the last general elections, many of our people expected to go to the elections with a new Constitution. But that was not possible. The Ninth Parliament will make history if, indeed, at the end of this year, we shall have a new Constitution.

Mr. Temporary Deputy Speaker, Sir, in terms of representation at the Constitutional Conference, that is the only opportunity that has come at this time, knowing very well that the last Constitution was negotiated outside this country, as Mr. M. Kilonzo has said. This is the only opportunity when Kenyans are making their own Constitution and participation and true representation in that Constitutional Conference will surely create the necessary goodwill and confidence of the document that will come out of it.

Mr. Temporary Deputy Speaker, Sir, I rose to speak on those few facts and with those few remarks, I support the Motion.

**Mr. Kones:** Thank you, Mr. Temporary Deputy Speaker. I also rise to support this Motion. I support it because I think it is now ten years since Kenyans started yearning to see a new Constitution in place. We started talking about a new Constitution since 1995, when the former President announced that there was going to be a new Constitution on 31st December, 1995. But up to today, we are still talking about a new Constitution. I think this Motion has come in good time. If the Constitution was done last year, it could, probably, have given us a different Constitution because the way Kenyans were looking at a new Constitution then, was not so much that they needed a new Constitution as it were, but I think they were looking for ways and means of removing the then ruling party. They were also looking for ways and means of reducing the powers of the President that was there at that time. This time round, I think Kenyans will have an opportunity to look at the new Constitution much more soberly.

Mr. Temporary Deputy Speaker, Sir, we really would like to see a new Constitution. We would like to see a Constitution that will take us through another 100 years in this country. We do not want a Constitution that will target individuals, certain parties or regimes. It should be a Constitution that caters for everybody. It is time now for Kenyans to come together. They should forget about their ethnic groups, regions and look at the country as Kenyans. I would like to say that, for us to see a new Constitution in place in good time, we had rather leave the current Act to operate, rather than go out and change the representations of who comes from which districts, how many they are from that district and, therefore, they should be represented equally.

Mr. Temporary Deputy Speaker, Sir, since 1997, when we had the Inter-Parties Parliamentary Group (IPPG), we could not agree on a new Constitution because it was so difficult to arrive at the numbers, or who were going to be represented, who were going to be the representatives, which organisations and those to be represented or not. The arguments of equality dragged us down for a very long time. If we open that pandoras box again and start talking about the numbers, it will take us back again. Let us accept the fact that those who will be selected or elected to represent their districts in the Constitutional Conference will represent Kenyans, whether there are three from one district with 1.5 million people or two from a district with 15,000 people. Let us agree

that they are going to represent Kenyans. In any case, I do not expect a situation where everybody will have a chance to speak. Those who will be able to speak will speak on behalf of the others and, therefore, represent the thinking of Kenyans.

Mr. Temporary Deputy Speaker, Sir, I think if we approach the Constitution soberly; if we agree that we are all Kenyans and if we agree that the Constitution is going to serve Kenyans equally, we are going to have a new Constitution. Once again, I want to say that it is the right time to look at a new Constitution without any emotions. We are facing it soberly. We are not thinking of removing anybody. We are not thinking of removing the powers of an individual. We are thinking of a Constitution that will take us to posterity.

Mr. Temporary Deputy Speaker, Sir, I believe that if we go by the timetable that has been laid down by the Chairman of the Committee, and that we go systematically and give Kenyans a new Constitution by the end of the year, that is good time. However, there is no point of rushing too much. There is also no point of delaying it too much. I think if we have waited for the last nine years, we can still wait for another eight months and get a good document that will guide this country for posterity. I think the timetable given is adequate enough. We are not going to rush it, but I think it is time those elected representatives from various districts should study and go through the document very carefully, so that we do not get people rushing through the document without understanding. A lot of time will be spent educating such people. I think it is time Kenyans take the Constitution seriously and study the document. The draft is already out and if the delegates are going to study and contribute seriously and positively, we are going to get a new Constitution soon. We have heard stories of the Commissioners wanting to extend their time because they want to earn more allowances and so forth. I think the best way to deal with that is for the delegates to get down, study the document, try and understand it and try to consult their communities and various organisations in their districts, so that when they come to the Constitutional Conference, they will not be giving us their personal views. They will be giving views of the communities where they come from. I think if we take that subject seriously, we are going to end up with a new Constitution and all the hard feelings will be things of the past. Nobody will be blamed. I think it starts from goodwill and now that we have a Government that has got some goodwill on this Constitution, let us get it now, so that it will not be late again. I am saying that this is not the first time we are being told that we shall get a new Constitution. But I hope that this time round, it is going to be true and we shall get a new Constitution. Nobody is going to manipulate the process. I think that has been demonstrated better by the fact that a non-executive Member of this House was elected as the Chairman of the Select Committee. That way, we are not going to have a situation where the Executive will control the process. We would like to see it as a people-driven process and that means it should not be interfered with by executive powers. We would like the executive to keep away from it, so that it is people-driven and the document will be owned by the people and not by a few individuals in the system.

With those few remarks, I beg to support.

**The Assistant Minister, Office of the Vice-President and Minister for National Reconstruction (Mr. Mungatana):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Due to the fact that the Motion has received overwhelming support from both sides of the House, will I be in order to ask that the Mover be called upon to reply?

**The Temporary Deputy Speaker (Mr. Poghio):** But there is an hon. Member who is still interested in contributing to debate on the Motion.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, this is a very important Motion, and we should not rush debate on it. We all know that the Constitution of Kenya is worth---

**The Temporary Deputy Speaker (Mr. Poghio):** Mr. Angwenyi, were you standing to debate the Motion or to clarify something?

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I thought you made a decision that we should continue debating the Motion.

**The Temporary Deputy Speaker (Mr. Poghio):** Let me give you a chance to contribute. Go ahead.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I am glad you have realised the importance of this Motion. The Constitution of Kenya is what governs this country. It binds us as Kenyans, otherwise, there would be 42 nationalities in Kenya. We should take interest and discuss exhaustively issues pertaining to the Constitution of Kenya.

We have not discussed fully the process of collecting and collating views. I understand that people are still giving their views on the review of the Constitution when the majority of Kenyans think that the process ended sometime last year. So, we should tell Kenyans that those who are willing and able, can continue to give their views on the review of the Constitution. We should tell them that there will be a second draft constitution, which we will discuss at the National Constitutional Conference. The current political environment is conducive

to making a new Constitution. We should exploit that conducive environment, so that we can produce a good Constitution that can last this country for, maybe, 100 or 200 years with very few amendments.

The current Constitution has been mutilated. You cannot know what was in the Constitution in 1963. The current Constitution was prepared in a hurry before Independence. That is why it has been mutilated over the 40 years of Independence. We should avoid a situation where we begin mutilating our proposed constitution immediately after we establish it. There are certain issues that need to be discussed. There are issues that may come up during the National Constitutional Conference, and there are issues that could be discussed before we get to the conference. So, we need to reselect our representatives to the National Constitutional Conference. There are people who were selected to represent their people at the conference, but Kenyans have no confidence in them. So, these people cannot represent anybody.

It is incumbent upon the Constitution of Kenya Review Commission (CKRC) to renominate the delegates, so that we will have delegates who will represent Kenyans in the conference. For example, in the Kisii community, a rogue former KANU Minister selected his friends as delegates to represent Kisii. The political environment then was not conducive.

**The Temporary Deputy Speaker** (Mr. Poghiso): Order, Mr. Angwenyi! Use parliamentary language.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, the language I have used is parliamentary.

**The Temporary Deputy Speaker** (Mr. Poghiso): What did you say about the former KANU Minister?

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I used civil language.

**The Temporary Deputy Speaker** (Mr. Poghiso): I heard you calling a former KANU Minister a "rogue". Can you withdraw that word?

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I said that a former KANU Minister was a rogue political agent. He went to Kisii and picked his girlfriends as delegates to the National Constitutional Conference.

**The Temporary Deputy Speaker** (Mr. Poghiso): Order, Mr. Angwenyi! The rule about use of parliamentary language does not allow anybody to be called a "rogue". Please, withdraw that word.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I withdraw and apologise.

This former Minister did not follow the simple rules of selecting delegates to the National Constitutional Conference. This is the same man who took possession of all the bicycles and radios which were meant to be used in HIV/AIDS programmes in Nyanza Province. This is this kind of lack of morality that I am talking about. So, we must go back and nominate people of good conduct to represent the people of that region.

We have not discussed the issue of constituency representation. The Michuki court decision has not been implemented. It was not implemented during the last political environment, and I hope this time, because the political environment is conducive, the decision will be implemented, so that all votes will have equal weight. There is no reason why 200,000 people in Embakasi Constituency should be represented by one Member of Parliament just as is the case with 70,000 people of Kitutu Chache Constituency. This shows that the weight of a vote in Kitutu Chache Constituency is higher than that of a vote in Embakasi Constituency. We must address this issue.

We should not hurry the constitutional review process. We should go through the process diligently, in earnest and patriotically as Kenyans. There are issues that may not be agreed upon during the conference. Have we enacted a law to address the issue of disagreement at the conference? The Constitution of Kenya Review Act just talks about a referendum, but our Constitution does not talk about it. No other single Act of Parliament refers to a referendum except the Constitution of Kenya Review Act. So, we do not have a laid down procedure of carrying out a referendum.

You are aware that it took us three years to agree upon the method of sharing out the 27 positions of Commissioners. How long will it take us to agree upon the process of carrying out a referendum? How long will it take us to agree upon the issue of equal representation? How long will it take us to agree upon the method of sharing power between the Executive, the Judiciary and the Legislature? In recent times, the Judiciary has decided to do the work of the Legislature and the Executive. This afternoon, we were informed that the Government tried to take action against a manufacturer of a killer brew in the country, but the Judiciary blocked it with impunity. So, there is a dispute as to what powers lie with the Executive, the Judiciary and the Legislature.

Mr. Temporary Deputy Speaker, Sir, we have the Goldenberg debacle. This is a scandal which brought this country to its knees economically. The Government wants to address this issue, but the Judiciary has blocked its actions. I am surprised that the media does not want to highlight the Goldenberg issue where the country lost Kshs68 billion. The Judiciary has blocked the Government's action to correct the situation. The media has vigorously highlighted the issue of the Kshs1.2 billion, which is meant to cater for the Members of Parliament pay



rise.

Our Judiciary has gone wayward. It is now applying the law of the jungle. It is not in rhythm with the Executive or the Legislature. So, we have to address the situation. How should the powers of the Legislature, Executive and the Judiciary be exercised? We may have to address the issue of the Judiciary by requiring all members of the Bench to resign, re-apply for their jobs, and be vetted by this House.

It is constitutionally and morally wrong for one arm of Government to appoint members of another arm of Government. Right now, the Executive appoints members of the Judiciary with no input from Parliament. This is the same way the Executive is chosen. The President is elected by Kenyans. So, there are quite a number of issues which we should address.

Mr. Temporary Deputy Speaker, Sir, this country is sitting on a volcano. This is the case with salary harmonisation in this country. If you go to a Ministry, you will find that a Permanent Secretary earns Kshs540,000, but his Deputy earns Kshs25,000. The messenger in that Ministry earns Kshs5,000. These are some of the issues which we should address. This country is sitting on a volcano which is about to erupt. This is a country where you find people in the private sector earning Kshs5 million or Kshs6 million and nobody questions that. These are public resources. This is the case, and yet, in that same organisation, you find a messenger earning Kshs6,000 or Kshs7,000 only. So, we have got quite a number of issues which we should address.

Last year, when the Commission was disbanded, it sacked all the co-ordinators in the country. Therefore, they did away with the process of collecting further views to be included in the new Constitution. Maybe, we should request our Select Committee to request the Commission to re-appoint those co-ordinators or new people who can co-ordinate the exercise in the districts until we have a new Constitution in place. I do not think we will save a lot of money by sacking those people. Whatever extra cost will be incurred by re-appointing those co-ordinators so that our people can continue giving their views, will be necessary and Kenya should incur it.

Mr. Temporary Deputy Speaker, Sir, I was in Ethiopia last weekend. I discovered that the Ethiopians, in their Constitution, have taken care of the interest of every community in that country. They have made sure that since every community is represented they do not have to worry whether the person who heads the Government comes from Mount Kenya or Lake Victoria. They do not care whether the Minister who is appointed comes from Mount Kenya or Coast. They do not care whether the Managing Director, who is appointed comes from Pokot or Marakwet. Here, in Kenya, because we have misused those offices, now people are clamouring to be appointed to specific offices. Why should it matter to me if the President came from El-Moro, and did the right things for this country? Why should it matter to me if the person who is appointed to head the Kenya Airports Authority (KAA) is 100 years old so long as he can deliver? The problem in this country now is that we have abused the offices which we have been appointed to. That is the problem. So, we should address these kind of issues, because they are likely to tear apart our country. Why do we have insecurity in some parts of this country? It is because people who have been appointed to maintain security in this country do not do it without fear or favour. If I was a policeman and found that Dr. Murungaru's brother had stolen from the Chair and I apprehended him, most likely I would be sacked the next morning or at best be transferred. Why is this the case? It is because, Dr. Murungaru, and I am giving him as an example, will misuse his office to penalise me for having arrested his brother. If we find that people have stolen from some parastatals and we want to arrest them, we cannot arrest them because some of them have got connections in the decision-making process of the country. That is why you have seen biased applications of the law. In one case we say: "Since so-and-so has made a mistake, he should resign or be sacked or: "Since So-and-so has made a comparable mistake elsewhere", then we should find some excuse to keep the person in employment simply because he has connections somewhere.

Mr. Temporary Deputy Speaker, Sir, for this country to run as a united country and to prosper as a country, we should address all these issues and give adequate time for them to be addressed. There has been a problem of people jostling for various positions like that one of the Prime Minister. I hope one day I will be able to be considered to be a Prime Minister. There are some reactions coming from Ministers, for example, over that post of the Prime Minister, but not that of the Vice-President. Recently, when hon. Prof. Saitoti was appointed the Deputy Leader of Government Business, I was surprised because I thought hon. Raila should have been appointed to that position instead. I thought hon. Raila should be the Prime Minister and, therefore, he should be occupying that second position. But why do I think like that? I am thinking on those on lines because we have been used to a system of looking at things from a regional perspective.

Mr. Temporary Deputy Speaker, Sir, the other day you saw hon. Kosgey complaining about Kitale. Somebody goes to Kitale and makes an outburst. Why do you react to an outburst? How can he carry Kitale from Rift Valley Province to Western Province? It is not possible.

**Mr. Kosgey:** I agree with him!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order, both of you! What are you turning this House into? You are out of order to do that. You cannot just begin to discuss your own things and then hon. Kosgey just shouts over the microphone about it. That is out of order!

**Mr. Kosgey:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I was only agreeing with the sentiments of the Member on the Floor. I think it is in order.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Kosgey! Do not justify something which is wrong.

**Mr. Angwenyi:** Mr. Temporary Deputy Speaker, Sir, I am trying to take care of you. You do not have a place where you can graze your cows. If you go to Uganda, for example, and they do not have a good Constitution, they will not protect you.

With those few remarks, I beg to support.

**Mr. Mwenje:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You realise that my brother hon. Angwenyi, has started repeating himself. It is very clear that we have exhaustively debated this Motion. May, I, therefore, move that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, this is the second time that that request has been put. The only way I can determine it is by putting the Question straightaway.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, I would like to thank all the Members for their very constructive contributions and to express the hope that the consensus which is obviously discernible as emerging from this House will be carried to the Bomas of Kenya so that we, as an important institution as Parliament can be able to give leadership to some extent to that constitutional conference.

Mr. Temporary Deputy Speaker, Sir, a new constitutional dispensation is the foundation of a new beginning for this country. We are looking at a new constitutional dispensation as the basis for good governance of our nation and economic management of our country. We want a new Kenya where the Constitution will not be an end in itself, but rather a Constitution which is not only going to provide good and just governance, but one which is going to allow equitable management of our economic resources. We want a new Kenya where our boys and girls on finishing school will get jobs. We want a country where none of us will sleep hungry or where it will not be a struggle to have shelter.

Mr. Temporary Deputy Speaker, Sir, when I talk about shelter, it is not like the shanties that the majority of Kenyans today call homes. We want Kenyans to live in dignity and free from want with adequate and basic necessities, infrastructure and what-have-you. We are looking to having a new constitutional dispensation that is truly going to uplift the lives of the majority of Kenyans. So, this is a very great responsibility and I do thank all the Members and I do trust that the consensus which has developed in this House will be extended to Bomas of Kenya.

I beg to move.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, today is Thursday and that means that Zero-Hour has come earlier than usual and this is the time we give Members a chance to issue their Half-Hour Statements under Standing Order No.20(A). As of this afternoon, we had only received one request and if Mr. Cheboi is there, he can go ahead.

Is Mr. Cheboi around? I believe he is not present.

**An hon. Member:** Where is he?

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, it is now time to adjourn the business of this House. The House, is, therefore, adjourned until Tuesday, 8th April 2003 at 2.30 p.m.

The House rose at 6.05 p.m.