

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th March, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

MURDER OF MUHIA TUBE

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

(a) Is the Minister aware that Mr. Samuel Muhia Tube was killed on 15th January, 2003 at Kambyamet Scheme, Naishi, Njoro by a person or persons known to the family?

(b) Is he further aware that a report was made at Naishi Police Station by the members of the family on 16th January, 2003 and also on 20th January, 2003 and that the police failed to take any action to apprehend the known suspects?

(c) What is he doing to ensure that the murder suspects are brought to book?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I beg the indulgence of the House to defer the Question to Wednesday next week, because I have not received sufficient information to present to this House.

Mr. M. Kariuki: Mr. Speaker, Sir, this is a grave matter involving life, and the Assistant Minister has had sufficient notice. I hope, however, by Wednesday he will have a proper reply to the Question.

(Question deferred)

MANUFACTURE OF UNHYGIENIC BREWS

Mr. Muiruri: Mr. Speaker, Sir, I beg to ask the Minister for Trade and Industry the following Question by Private Notice.

(a) Is the Minister aware that Kiroche Industries situated in Naivasha is manufacturing and selling various types of unhygienic brews which are poisonous and contain very high percentage of alcohol?

(b) Could the Minister take urgent action to close down the factory and prosecute the management?

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The manufacture of alcoholic beverages at Kiroche Industries was stopped on 4th March, 2003. This was done through a court order after Kenya Bureau of Standards established that the wines did not meet the required standards. The firm has been sued and is expected to answer charges for manufacturing and selling sub-standard goods. The hearing of the case will be on 11th March, 2003.

The Ministry is descending on other manufacturers of this harmful brews with the help of the Ministry of Health, the Kenya Police and the Provincial Administration. The Ministry is also taking measures through the Provincial Administration to ensure that stocks held by distributors and retailers do not reach the consumers.

We have several other firms which have been mentioned by hon. Members, for example, Mr. Karaba, the hon. Member for Kerugoya-Kutus, who also mentioned *Ngware* and *Kibuga* brews which he thinks are harmful and are being brewed at Kagumo. We are also following up that issue.

Mr. Muiruri: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the very prompt action that the Ministry has taken. However, today morning I was watching news on KTN and there was a report that the Assistant Minister is being cheated and that the factory is still operating. They showed that the operations of the factory were going on because the processing exercise is going on. I would like to ask the Assistant Minister to get

a team to visit this factory in order to verify and ensure that it is not operating.

The information I have is that the Ministry officials went there with some notices and some summons for the directors to appear in court, but they were not allowed in. Later on they called the police who too were not allowed in. Be it as it may, there is some misinformation surrounding the whole saga. Could the Assistant Minister personally undertake to go and visit these factories and ensure that no operations of the illicit brews which are killing our people continues?

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. According to Standing Order No.74, when a matter is in court, it is *sub judice* and normally the House does not discuss it any more. The Assistant Minister has said that the matter is still in court, and so instead of breaking our own Standing Orders, we should wait for the outcome of the court case.

Mr. Speaker: What is in court?

Mr. Mwenje: Mr. Speaker, Sir, the Assistant Minister referred to a matter in court.

Mr. Speaker: He has not proved to me that it is in court.

Mr. Mwenje: Mr. Speaker, Sir, he said it. So, if the matter is in court, according to Standing Order No.74, and, therefore, it is *sub judice* and out of order to continue discussing it.

Mr. Speaker: Mr. Mwenje you are right on the question of the *sub judice* rule, but it has not been proved to me that, indeed, there is a matter in court. I have only heard it from the Assistant Minister, and I do not know what is in court. The question is whether these factories will be closed down. Have the factories gone to court in order that they do not close down?

Mr. Mwenje: Mr. Speaker, Sir, the information I have is that court case No.1839 on the same issue is in court. So, in accordance with our Standing Orders it is *sub judice* because what the courts are doing is exactly what we are doing here.

Mr. Speaker: Where is the pleading? I do not just take it that it is there. You have to show me the pleadings.

Mr. Muiruri: Mr. Speaker, Sir, could Mr. Mwenje declare his interest because the day before yesterday he approached me here in Parliament--- And he has been pestering me and saying: "Mhe. Muiruri do not ask this Question! These are my people! They have employed a lot of people"! He has been on my neck up to this morning.

Mr. Mwenje: Mr. Speaker, Sir, that is a very serious allegation. I have never and I normally do not talk to Mr. Muiruri. I am surprised---

(Laughter)

Mr. Speaker: Order! This brew is alleged to be very ferocious and it kills people. Its ferocity is almost getting to the House, and it must be kept out. I would urge hon. Members not to take one another personally. I am, in fact, distressed. Yesterday a lot of hon. Members took liberty to discuss the conduct of their colleagues without bringing a substantive Motion. This must stop. I do not want hon. Members to personalise debates because the next thing we will have is a brawl in the House. I do not believe there was an hon. Member sent here to generally come and cannibalise the characters of the others. We must retain our dignity. We must respect this House and one another. So, with that, will you cool down Mr. Muiruri? Mr. Mwenje, can you cool down?

Let us now proceed. Mr. Assistant Minister, what is the position?

Mr. Miriti: Mr. Speaker, Sir, the news item which was carried by the KTN this morning actually refers to events that occurred yesterday and not today. A padlock has been put on every door at the Kiroche industries today by the KBS. The factory is completely closed. The matter is pending before court and we have the court orders here.

Mr. Speaker: What is before the court? Can I have a look at it? Give it to the Clerk.

(Mr. Miriti handed the documents to the Speaker for perusal)

When did you say the case will be heard, Mr. Assistant Minister?

Mr. Miriti: The case will be heard on the 11th of this month, as indicated on the last line of the second page.

Mr. Speaker: Is it already in court or were you just been given summons?

Mr. Miriti: It will be heard in court on 11th.

Mr. Speaker: The effect, therefore, is that it is not in court. Have those people been actually charged?

Has leave been taken?

Mr. Miriti: In fact, those people are on the run and we are looking for them.

Mr. Speaker: So, they are not before the court!

Mr. Ogur: On a point of order, Mr. Speaker, Sir. Last week the Assistant Minister said he had no powers to close down these factories which are brewing these unhygienic brews. Now he has come back to say that he has closed them down. By what powers has he now closed them down?

Mr. Speaker: Are you the advocate for those factories, Mr. Ogur?

Mr. Ogur: I am just wondering because, He is telling the House that he has closed down those factories, but last week he said he had no powers to do so.

Mr. Speaker: Mr. Miriti, where did you get the extra powers?

(Laughter)

Mr. Miriti: Mr. Speaker, Sir, the factory was closed by officers from the Ministry of Health, together with our officers.

Mr. Maore: Mr. Speaker, Sir, if the Assistant Minister in charge of inspecting the standards of consumed goods says that he closed it down yesterday, could he assure this House that he will go to court and seek orders to disable, dismantle and even destroy the equipment being used to make those poisonous brews?

Mr. Miriti: That will be done, Mr. Speaker, Sir.

Mr. Khamisi: Mr. Speaker, Sir, this House has been told that a number of people have died as a result of consuming these brews. We appreciate the Governments effort to close these factories down, but could it also ensure that the people who are left behind by the victims are compensated to the full?

Mr. Miriti: Mr. Speaker, Sir, matters arising out of compensation will be pursued by the individuals through the relevant authority.

Mr. Muiruri: Mr. Speaker, Sir, could the Assistant Minister also consider closing some other similar manufacturing companies in Naivasha namely; Mega Distillery, Tonardo Holdings, Rueben Cheaper Enterprises, Ganjo Orchards Kenya Limited and Fai Amarillo Winery?

Prof. Kibwana: On a point of order, Mr. Speaker, Sir, this is an issue of national concern. In actual fact when I went to Makueni Constituency I was asked by women there who have literally lost their husbands and sons to bring to this House a sample of these drinks which are about 90 per cent alcoholic.

*(Prof. Kibwana displayed a sample
of the drink to the House)*

This one is called "chairman"---

(Laughter)

Mr. Speaker: Order! Prof. Kibwana, how did you ever manage to slip past all my security apparatus and bring that offensive thing here? I now order you to proceed to the Serjeant-at-arms and give him that object.

(Prof. Kibwana withdrew from the Chamber)

Mr. J.P. Mutiso: Mr. Speaker, Sir, I think it is in order that some of us sample that drink so that we can now tell the country what is happening. I have already received calls from my constituents in Yatta telling me that a lot of people have already died after consuming these illicit brews. Could the Assistant Minister tell us what action he is taking to contain this problem?

Mr. Speaker: Who are you?

Mr. J.P. Mutiso: My name is Mr. J.P. Mutiso, Member for Yatta.

Mr. Speaker: Mr. Mutiso, are you telling me that the Speaker should facilitate the Members to partake of a dangerous drink? Is that what you are suggesting?

Mr. J.P. Mutiso: Mr. Speaker, Sir, the hon. Member for Makueni said it is a dangerous drink. Some of us do not know what it is. We could select some people to sample it for us.

(Laughter)

Mr. Speaker: Order! I will not allow you for two reasons. First, you could take it and lose your eye sight or die, which is a bad thing. The Speaker will never do a thing like that. Secondly, you could take it and lose yourself totally and get into a terrible state and you finish your friends here. I would not even advise you to go to Naivasha. If I had power, noticing as I do that you are very interested in taking this drink, I would order that you never go to Naivasha. However, you are lucky because I do not have such power.

Mrs. Ngilu, would you like to give information?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, no hon. Member of Parliament needs to sample this drink because we have excellent laboratories where this can be tested. We have already ordered our health workers in the field to do the same. I can give result to this House.

Mr. Muiruri: On a point of order, Mr. Speaker, Sir. My last Question has not been answered.

Mr. Speaker: By the way, Mr. Serjeant-at-Arms, could you facilitate that sample to be taken to the Government chemist so that we know what it contains. If it happens that you have brought a very dangerous thing here, Prof. Kibwana, you may find yourself on very unsafe ground.

Mr. Miriti: Mr. Speaker, Sir, if I may repeat what I said earlier, the officers from the Ministry are going round the country identifying on all manufacturers of illegal and harmful brews. When they are found out, they will be arrested and the factories will be closed down.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. That is a very dangerous way in which to approach this problem.

Mr. Speaker: Who are you?

Dr. Khalwale: My name is Dr. Khalwale, Member for Ikolomani.

Mr. Speaker: You said it is a dangerous way to approach what?

Dr. Khalwale: Mr. Speaker, Sir, the Assistant Minister said there is a team going round the country to establish what is dangerous and what is not dangerous. I am afraid that unless this team [**Dr. Khalwale**] is accompanied by experts, it could end up imposing a ban on harmless drinks like *busaa* which does not fall under this category.

Mr. Speaker: Order! Dr. Khalwale, you are lucky because you are new. That actually is not a point of order. You interrupted the hon. Assistant Minister to express your views and fears. You should now visit your booklet on Standing Orders to read more, particularly the precedent on what constitutes a point of order. Alright?

Dr. Khalwale: Yes, Mr. Speaker, Sir.

Mr. Speaker: But we are learning. So, I am not hard on you. Ordinarily, you would be sent out of the House for raising a frivolous point of order. But you will escape now! Mr. Miriti, we will now leave this Question. The Questioner should direct it to the Ministry of Health, taking into account the Minister's willingness to volunteer information about what they want to do about these brews. I agree with the hon. Members who say that it is a national issue. Would you like to come to this House sometimes next week to tell us the result of all the analysis you would have taken?

The Minister for Health (Mrs. Ngilu): Yes, Mr. Speaker, Sir.

Mr. Speaker: What else do you think will be adequate?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, as you know, I have to take it to the experts because I am not one of them. I do not know how long it will take, but I will report back next week.

Mr. Speaker: For those hon. Members who are still interested in this Question, I will allow you to seek clarification from the Minister when she makes her Ministerial Statement.

Next Question, Mr. Sambu!

OWNERSHIP OF KCC

Mr. Sambu: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development the following Question by Private Notice.

- (a) Could the Minister inform the House who owns the Kenya Co-operative Creameries (KCC)?
- (b) Could he table the list of all the shareholders and how much the KCC 2000 limited shareholders paid in order to acquire the whole of KCC?
- (c) What steps is he taking to urgently re-open all KCC factories and to ensure that the original shareholders are not disposed of their rightful ownership of KCC?

The Minister for Co-operative Development (Mr. Ndwiga): Mr. Speaker, Sir, I wish to beg the indulgence of the House; I have already consulted the Questioner and informed him that I do not have adequate

information to answer this Question. So, I want to ask the indulgence of this House to be allowed at least 14 days to have the information I require to be able to answer adequately.

Mr. Speaker: Is that okay with you, Mr. Sambu?

Mr. Sambu: Yes, Mr. Speaker, Sir.

Mr. Speaker: The Question is, therefore, deferred for a minimum of 14 days or a maximum of 21 days.

(Question deferred)

MEASURES TO DISPOSE OF EXCESS PRODUCE

Mr. Ndambuki: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture and Livestock Development the following Question by Private Notice.

What plans does the Government have of assisting farmers in Ukambani dispose of excess maize and bean crop through the National Cereals and Produce Board (NCPB) as they are currently at the mercy of middlemen who are buying their produce at throw-away prices.

The Minister for Agriculture and Livestock Development (Mr. Kirwa): Mr. Speaker, Sir, before I reply I would like to introduce myself. My names are Kipruto Kirwa, Member for Cherangany and the Minister for Agriculture and Livestock Development. I beg go reply.

In order to assist farmers in Ukambani to dispose of their excess maize and beans through the National Cereals and Produce Board (NCPB), the Government has put in place the following plans:

(i) We have made arrangements and depots were opened on 17th of last month.

(ii) The Government has budgeted Kshs500 million, of which Kshs250 million has so far been released.

The balance will be released in due course as the purchase goes on.

(iii) It is the policy of the Government to encourage farmers by purchasing their farm produce in order to protect them from being exploited by middlemen. This is the effort the Ministry is making.

Mr. Ndambuki: Mr. Speaker, Sir, I thank the Minister for the answer. However, at the moment and even previously, this Question has been asked many times and we got the same promise. At the moment, the maize is bought at Kshs5 per kilogramme. Could the Minister tell us how much they will pay for the maize and beans? Will the money be paid on delivery or later?

Mr. Kirwa: Mr. Speaker, Sir, in keeping with the Government position, we are buying maize at Kshs950 per 90 kilogramme bag. In the areas where there is a shortfall in the purchasing price and what obtains now, we will refund the farmers. The payment will be made as soon as the farmers deliver their maize, subject to certain conditions that may be required by the NCPB.

Mr. Angwenyi: Mr. Speaker, Sir, could the Minister tell this House which depots have been opened for the purpose of purchasing maize and beans in Ukambani?

Mr. Kirwa: Mr. Speaker, Sir, I may not be specific about which depots have been opened, but according to the information available in my office, those depots were opened on 17th of last month. However, the farmers in those particular regions were still selling their maize to middlemen because they were not sure whether the NCPB was going to pay them in good time. I would like to assure farmers in Ukambani and, indeed, throughout the country that we will pay them on delivery.

Prof. Kibwana: Mr. Speaker, Sir, is the Minister aware that in Emali, Kibwezi and Wote, there are depots, but up to this moment, they have not been opened for purposes of purchasing maize? Indeed, the farmers have been expecting those depots to be opened because, normally, the Government offers more in terms of purchase of grains as opposed to middlemen and women. Could the Minister advise the House on how the Government will assist farmers of mangoes and oranges access market because those fruits are in excess supply and they are bought at a throw-away price by middlemen?

Mr. Billow: On a point of order, Mr. Speaker, Sir. Could the Minister tell the House exactly where "Ukambani" is? There is no geographical province or region called "Ukambani" in this country.

Mr. Speaker: Mr. Minister, where is Ukambani?

(Laughter)

Mr. Kirwa: Mr. Speaker, Sir, I believe that what the hon. Member has raised is not a point of order. So, I will proceed and attempt to answer Prof. Kibwana's question, as to whether the National Cereals and Produce Board (NCPB) has opened a depot at Emali. The information I got this morning is that there are NCPB depots in

Makueni and Mwingi Districts. If the hon. Member has information to the contrary, I would like to share it with the hon. Member. I will ensure that by 8.00 a.m. tomorrow, there will be some officers purchasing maize in those particular areas.

(Applause)

Mr. Rotino: Mr. Speaker, Sir, is the Minister aware that farmers who delivered their maize to NCPB's Kapenguria Depot three weeks ago have not been paid?

Mr. Kirwa: Mr. Speaker, Sir, as I said earlier on, we had budgeted for Kshs500 million of which Kshs250 million has been released. If there is any hitch in paying farmers, I will try to solve it and ensure that all farmers are paid.

Mr. Muite: Mr. Speaker, Sir, the issue of strategic food reserves for any nation is a fundamental security issue. What plans does the Minister have to restructure the NCPB to make it have functions similar to those of the Central Bank of Kenya (CBK)? The NCPB should become the buyer and seller of last resort, so that in a particular season, the price of the produce is fixed at a certain percentage above the cost price per unit. That way, farmers can sell their produce in the open market when prices are higher than those which are offered by the NCPB, and revert to the NCPB when the market prices fall below those of the NCPB. If the prices to the consumer exceed a particular level, then the NCPB should release its stocks to millers. What plan does the Minister have to restructure the NCPB so that it can take care of farmers across the country, and not just in Ukambani? Ukambani is that part of Eastern Province where a community called "Akamba" is found.

(Laughter)

Mr. Kirwa: Mr. Speaker, Sir, I appreciate Mr. Muite's question. The Ministry, in keeping the Government policy of restructuring all parastatals, has done a number of things in order to ensure that the NCPB responds to the grain market dynamics. Currently, we have 1.5 million bags of maize for strategic food reserves. We are trying to raise this figure to 3 million bags. We are also looking for hard currency, to the tune of US\$ 50 million. We are also ensuring that the NCPB does not become a store. We want it to be responsive to the market forces because we want to ensure that whenever there is a problem affecting the market, it is able to release its stocks to the market and also find some alternative markets for the farmer. This is the only way by which we can ensure that farming becomes profitable. We have one million bags of maize, which will be used as famine relief.

Mr. J.M. Mutiso: Mr. Speaker, Sir, I would like to ask the Minister what measures he is taking to buy the excess horticultural produce in Ukambani besides buying cereals?

Mr. Kirwa: Mr. Speaker, Sir, we usually do not mix maize with horticultural produce. That is another question that needs to be asked at another time for me to respond to it.

Mr. Speaker: Could you ask the last question, Mr. Ndambuki?

Mr. Ndambuki: Mr. Speaker, Sir, most of the farmers in Ukambani practise small-scale farming. Some of them are far from the NCPB cereals depots. So, could the Minister consider appointing agents, so that these farmers can sell their maize to the NCPB without incurring heavy costs?

Mr. Kirwa: Mr. Speaker, Sir, I will be attempting too much if I could give an answer to that particular question, but I would like to assure the hon. Member that I am sympathetic to the situation of the farmers in that particular region. I will study the situation and give him the appropriate position on that issue as far as the Ministry is concerned.

Mr. Speaker: Very well. Let us proceed to Mr. Sambu's Question.

Mr. Sambu: Mr. Speaker, Sir, before I ask the Question, I would like to inform you that I have not received the written reply.

KNH DEPOSITS WITH EURO BANK

Mr. Sambu: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Could the Minister explain how Kshs411,893,077.90 belonging to Kenyatta National Hospital (KNH) ended up in Euro Bank?

(b) Who exempted the Hospital from the provisions of the Exchequer and Audit Act, Cap.412, and from the Treasury Circular No.10 of 15th July, 1992, with regard to this transaction?

(c) What disciplinary action has he taken against the officer(s) involved in this transaction?

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, first of all, I am sorry to say that the written reply to the Question has not reached Mr. Sambu.

Mr. Speaker, Sir, I beg to reply.

(a) Kenyatta National Hospital invested Kshs310 million in Euro Bank over a period of four years, beginning in 1997. By September, 2001, the hospital had received from the bank Kshs184,448,299.80.

(b) The hospital was not exempted from the provisions of the Exchequer and Audit Act or those of Treasury Circular No.10 of 15th July, 1992, with regard to this transaction. However, in January, 2002, the hospital was allowed by the Treasury, vide letter Reference Number CONS158/286/01, to maintain the deposits until a complete withdrawal was received by 31st August, 2001.

(c) Disciplinary action has been taken against some of the officers involved. Legal action was instituted and judgement obtained for the recovery of Kshs421,835,880.90, including interest.

Mr. Sambu: Mr. Speaker, Sir, KNH appeared before the Public Investments Committee (PIC) on, I believe, 21st January, 2001. Prof. Meme informed the Committee that he was responsible for depositing the money with Euro Bank. The Committee Chairman then, Mr. Ochillo-Ayacko, told Prof. Meme that the Committee had forgiven him for not having adhered to the provisions of the Exchequer and Audit Act and the Treasury Circular in reference, because the funds were safe. However, it is now clear that the funds are not safe. In her reply to part (c) of the Question, the Minister says that legal action was instituted and judgement obtained. Does obtaining of judgement mean recovery of the money? Has the money been recovered?

Mrs. Ngilu: Mr. Speaker, Sir, what the Member has said is true. Prof. Meme was the Director of Kenyatta National Hospital (KNH) in the years 1992 to 1997. On 8th December, 1997, he was the first person to put Kshs51 million in Euro Bank. However, Prof. Meme was appointed the Permanent Secretary (PS) in the Ministry of Health. Since then, the directors at KNH deposited monies totalling to Kshs310 million by the year 1999. Out of that, Kshs184 million was recovered, leaving a balance as the principal. But when we lost that money and found out that, that money was not going to be repaid, legal action was taken and the court ruled that the KNH should be paid back the money. However, as we all know, Euro Bank has gone under and, therefore, the Ministry and KNH has lost some money. We are still trying to find a way of recovering those funds.

Mr. Kajwang: Mr. Speaker, Sir, we have listened to the Minister both in the House and, sometimes, outside the House, asking several other senior Government officers to resign! We have supported her because that was the right thing to do. But the PS in her own office has not resigned to date, and she has not sacked him. Yet, at one time, he said he was coerced to put that money in that bank. Then later, he said it was prudent to put the money there. Now, he says that it is the other boards which put the money there. If you heard the Minister correctly, that money was supposedly invested. How do you invest money in a bank? Are you gambling with money which is supposed to be used to buy cotton wool and aspirin? Was it a gamble? Why can she not sack him on the Floor of the House?

Mrs. Ngilu: Mr. Speaker, Sir, Prof. Meme took over the leadership of KNH in 1992 from Dr. Naftali Agata. At that time, KNH was in debit of over Kshs400 million. At that point in time, KNH was called the hospital of shame! The former President was---

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. We are not talking about the history of KNH. We are talking about a specific amount which was wrongly invested. The person who invested that money has not been asked to resign when, in fact, we are asking people in other departments to resign. That is the question that we are asking the Minister.

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. If you listened carefully to the contents of the conversation, it is like we are up to extend the stories of cannibalism and witch-hunting to the Floor of the House without facts! Now, the Minister is trying to explain the facts, but it seems that some Members wanted so and so to resign without facts. Could we allow the Minister to give the history of the negative development of KNH, when Prof. Meme entered and what happened later?

Mr. Sambu: On a point of order, Mr. Speaker, Sir. That is a matter that came before the Public Investments Committee (PIC) which audits parastatals. I want to quote verbatim and it is not witch-hunting!

Mr. Speaker: Order, all of you! There was a Question by Mr. Kajwang and you did not allow the Minister to answer! Could you respond to Mr. Kajwang's Question?

Mrs. Ngilu: Mr. Speaker, Sir, I said that between the years 1992 and 1997, the Director of KNH was Dr. Naftali Agata. At the time when the former President of this country, Mr. Moi, appointed Prof. Meme, he had already brought in three expatriates to KNH at a very high cost to this country. At that time, KNH was running on a debit of Kshs400 million. Prof. Meme was at the KNH between 1992 and 1998 and when he left,

the hospital had a credit of Kshs1.6 billion. It was at that point, and I understand and I am told very well, that the management decided to invest some money in Euro Bank. At that time, the interest rates were fairly high at Euro Bank.

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. I believe Members of Parliament here know very well that if Mr. Wanjala is quarrelling Mr. Speaker and somebody else, like Prof. Mango gets a panga and gives Mr. Wanjala to cut Mr. Speaker, Prof. Mango has also committed a crime! That is because she is the one who helped Mr. Wanjala. It is Prof. Meme who started depositing money belonging to KNH in the bank. We have the Central Bank of Kenya, National Bank of Kenya and Kenya Commercial Bank which are Government banks. Why did he deem it fit to bank public money in a bank - it might be a Meru Bank--- Could the Minister sack Prof. Meme on the microphone of the Floor of the House?

Mrs. Ngilu: Mr. Speaker, Sir, I would like to say that when Prof. Meme left, there was an account of Kshs1.6 billion. When he went to KNH, it was running on a deficit of Kshs400 million! It is true that it is Prof. Meme who first sent Kshs51 million to Euro Bank. It is also true that it is Prof. Meme who asked the Director of KNH to withdraw the money from Euro Bank. That is how KNH was able to get Kshs184 million. It is after that, that the Directors of KNH decided to roll-over against the Treasury's and Prof. Meme's advice! We must stop witch-hunting!

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The KNH has got a Director and a Board of Directors, among whom Prof. Meme is a Member! Prof. Meme is the Accounting Officer of the Ministry of Health under which KNH falls. So, if there are transgressions in that institution, then the Accounting Officer must be held responsible. The reason why we are pursuing this matter so seriously is because the Minister interfered with the Ministry of Finance and asked someone to resign, when she cannot make her people to resign. They have got to resign. Prof. Meme should also resign! We are not witch-hunting! Were you witch-hunting Mr. Nyagah when you asked him to resign?

Mrs. Ngilu: Mr. Speaker, Sir, first of all, I have shown this House how much money Prof. Meme saved for KNH. I also want to say that, as late as November, 2002---

Mr. Sambu: On a point of order, Mr. Speaker, Sir. The Minister is misleading the House. The Vote of Kenyatta National Hospital (KNH) was increased. Secondly, cost-sharing charges were increased. That is how the money was raised. The money was not raised because Prof. Meme was the Director of KNH.

Mr. Speaker: Anyhow, could we come back to the Question? Are you witch-hunting or not? This is what has been flying around. Is there witch-hunting, either from the Minister or from the other hon. Members?

(Several hon. Members Stood up in their places)

Order, hon. Members! There is a very strange term being used in this House. I truly would like to know whether the witch-hunters are here. The Minister said that there is witch-hunting, and then hon. Angwenyi asked her whether she was witch-hunting officers in other Departments of Government. I want to get to the bottom of this issue about witches and hunters. Are there witches or hunters here?

The Assistant Minister for Home Affairs (Dr. Machage): On a point of order, Mr. Speaker, Sir. The Minister has not been given a proper chance to answer the Question. Some people take a little longer than---

Mr. Speaker: Order, Dr. Machage! Dr. Machage, if you want to answer this Question, take the file from hon. Ngilu, and then proceed to answer it. But for the time being, it is the Minister answering the Question.

Mr. N. Nyagah: Mr. Speaker, Sir, I have no interest in this matter. My brother resigned from his position as the Governor of the Central Bank of Kenya after he was mentioned in the Euro Bank saga.

I was the official shadow Minister for Health for the Democratic Party of Kenya for five years. I would like to know how much money KNH has that it can invest now. As a matter of fact, a borehole that was drilled during Prof. Meme's tenure as the Permanent Secretary, Ministry of Health, at a cost of over Kshs500 million is non-functional. We want to know how more than Kshs400 million, meant for the construction of flats at the KNH, was spent because the flats have not been completed. Why was money said to have been used on the nuclear medicine project, and yet no project is going on? The money was used under the guise that it was being provided by the World Bank, while, as a matter of fact, it was generated from the cost-sharing programme. Could the Minister tell us why the projects are not operational? Also, a laundry that cost nearly Kshs600 million is not functional. Even a dining room at the hospital is not operational. Under whose tenure did all these things happen? Prof. Meme should resign!

Mrs. Ngilu: Mr. Speaker, Sir, it is true that a borehole in KNH is not operational. The project was commissioned during Dr. Waweru's time as the Director of KNH. That is one of the reasons why Dr. Waweru was

taken to court. It is also one of the reasons why he left that office. He was fired from being the Director of KNH. It was at the same time that the project to construct the flats was also commissioned.

I cannot give the exact figures involved right now because this was not part of the Question. I have been at the KNH to see these projects. The work was stopped because there was misuse of funds. About the nuclear medicine project, this project is related to the money I have just talked about here. I have said that the former Minister for Finance, on 30th September, 2002, vide a Gazette Notice, took from the Exchequer Kshs350 million, and wanted to use it on HIV-AIDS activities, but Prof. Meme refused to sign for its use. Each person must carry his own cross!

Mr. Haji: Mr. Speaker, Sir, the culture of painting Kenyans as corrupt and useless was started by the people sitting on the Front Bench on the other side of the House. As a result of this, many innocent Kenyans are now being thrown out of offices without being given the opportunity to defend themselves.

The same thing is now happening to Prof. Meme. I know Prof. Meme very well. He is very sympathetic to the people of North Eastern Province. I personally feel that it is very unfortunate that he is being mentioned here simply because the Minister has been going round painting other people as dirty and useless. As I stand here, the former District Commissioner, Vihiga, who fought very hard to protect the Maragoli Forest is being accused of being corrupt. We must stop this culture of painting other people as corrupt and useless.

Mr. Speaker: Order, hon. Members! It is not every time that I really feel completely unsure of myself. I am not so sure any more that we are not becoming political vampires, who are after the blood of others. It worries me a great deal that political vampires are on the loose. You are not giving people a chance to defend themselves. Can Prof. Meme come to this House to defend himself?

You weigh the issue yourselves. Is it, or is it not, desirable to let loose political vampires to be after the blood of others without giving them a chance to defend themselves? It is really up to you. I have nothing to do with it. I am just worried about what is happening on the Floor of the House. I can understand the problem of the Minister dealing with this issue. I can understand also the temperament of the hon. Members questioning the Minister. But what do I do now?

Mr. Sambu: On a point of order, Mr. Speaker, Sir. I would like to seek your guidance on this issue. I have taken this Question out of the Public Investments Committee (PIC) proceedings reports. We have two audit Committees, namely, the PIC and the Public Accounts Committee (PAC). Are we political vampires?

Mr. Speaker: Mr. Sambu, I was not referring to you. Let me make that correction immediately. Mr. Sambu, you are actually entitled to bring this Question to the House, and you have brought it in good faith. We know that the Question is topical. The other day, the Euro Bank collapsed with public funds, including funds belonging to KNH.

It is also public knowledge that as a result of the collapse of this bank, several senior Government officials have had to resign. So, I was echoing the Minister's sentiments, and I am generally worried about this issue. May be I should not even express any further opinion on this issue. But it is worrying that out of the blues a crowd can come and say: "Mrs. Ngilu must go!" and then this becomes the song. That is my worry. It is the Minister who has made me to be worried because she has said that, that is witch-hunting, and there, hon. Angwenyi, again, comes up and asks: "Why was the Minister witch-hunting". The whole problem is about the "witches" and the "hunters" in the House.

(Laughter)

I would not like this to continue. You can ask your questions but do not ask me anything on a point of order on this issue any further.

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

Mr. Speaker: Again!

Mr. Sungu: Thank you, Mr. Speaker, Sir. I have a lot of respect for the hon. Minister and I am really worried that there are some people who, when they do something wrong, they are protected while others are penalised. Let the same axe that fell on Mr. Chunga, Mr. Nahashon Nyagah and the rest also fall on the likes of Eng. Mwangera and Prof. Meme, unless there is something invisible protecting people from the Eastern slopes. Hon. Minister, would you take the necessary action to protect our people. As we sit here, people are dying and money has been stolen.

Mrs. Ngilu: Mr. Speaker, Sir, I really want to say that each one of us has a right to say what she or he has done in the past. We should allow people to say what they have done. I am saying here that at one point in time, Kenyatta National Hospital (KNH) was called "the hospital of shame". The Government had brought in

three expatriates from Europe, but when Prof. Meme was appointed the Director of the KNH, he turned it round. It is from that point that the President promoted Prof. Meme.

Mr. Wanjala: On a point of order, Mr. Speaker, Sir.

Mrs. Ngilu: Mr. Speaker, Sir, the President was not good at promoting thieves!

Mr. Speaker: Order, Mrs. Minister! Mr. Wanjala, what is agitating you?

Mr. Wanjala: Mr. Speaker, Sir, you have clearly heard what the Minister has told us, and I respect her, how Prof. Meme rehabilitated the KNH. The Minister was with me in the Opposition. She also knows how Mr. Nahashon Nyagah refused to print money for the election, and yet she did not protect him. Instead, she told Mr. Nyagah to resign. Why is she not telling Prof. Meme to resign? Why can she not resign herself then?

Hon. Members: Shame! Shame!

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Hon. Members, this Question is about money, but now, it is about Prof. Meme. I am asking myself one question: "Are we turning ourselves into a court to try and convict Prof. Meme?" Is it justifiable? In my view, it is not. I think you can ask the Minister about the propriety of investment of this amount of money and you can protest, if you want. But surely, to turn this House into a court, to try Prof. Meme in his absence, in my view, is the greatest injustice.

Hon. Members: No! No!

Mr. J. Nyagah: Thank you, Mr. Speaker, Sir. It appears as if the new Government's policy is to sack people or to pressurise them to resign after it has spoilt their names. Is it the new Government's policy to sack people in the streets?

(Applause)

Secondly, is it not fair that we now give President Kibaki a chance to do his work? Every senior person resigns in order to give the President a chance to replace people without their names being spoilt.

(Loud consultations)

Mr. Speaker: What is going on now?

The Assistant Minister for Lands and Settlement (Mr. Ojode): On a point of order, Mr. Speaker, Sir. You are in the Chair and you are asking the House what is actually happening. Are you in control of the House?

(Laughter)

Mr. Speaker: Order! If you really want to know whether I am in control or not, just become disorderly and then you will see where I stand. I am in full control of the House. What I am not in full control of is the politics of witch-hunters. I am not in control of that and it bothers me, as the Speaker. The Minister accused some Members of witch-hunting Prof. Meme, and Mr. Angwenyi accused the Minister of witch-hunting Mr. Nahashon Nyagah and company and, therefore, bringing the whole question of whether or not there are "witches" and "witch-hunters" here. That worries me a lot. I will never entertain either witches or hunters, thereof, on the Floor of this House. I think witches and their hunters are not supposed to make an entry into this Chamber. So, could we then keep all the witches and the hunters out of the Chamber? Now, deal with the Question.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Mr. Angwenyi? You have been on this issue for too long!

Mr. Angwenyi: Mr. Speaker, Sir, this is a very important matter. The NARC Government had pledged to this nation that it would provide professional management, which does not include double standards such that it applies this standard on this side and another standard on the other side. On the KNH matter, even if we were to absolve Prof. Meme, there has been a board which made this decision. Now, we are saying that this board has done so well that even if it makes a mistake, we will not hold it responsible. This is the case, and yet, we do not see the good work that Mr. Munge did at the Kenya Revenue Authority (KRA); the good work that Mr. Nyagah did at the Central Bank of Kenya (CBK); the good work that Dr. Ong'uti did in pointing out, or raising a red card where there was dent and corruption. This is the case and a Minister of the Government goes out to the streets and demands resignation of a member of staff of another Ministry when she cannot take disciplinary action

against her people. We might demand that she resigns!

(Applause)

Mr. Speaker: Well, I think I will give the Minister the last chance and then finish this issue. I will finish this issue because it is now spiralling to dangerous grounds.

Mrs. Ngilu, would you like to respond?

Mrs. Ngilu: Mr. Speaker, Sir, it was very rare during the Moi regime to get somebody promoted the way Professor Meme was promoted by the former President - Moi. For this reason---

Mr. Ogur: On a point of order, Mr. Speaker, Sir. I was also an Assistant Minister for Health for five years and also a Shadow Minister for Health and I know Professor Meme personally. However, today on the Floor of the House, the Minister is out to protect him.

(Applause)

Mr. Speaker: That was a statement; it was not a point of order!

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

Mr. Speaker: Order! Order, Members! I do not think we are making headway. I think I have given enough time to hon. Members to ventilate on this Question.

Next Order!

(Several Members stood in their places)

Mr. Speaker: Will you sit down now? Sorry! We have finished with Question Time. There are some Members who had asked me for Ministerial Statements. These include Messrs. Sasura, Waithaka and Munya. So, I will begin with Mr. Sasura.

POINTS OF ORDER

MURDER OF MANGESHA WOLDE

Mr. Sasura: On a point of order, Mr. Speaker, Sir. I stand to seek a Ministerial Statement from the Minister of State, Office of the President. On the night of 4th March, 2003 in Bagabaricha Location, Central Division of Marsabit District, Mr. Mangesha Wolde, a prominent businessmen, was murdered in cold blood in the presence of members his family with the use of an AK-47 rifle at 8.00 p.m.

Mr. Speaker, Sir, I would like the Minister to issue a comprehensive statement. I pray it will not be similar to the answer he gave me yesterday, concerning another security matter. I have the following questions to ask: One, why the Administration Policemen who were 500 metres away from the scene of murder did not take prompt action? Two, could he tell us whether they are aware of the existence of a cartel of rich people who are terrorising innocent citizens in Marsabit claiming to be untouchables? Three, could he tell us what action has been taken and how many people have been arrested in connection with the murder of Mr. Mangesha Wolde?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I beg to request for time to issue a Ministerial Statement. Please, give me two weeks?

Mr. Speaker: Mr. Assistant Minister, this is a matter of security. Two weeks? No way!

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, then I will issue a Ministerial Statement on Tuesday next week.

Mr. Speaker: Very well! Mr. Waithaka!

MURDER OF KARIUKI MWANGI BY KWS WARDEN

Mr. Waithaka: On a point of order, Mr. Speaker, Sir. I also rise to seek for a Ministerial Statement from the Minister for Environment, Natural Resources and Wildlife. On 3rd March, 2003, a young man by the name Stephen Kariuki Mwangi, who is not related to me, was shot dead by Kenya Wildlife Service (KWS) warders while he was grazing his cows along Ndongye-Njeru-Queen's Gate Road in North Kinangop Location of Kinangop Constituency. The particulars of the said murder are that the young boy was just grazing his father's

cows when he was shot. Last year around September, the same game warden shot another young man at the same place.

Mr. Speaker, Sir, could the Minister tell the House why no action has been taken so far against the game warden who shot dead those two young men? Why has he not been arrested and charged with murder? Secondly, I want a Ministerial intervention, so that a proper postmortem is conducted to establish whether the said Stephen Kariuki Mwangi was shot while running away or trying to confront the game warden.

Mr. Speaker: Very well! Mr. Munya!

CRISIS AT KENYATTA UNIVERSITY

Mr. Munya: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Education, Science and Technology on the situation in our national universities. There has been a crisis brewing at Kenyatta University. The students have been sent home. They have been carrying out a peaceful demonstration which we have never seen before, but the police intervened and messed up the situation. I have reports---

Mr. Speaker: Order! Mr. Munya, you know what you talked with the Chair. We do not bring rumours to the House. Talk about Kenyatta University and do not become a rumour monger in the House!

Mr. Munya: Thank you, Mr. Speaker, Sir. The situation at Kenyatta University is worrying because there is a danger of a crisis escalating in our universities if it is not handled at the right time and in the right manner. That is why I am referring this issue to the Minister for Education, Science and Technology so that he can investigate this crisis at Kenyatta University. Right now, the students are at home and some of the concerns they are raising are legitimate. The students are demanding the resignation of the Vice-Chancellor, Prof. Eshiwani and---

Mr. Speaker: Order! Mr. Munya, there are rules in this House and activism is not allowed. I have already referred to something I call "political vampires". That must be kept out of this House now. Let us be honourable gentlemen. Do not "scavengise" Kenyans who are not here to defend themselves. So, please relax.

Proceed!

Mr. Munya: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Order!

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I beg to move that The Constitution of Kenya (Amendment) Bill, Bill No.4 of 2003, be now read a Second Time.

Mr. Sungu: On a point of order, Mr. Speaker, Sir. I would like to get clarification from the Chair because I have two Bills with me. One is titled "Bill No.1" and the other "Bill No.4". One is dated 29th January, 2003 while the other is dated 15th January, 2003 and both of them seem to refer to the same subject. Could we please have a clarification on this matter before we proceed?

Mr. Speaker: Well, the Minister will tell us which one he is moving. It must be the one on the Order Paper.

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

Mr. Speaker: Order! What is it?

Dr. Godana: Mr. Speaker, Sir, the Minister stated very clearly; "Bill No.4", the Order Paper reads, "Bill No.1"!

Mr. Speaker: Order! Order, hon. Members! In fact, what the Minister should do is to follow what is on the Order Paper. We register Bills ourselves. What appears on *The Kenya Gazette Supplement* is a registration by the Government Printer. Once we receive the Bills as the National Assembly, we have a register of Bills where we register them. We register the Bills in our register and, it is that registration that appears on the Order Paper. So, for all the purposes of this House, The Constitution of Kenya (Amendment) Bill, will be Bill No.1, as it appears on the Order Paper. I presume the Minister will reply to Mr. Sungu, whether there were actually two Bills, because I only know of one and it is the only one I have and that is the one registered. I have not seen what he has and I

cannot see that far! Do we have two Bills?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, we have dealt with this matter in this House before. The House has a different system of registering Bills and the Government Printer has a different system. The Chair is quite right in pointing out that The Constitution of Kenya (Amendment) Bill No.1 which is before the House, has a numbering system given by the House. What we have and what I was calling Bill No.4 is the numbering given by the Government Printer. But I would like to explain---

(Several Members stood in their places)

Mr. Speaker: Order! Order, hon. Members! On the face of it, I want to clear this issue because we must make progress. The Bill before the House is dated 15th January, 2003. On the very top there, it is described as a "Special Issue". Below that, it is described as "*The Kenya Gazette Supplement No.4*". So, the Bill No.4 refers to "*The Kenya Gazette Supplement*." In the brackets, the Bill is described as Bill No.1. So, we must understand these two concepts; *The Kenya Gazette Supplement*, which bears its own number, and the Bill within that Supplement which bears its own number. This is because one gazette supplement can have more than one Bill at the same time. You can have three Bills in one gazette supplement, but each Bill will be described individually: Bill No.1, Bill No.2, Bill No.3, Bill No.4, as the case may be.

So, for now, what is before the House is Bill No.1 and, *The Kenya Gazette Supplement* bearing that Bill is *The Kenya Gazette Supplement No.4* and it is dated 15th January, 2003.

I hope that clarifies everything.

Proceed, Mr. Minister.

Mr. Samoei: Mr. Speaker, Sir, while appreciating your explanation on the confusion that is arising in the House, it states very clearly that, in Bill No.4, there were two Bills. There was an original Bill which was printed on 15th January, 2003 and, it states very clearly that "this Bill supersedes the Bill of the same title published in *The Kenya Gazette Supplement No.4*, that is Bill No.1 of 15th January, 2003. So, indeed, there are two Bills that have been published, and the explanation that has been given here that it is a confusion between the Government Printer and Parliament registration is not right. There are two Bills and, we need to know which one we are supposed to debate.

Mr. Speaker: Order! Order, Mr. Samoei! In fact, you have answered your own question. By the way, there is absolutely no confusion in the registration of Bills by the Clerk of the National Assembly. There is absolutely no confusion and I am very clear in my mind. You have explained what has been given to me by hon. Sungu, which I had not seen before. According to him, there was an earlier Bill which was published and never came to this House; and a subsequent Bill purports to supersede that Bill, and it is the latter Bill that has been brought before this House, not the previous one. So, as far as the Speaker is concerned, that Bill is not here, and it never came here and it has never been read before this House. What was read during the First Reading is the Bill before the House for debate, and this must now continue.

Proceed, Mr. Minister!

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

Mr. Speaker: What is it?

Dr. Godana: Mr. Speaker, Sir, I want to make it very clear. I just want to be helpful to the House. I think it is important that we should not have confusion. The Minister, even after my last intervention, did refer to the Bill dated 15th January, 2003, and there is a Bill dated 29th January, 2003. Could he just clarify whether it is the one dated 29th January, 2003 or the one dated 15th January, 2003?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, if I would have been given an opportunity, I would have given this same explanation.

Mr. Speaker, Sir, indeed, there was a Bill that we initially published on 15th of January, 2003. But on closer scrutiny of that Bill, we noticed that there were some grammatical errors that we wanted to correct and which were not possible to correct on the Floor of the House. So, we withdrew that Bill and re-published the amended Bill which is now dated 29th January, 2003. And at page 95 of *The Kenya Gazette Notice*, there is a note indicating that this Bill supersedes the Bill of the same title published on *The Kenya Gazette Supplement No.4, (Bill No.1) of 15th January, 2003*. So, this note clarifies this position and, we have only one Bill before the House.

Mr. Speaker: Order, Mr. Minister! Just for the clarity of the Speaker too, because I am now informed like anybody else--- Actually, the Bill the Minister is reading is dated 29th January, 2003. Am I right!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): That is true, Mr. Speaker, Sir.

Mr. Speaker: Actually what they gave me is a wrong copy!
So, we are dealing with the Bill dated 29th January, 2003. Do hon. Members have copies of this Bill?

Hon. Members: No! No! No!

Mr. Speaker: Would the Clerk make available to all hon. Members, copies of the Bill dated 29th January, 2003, now?

I hope the Minister is having that copy dated 29th January, 2003?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Yes, I do, Mr. Speaker, Sir.

Mr. Speaker: So, would the Clerk make those copies available immediately?

Prof. Kibwana: On a point of order, Mr. Speaker, Sir. If the Clerk to the National Assembly provides the Constitutional (Amendment) Bill, dated 29th January, 2003, now, would we be in a position to proceed as a House?

(Applause)

Mr. Speaker: Hon. Members, let me say the following: The Bill must have been published and, I think the Clerk has brought enough copies here. I will make them available to each and every hon. Member.

Now, let me give this House an undertaking, that this Bill will not be disposed of today, neither will it be rushed through. It will go its full course. So, those hon. Members who may have got the wrong Bill will have the right one and look at it. So, we will all have time to look at the Bill and, let the Minister deliver it. If at the end of his delivery and seconding, hon. Members will feel that they are not in a position to continue with debate, there are provisions in the Standing Orders! Once the matter is before the House; we can adjourn its debate to some other day, but not before it has come to the House. This is because it is not until the matter has been proposed, seconded, and proposed from the Chair - that is when you can raise those many issues.

Could we hear from hon. Nyagah?

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir. I know the Chair has tried to explain the situation. I also know that you have asked the Clerk's Office to avail those copies. In view of the fact that there is great confusion on the part of the hon. Members, and given that they do not know which Bill to refer to, would I be in order to appeal to the House through you, that the Clerk's Office distributes the copy of the Bill that the Minister for Justice and Constitutional Affairs is referring to, and in the meantime this House adjourns, so that we have no confusion?

Hon. Members: No! No!

Mr. Speaker: Order! Order! We do not do these things *kienyeji*; there is law. I have already told you how to go about it. Let the Minister introduce the Bill so that it is before the House. Let it be seconded and then you, Mr. N. Nyagah, or some other hon. Member may then move that the debate be now deferred. There is nothing before the House. What are we adjourning? If you want to adjourn the House to another sitting day, you know the procedure and you have not followed it. As the law says - the hon. Members who are lawyers here would know - equity will assist the vigilant. The Speaker will assist the vigilant. If you are not vigilant, I am sorry.

Proceed, Mr. Minister!

Prof. Kibwana: On a point of order, Mr. Speaker, Sir. I have followed your explanation. The only problem that we have is that the Minister is moving a Bill that many of us do not have. How are we going to follow what he is moving? If we do not have the Bill that he is moving, how are we going to follow his arguments? That is why I was thinking that if hon. Members do not have the Bill he is referring to, we should adjourn so that we are given the Bill to study and then we can proceed.

Mr. Speaker: Order! Order, hon. Members! Copies of the Bill are being circulated now; follow them as best as you can. I have already said once the matter comes before the House, because it is not before the House now, then you can move that it be adjourned, if you feel like it. But we cannot do it at this stage because it is not before us.

(Several hon. Members stood in their places)

Order, all of you now! Order! Order!

Proceed, Mr. Minister!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I beg to move that The Constitution of Kenya (Amendment) Bill be now read a Second Time.

Mr. Kilonzo: On a point of order, Mr. Speaker, Sir. Is it fair that the Minister be allowed to move a Bill that seeks to amend the Constitution when hon. Members of this august House do not have the Bill in front of them? I can understand your ruling - that we pursue and follow, the best we can, what the hon. Minister is going to say. But this is the Constitution. It is the primary law of this country. It is only fair that the Clerk of the National Assembly distributes copies of this Bill so that then, hon. Members can follow section by section, word by word, comma by comma. It is the only way out.

(Applause)

Mr. Speaker: Order! Order, hon. Members! Now, we must be serious. The Bill dated 29th January, 2003, which is being moved by the Minister now, was actually placed in every hon. Member's pigeon hole on 7th February.

(Applause)

Order! I have been informed by the clerk dealing with this matter that they did actually place the Bill in the pigeon hole of every hon. Member on 7th February. Hon. Members, if you do not check your pigeon holes, I am sorry about it. It is your duty to check your pigeon holes.

Proceed, Mr. Minister!

(Applause)

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Speaker, Sir. It is now quite clear that the Bill I am moving is dated 29th January, 2003. I would like the hon. Members to look at the Memorandum of Objects and Reasons of this Bill on page 107 of the Bill. The Memorandum of Objects and Reasons is---

Dr. Godana: On a point of order, Mr. Speaker, Sir. You know I served as your able deputy for five years and I have no intention of being a nuisance. I genuinely want to be helpful to the House. When a Bill is published and we are given a certain number of days and the Bill is distributed, the purpose is to ensure that hon. Members are not ambushed and that they have enough time to study the Bill. The hon. Minister is now asking hon. Members to look at the Memorandum of Objects and Reasons. Most of the hon. Members on both sides of the House do not have the Bill in their hands. It may well be correct that they were distributed on 7th February. When I was coming here, I checked in my pigeon hole and I found two copies of the same Bill, dated 15th January. I actually wondered how I got two. It looks like, therefore, when they were distributing the one for 29th January, some or all of us, got the same copy as the old one. I think the fact of the matter now is that hon. Members who are here do not have, and many of them have not seen until now, the copy of 29th January draft. I think we have a problem and it may be a matter which you would have to decide upon under Standing Order No.1.

Mr. Speaker: What is your reaction, Mr. Minister?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, to the best of my knowledge, this Bill was published on 29th January, 2003. There has been a whole month between 29th January and today. As soon as this Bill was published, enough copies were delivered to the Clerk of the National Assembly. It is our believe that, just like the other Bills have been distributed, this Bill was also distributed. I do know that Room 8 upstairs is where most of the documents sometimes are distributed from.

Mr. Speaker: I am satisfied that the Bill was available to all those hon. Members who wanted to read it.

Proceed!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Speaker, Sir.

(Mr. Sungu stood in his place)

Mr. Speaker: Order! Order! Are you casting aspersion on the Chair? You attempt it again!

Proceed!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, the principal objective of this Bill is to make provision in the Constitution for the establishment of the Kenya Anti-Corruption Commission and to invest in that Commission constitutional powers of investigation and prosecution of offences

of corruption and economic crimes by public officers. Hon. Members are no doubt aware that on top of the priorities of the NARC Government, is the fight against corruption. We all know the damage that corruption has done to this country---

(Prof. Kibwana crossed between the Chair and the Clerks-at-the Table)

(Laughter)

Mr. Speaker: Order! Order, hon. Members! No hon. Member is ever allowed to pass between the Chair and the Clerk except on the day of taking oath. Ever! So, I think you all should learn. Prof. Kibwana, next time you want to go and consult the other side, you have two ways to go there; either you proceed to the Bar and come this way or you come and bow to me and then go through the backside door and then come down here and bow to me again and then proceed. That is the rule.

Proceed, Mr. Murungi!

Mr. Omingo: On a point of order, Mr. Speaker, Sir. Are you now seeing the seriousness of my proposal on the question of training hon. Members and can I offer my services?

Mr. Speaker: Yes, I see it! Now, proceed!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, if there is anything the NARC Government is serious about, it is the fight against corruption. It is not possible for us to succeed in our promise of introducing economic recovery into this country unless we seriously fight against corruption. It is now widely accepted that corruption is not merely a criminal offence. Corruption is a much more complex socio-economic problem which requires more sophisticated tools for eradicating it.

Mr. Speaker, Sir, it is also widely accepted that a successful anti corruption strategy must go beyond crime and punishment. Mere prosecution of corrupt individuals is not sufficient to eradicate corruption in any society. A successful anti corruption strategy must of necessity dismantle the complex web of mental, cultural and economic structures which give rise to corrupt behaviour.

Mr. Speaker, Sir, this theory has been accepted in most of the commonwealth jurisdictions, and, in fact, in such countries such as Hong' Kong', Singapore, Botswana, Malawi, Australia and South Africa, there are established, specialised, centralised independent anti-corruption agencies which devote enormous resources not merely for investigation and prosecution of corruption, but also to educate the public on the evils of corruption and also attempt to change the attitude and behaviour of the people so that they reject the culture of corruption.

Mr. Speaker, Sir, this special nature and special characteristics of corruption call for a specialised independent agency with specialised investigators, prosecutors and experts in areas of prevention and public education. I am happy to report that even this country has accepted that logic. Since 1998, Kenya has had the Kenya Anti-Corruption Authority which was established and did very good work until 22nd December, 2000. You will recall that, that was a very bad day for this country because the High Court in the Gachiengo case, in a very strange and shocking judgement, declared the Kenya Anti-Corruption Authority to be illegal and unconstitutional.

Mr. Speaker, Sir, the purpose of this Bill is to recreate that agency. The purpose of this Bill is to create a strong anti-corruption commission in Kenya as part---

Prof. Kibwana: On a point of order, Mr. Speaker, Sir. I think it is now clear that most of the hon. Members did not actually have the document of 29th January that the Minister has referred to. Because he has only started moving it, he is, therefore, describing contents that we are just getting familiar with. I am suggesting that we actually adjourn until we are able to look at this document so that we can follow what he is saying. Actually, most of us will not follow what he is saying.

Mr. Speaker: Order! Could I again enlighten the House? It is not just a question of going home. There are rules governing the adjournment of the House. If it was 6.30 p.m., I would have adjourned the House without putting the question. If you want to adjourn the House to next week, you must bring a Motion to adjourn the House to a certain date. If it is a question of adjourning debate, which you are attempting to do now, then the debate itself must pass before the House. The only way the debate ever comes to the House is that it is presented and moved by the Mover, then seconded, then I propose the question from the Chair, and then at that stage, you can move that the debate now be adjourned. I will then propose the question. There will be debate to arise, and I will put the question. If it is carried we will adjourn and if it not carried, we will not. So, please, let the matter come before the House, because it is not even here yet. It has not been proposed from the Chair. Proceed!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, the reasoning of

the High Court, and that is why we are calling it strange, was that KACA was illegal under the Constitution on two grounds: The first ground was that because KACA was headed by Justice Ringera who was a Judge of the High Court of Kenya and KACA was an executive organ, the doctrine of separation of powers had been infringed, and, therefore, KACA was unconstitutional because it violated the doctrine of separation of powers.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, the second ground was that in the court reading of Section 26 of the Constitution, that section vested exclusive prosecution powers in the office of the Attorney-General. Therefore, because KACA was exercising prosecution powers, KACA had usurped the powers of the Attorney-General, and therefore, to that extent, KACA was acting unconstitutionally. So, because of these two grounds, the High Court declared KACA to be illegal and unconstitutional. Therefore, all operations of KACA were suspended and it virtually ceased to exist.

Mr. Deputy Speaker, Sir, the judgement of the High Court was clearly wrong and not supported by law because Section 26(3), (b) and (c) of the Constitution gives the Attorney-General power to take over and continue, any such criminal proceedings that have been instituted or undertaken by another person or authority. Section 26(3)(c) also gives the Attorney-General power to discontinue at any stage before judgement is delivered, any criminal proceedings instituted or undertaken by himself or another person or authority. What we are saying is that this section does not give the Attorney-General exclusive prosecution powers because it is talking of the Attorney-General discontinuing proceedings brought by another person or authority.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker resumed the Chair]

So, by implication this means that another person or authority who is not the Attorney-General can bring criminal prosecution which the Attorney-General can then terminate in exercise of powers under paragraphs "b" and "c". So, the High Court was clearly wrong in saying that the Attorney-General has exclusive prosecution powers and that KACA was usurping the powers of the Attorney-General. This is a judgement which would be proper material for an appeal to the Court of Appeal. Unfortunately, the proceedings were brought by way of Section 67 of the Constitution which does not permit any appeal to the Court of Appeal. So we are stranded with this flawed judgement. If we set up any independent anti-corruption authority again today---

Dr. Godana: On a point of order, Mr. Speaker, Sir. The hon. Member has said the judgement was fraudulent. Obviously---

The Minister for Justice and Constitutional Affairs (Mr. Murungi): No, I said flawed.

Dr. Godana: Fraud? It does not make sense. It means fraudulent judgement. I think that is tantamount to criticising the Judge in a manner not permitted by the Standing Orders.

Mr. Speaker: Order! I do not know whether I heard the Minister say that the judgement was fraudulent. But if he did say so, he is the Minister for Justice and Constitutional Affairs. If I were him, I would weigh my words very carefully.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Speaker, Sir. As a matter of fact, I did very carefully weigh my words. Unfortunately, my learned friend is putting words into my mouth. I said the judgement was flawed. I did not say it was a fraud. This Bill is part of our strategy to correct that judicial disaster. It is also our strategy to intensify our fight against corruption and put it on a more systematic basis. I am very happy with the Leader of the Official Opposition because he has made very good statements to the Press about how they will reform the Official Opposition Party, KANU. There is clearly need for reform. The KANU that we knew in the past was a party which gave us a government full of criminals, torturers, looters, land grabbers, bank robbers and economic terrorists. We are very happy that all this has now changed and---

Dr. Godana: On a point of information, Mr. Speaker, Sir.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): I think I am very well informed. The NARC Government wants to be a clean Government. In fact, we would like to put structures in place so that even in that distant future when NARC is not in power, it will not be possible to have a group of gangsters running a Government in this country. We would like all future governments of Kenya to be based on principles of

honesty, efficiency and professionalism in delivery of services to the people of this country. We do not see this in a bipartisan approach. What we are doing is good for the whole country. When we set up this institution, I believe even those Members of the NARC Government who engage in corruption will find themselves subject---

Mr. Were: On a point of order, Mr. Speaker, Sir. I keep on hearing people refer to the "NARC Government". It is the Kenya Government being administered by the NARC administration.

Mr. Speaker: You are right.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Speaker, Sir. We are in a multiparty democracy and the party which wins elections is the one which forms the government. The previous Government was a KANU Government. It was the Government of Kenya, but by the ruling party which was KANU. Why are you denying NARC the opportunity to also be the party of the Government? I do not see any contradiction in saying that this is a NARC Government because the Government is implementing the NARC policy.

Mr. Were: On a point of order, Mr. Speaker, Sir. The Government belongs to the people of Kenya. We are administering the Government under NARC as a party. We have to differentiate between the two.

Mr. Speaker: What is the quarrel all about?

Mr. Were: He is continuing to call it the NARC Government.

Mr. Speaker: Order! The Government of Kenya has three arms. These are the Executive, the Legislature and the Judiciary. That is what is called the Government of Kenya. The Executive arm of the Government of Kenya is administered by the party in power. So, in a way, you are all right; it is the Kenya Government with the NARC administration. Why quarrel about it? Why do we not proceed? Is there any doubt as to what Government we are talking about?

Dr. Godana: Mr. Speaker, Sir, I think it is important that we have precision. When the hon. Minister says the NARC Government, we are entitled to ask which NARC he is referring to. There are two NARCs; the original NAK and the NARC. Otherwise we should say the Government of Kenya.

Mr. Speaker: Order, all of you! Could we now address the Bill? I do not think this Bill is creating or removing a government. So, keep the Government out of this now. Talk about the contents of the Bill.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The original NAK was the mother of the bigger NARC. It is only that the son is bigger than the mother.

Mr. Speaker: Order! First of all, Mr. Angwenyi, you are in FORD-People. Waswahili husema: Piliipili usioila yaku washia nini? Can you proceed?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I appreciate the interests that hon. Members on the other side show in the ruling party. I would like to inform the House that the NAK party no longer exists because the party constitution was amended to change the name from NAK to NARC.

So, when we talk about "NARC", we are talking about the NARC. Hon. Members are all free to join that party. We all know how deep corruption is entrenched---

Mr. M. Kilonzo: On a point of order, Mr. Speaker, Sir. This is an extremely serious matter. You know, I do not, normally, raise light matters. It is important---

Mr. Speaker: Well, you have not been here long enough.

Mr. M. Kilonzo: Mr. Speaker, Sir, the point I wish to raise is very serious and I seek your ruling. On 27th February, 2003, this Bill was read for the first time and the Minister is purporting to introduce it to this House. I have got a copy of the Order Paper of that day. It reads: "The Constitution of Kenya (Amendment) Bill (Bill No.1), The Minister for Justice and Constitutional Affairs, First Reading." Is it in order for the Minister, in fairness to the rules of this House, to introduce a Bill that, in fact, has not been read for the first time? By 27th February, 2003, the Bill had not been published. It is dated 29th, February, 2003.

Mr. Speaker: It is dated 29th, January, 2003!

Mr. M. Kilonzo: Mr. Speaker, Sir, I am sorry about that.

Mr. Speaker: Then you are now already making a frivolous point of order. Will you sit down?

Mr. M. Kilonzo: Mr. Speaker, Sir, I was merely seeking your ruling---

Mr. Speaker: Order! Let the matter come before the House, then raise all those arguments the way you please, but as I said, the Bill that was read for the First Time and registered by the Clerk of the National Assembly is the Bill appearing on today's Order Paper. It is dated 29th January, 2003 and it was distributed to all hon. Members on 7th February, 2003. Mr. Kilonzo, I do not know whether you were here when I gave all this information to hon. Members. Mr. Kilonzo, I do appreciate your self appraisal, that you do not ordinarily raise flimsy issues. However, the fact of the matter is you have not been here for long. So, we really do not know you. We will know you in good time.

Proceed, Mr. Minister!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I am really obliged. I was saying that corruption is very deeply entrenched in this society. It has wide tentacles in all the sectors of our society. We are aware that legal reforms alone--

*(An hon. Member crossed the Floor
without bowing at the Bar)*

The Minister for Transport and Communications (Mr. Michuki): On a point of order, Mr. Speaker, Sir. Is the hon. Member a stranger or an hon. Member? He has just crossed the Floor without first bowing at the Bar. Did you notice that?

Mr. Speaker: Order! Hon. Members are not allowed to cross from one side of the Floor to the other. In fact, strictly speaking, if you did that intentionally, you would lose your seat. It would amount to defection. But since he is a new Member, I am sure he has no intention of crossing the Floor. He was actually straying across the Floor. The correct thing to do is to go to the Bar there, bow and then move on.

(The hon. Member moved to the Bar and bowed)

That is okay! That is part of learning.

Proceed, Mr. Minister!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, in view of how deeply entrenched corruption is in this country, we are aware that merely passing legal reforms or even passing of these laws, may not be sufficient to root out corruption in this country. We are aware that we have to do some social engineering. I believe there must be another struggle to change our peoples' attitudes and behaviour, which should run parallel with our top-down legal reforms.

We, as a Government, feel it is our duty to encourage and facilitate the emergence of a culture of honesty and zero-tolerance to corruption in this country. I believe that the Anti-Corruption Commission that is being proposed through this Bill will give us an adequate legal framework through which we can handle both investigations and prosecutions, prevention of corruption and also a national campaign against corruption.

Mr. Speaker, Sir, we believe that the effects of corruption in our society have the same magnitude as the effects of the HIV/AIDS scourge. We believe that it is the high time we launched in this country a massive anti-corruption campaign of the same magnitude as the campaign against the HIV/AIDS pandemic. We would like to knock at every door in every village in Kenya and mobilise our people to say "no" to corruption. We are talking about something big. We are launching a national campaign against corruption. Through this Bill, we will create the necessary legal framework and institutions through which we can implement and undertake that campaign.

Mr. Deputy Speaker, Sir, I would like to appeal to all hon. Members on both sides of the House to treat this as a matter of national importance. I know we have our politics to engage in. I know there is political propaganda and gossip, but let us look for another market for that politicking to be done. For now, let us put the interests of Kenyans first. Let us be truly hon. Members of the National Assembly, for the Welfare of Society and the Just Government of Men and Women. So, let us rise above our small issues and focus on the big picture of where we want to go.

Mr. Speaker, Sir, I would like to dwell briefly on the immediate policy background of this Bill. Hon. Members, will recall that during the State Opening of this House on 18th February, 2003, His Excellency the President emphasised that good governance was the key objective of this Government. He promised to restore ethics, integrity, accountability and transparency in the management of our public resources. The President also reiterated our commitment towards creating a culture of zero-tolerance to corruption. He also promised to transform our public sector and to start a process of declaring our assets and liabilities. We believe that within the next one month or so, the President himself would have declared his assets and liabilities, thus giving an example to the rest of the society. The President said that he is leading the fight against corruption from the top. Other generals fight wars from behind. However, the President is fighting the war against corruption from the front. We have no doubt that the President will be the first person to declare his assets and liabilities. Soon thereafter, we, the Ministers, should be called upon to do the same, and then the rest of hon. Members will follow suit.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Is the Minister, who is my friend, in order to talk

about the Public Officer Ethics Bill when the business we are now dealing with is the Constitution of Kenya (Amendment) Bill?

Mr. Speaker: Mr. Murungi, the issues you have been talking about are in another Bill. So, concentrate on the Bill before the House now.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I was just trying to elaborate the Government policy---

Mr. Speaker: Mr. Murungi, there is no short-cut in the rules. There is a Bill dealing with that specific issue, which is pending before this House. You will not anticipate debate on that Bill.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Most obliged, Sir.

This Bill is the first legislative activity in our fight against corruption. It is this Bill which provides the key pillar for the implementation of the policy of zero-tolerance to corruption in this country. It is part of a broader comprehensive strategy, and I urge hon. Members to read it in the context of the other two Bills, which will be introduced to this House when the time comes.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, my Ministry has been given the key responsibility and mandate in the area of integrity and ethics. Therefore, it is the duty of my Ministry to implement Government policy in the area of anti-corruption. I would like to inform the House that, as a Ministry, we have hit the ground running. I have worked on this Bill. We are working closely with the Anti-Corruption Police Unit (ACPU). If hon. Members have been reading newspapers and listening to the electronic media, they must have seen and heard evidence of work being done in this area.

The struggle against corruption, theft and mismanagement is immensely popular with the people of Kenya. This struggle is, however, not popular with the lords of corruption, who have derived enormous illegal benefits from the economy of plunder. We know that there is going to be resistance, and that resistance should not be under-estimated. However, we are ready to stand up and be counted in this struggle. Unless we succeed in rooting out corruption, even initiatives such as the Free and Compulsory Primary Education Programme will not work. The Government will buy books, which may reach the schools, but they might not reach the students. We are providing affordable medical facilities and drugs. The Government will spend enormous amounts of money to purchase drugs. The drugs may reach the hospitals, but they may not reach the patients. So, the fight against corruption, at all levels of our society, is important in the efficient delivery of services by the Government to the people.

We are also talking about economic recovery, local and foreign investments. Corruption imposes additional costs on investors. It makes it difficult for business persons to operate. So, unless we tackle corruption, we cannot talk about economic recovery. In the previous regime, holders of public offices saw their public offices as investments; they were out not to deliver services to the public, but rather to enrich themselves. In this Government, a public office is not going to be used as an instrument of plunder and personal enrichment. It is going to be used for delivery of services to the public. We are not going to allow State organs to be used as vehicles for large-scale fraud and organised criminal activities.

Mr. Deputy Speaker, Sir, we know that previous holders of public offices - many officers holding high positions in the current Government were inherited from the previous regime - have a very thick skin and their hearts are hardened. Not even the Sermon on the Mountain is going to change the attitude and behaviour of some of these people. I would like them to know that their days in public service are numbered.

Dr. Godana: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister, who is my friend, in order to keep in harping on the Kenya African National Union (KANU) regime when he knows that the looters, criminals and vampires who were in KANU, and who spoilt our names, have all defected and are now in the National Rainbow Coalition (NARC) Government?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, if we were in court, I would have asked my friend to give us better and further particulars.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I had said that there was a mother called "National Alliance Party of Kenya (NAK)" and a father called "Forum for the Restoration of Democracy for the People (FORD-P)". Then, a step-father called "KANU", gave "FORD-P" to a son called "NARC". So, could any hon. Member tell the House who the real father of NARC is?

(Laughter)

Mr. Deputy Speaker: Order! Order! Mr. Angwenyi, we do not have parents here. Further, as you are aware, when you raised that issue, the Chair ruled that you stick to the debate before the House. Certainly, the House is not debating the "mothers" and "fathers" of political parties.

Could you continue, Mr. Minister?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, it is only the mother who knows who the father of a child is.

(Laughter)

We are saying that those people in high Government offices, who are unwilling to change, have to go, because the fight against corruption cannot spare anybody. President Kibaki has told us that there are no sacred cows in this country. Wherever you are, whether in KANU, NARC or in no party, so long as you are involved in corruption, we have to reach out for you. Corrupt people cannot be dealt with "diplomatically" if this war is to be won. We must be ready to offend them. We should not shy away from doing what is appropriate; we have to name names. The billions of shillings they have stolen from the public have to be returned. So, this is what the new war against corruption is all about. It is not about being rhetorical and doing nothing. The time for talking is over; it is now time for action.

Mr. Deputy Speaker, Sir, we are being asked: "Why are you introducing piecemeal constitutional reforms when in a few months' time, we are going to have a new Constitution?"

Mr. Deputy Speaker, Sir, I would like to assure this House and Kenyans at large that our Government is still very committed to continuing with the constitutional review process, and giving this country a new Constitution. We had said in June, but I am now saying that by 31st July this year---

(Dr. Godana laughed)

I hear Dr. Godana laughing, but KANU fooled around with the Constitution for ten years! Mr. Moi promised a new Constitution in 1995 but in 1997, we were still fighting with the police! If there are people without any moral authority to talk about the constitutional reforms, it is the KANU people, especially those who were in the last Parliament.

Mr. Deputy Speaker, Sir, we are very happy that this House is giving priority to the constitutional reform process by creating the Parliamentary Select Committee on the constitutional review process. We believe that in the course of next week, that Committee is going to meet and elect its own Chairman or Chairlady. Once that process is done, we expect an early meeting between that Committee and the Constitution of Kenya Review Commission (CKRC), so that they can sort out some pending business, so that they can consider extending the mandate of the CKRC, which expired on 3rd, January. We also expect the Committee to consider the issue of remuneration of the Commissioners, especially between the period of January and now, when we have been operating in a grey area, with one provision of the Constitution of Kenya Review Act saying that the Commission exists until there is a new Constitution, and another one providing for extension of time, which was extended to 3rd of January. So, we expect the Select Committee to deal conclusively with those issues, so that the constitutional reform process is back on track.

Mr. Deputy Speaker, Sir, we would like the Select Committee to discuss with the Commission and fix the date of the National Constitutional Conference. We think a little time will be taken by this Parliament to discuss the business before it, especially this Bill which we consider to be urgent and very important for the revival of our economy. During my own informal consultations with the Speaker of the National Assembly, together with Prof. Yash Paul Ghai, the Speaker indicated informally that it might be possible to have the National Constitutional Conference at the beginning of May; we are talking about 2nd May and going on for that month. But that is for the Select Committee to consider that issue and bring it to Parliament. That is because ultimately, the Select Committee acts as a Committee of Parliament. It is Parliament to make the decision as to when you want us to go to the National Constitutional Conference in consultation with the CKRC. In my own rough calculations, I believe they could do the conference in the month of May. We will be doing the Budget which is compulsory for the House in June and that is why I was suggesting that the earliest we can have a new Constitution is the month of July. I stand to be corrected, but the NARC Government is committed to giving this country a new Constitution as soon as possible, and latest in the middle of this year.

So, Mr. Deputy Speaker, Sir, if that is happening, why are there these piecemeal amendments? As we said, as far as the issues of corruption are concerned, we have hit the ground running! We would like to stop the business of witch-hunting; people making noises there and saying so and so is corrupt and should go! We would like very thorough investigations to be carried out. We would like to follow the law strictly. The only way we can do that on a systematic basis is to have an independent anti-corruption authority over which the politicians have no control and which Kiraitu Murungi will not be able to pick the phone and say: "Arrest so and so"! It should be able to evaluate its own evidence and also receive complaints even from the public and evaluate them professionally, and decide who should be charged and who should not be charged. So, I think that is the only way we can have some professionalism in that area, and stop the kind of exchanges that we have heard in this House earlier in the day.

Mr. Deputy Speaker, Sir, I also have to own up; the biggest obstacle to resumption of foreign financial assistance to this country, has been in the area of governance! For the last several years, there were various discussions between the KANU regime, the World Bank and the International Monetary Fund (IMF). Even as we went to the last elections, there was no IMF programme in place because of that problem. I must say that the new Government has opened discussions with both the IMF and World Bank and we are receiving very positive response. The new Government has said that, since it is also interested in the area of governance; it is interested in fighting corruption for the benefit of our people, we do not see any contradiction at all in implementing that conditionality of the IMF and World Bank regarding governance and anti-corruption legislation.

Mr. Leshore: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to tell us that because of the World Bank and IMF, he is bringing these amendments? That is because we have some red herrings in the NARC administration---

Mr. Deputy Speaker: Mr. Leshore, you have made your point of order! Let the Minister respond!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, I think nobody can question that fact, because it is written in the Constitution that Kenya is a sovereign State. I have not said that we are being dictated upon by the IMF, World Bank or any other person. But I am saying that we are acting in the interest of our people. We promised our people free primary education. You have seen the kind of looting which we are reading about every day. I would like the Member to ask himself: From where are we going to get the money to sustain free primary education in this country? We also have promised the people of Kenya, at least, 500,000 jobs every year. Where are those jobs going to come from? Until we create an environment for both local and foreign investors in this country, we are not going to generate those jobs. We are not talking to donors because we are afraid of them; we are not talking to donors because they are dictating to us; but we think it is in the interest of our people for us to talk to them. It is in the interest of our people to fight corruption. It is in the interest of our people to pass these Bills. That is why we are giving them priority!

This Government has, so far, got a Budget deficit of Kshs57 billion. We have to find the money for running the operations of the Government between now and June. If Mr. Leshore gives us Kshs56 billion, we will not have to talk to the World Bank and the International Monetary Fund (IMF). But until we get that money through other sources, we will have to keep on talking to them. We know they are banks like any other bank, and they have their own conditions. We have to negotiate with them with open eyes. These Bills are very important if we are to bring down the Budget deficit and implement our economic programmes. That is why we have given them priority.

Mr. Deputy Speaker, Sir, I would now like to give a brief legal and political background to this Bill. I feel that we cannot fully understand the importance of this Bill until we appreciate the historical context of the struggle against corruption in Kenya. The legislative and policy history of the struggle against corruption in this country can be traced to the year 1956, when the colonial Government for the first time, enacted the Prevention of Corruption Act, which is now Cap.65 of the Laws of Kenya. We have limited definition of the word "corruption" in that Act. It talks about giving and receiving bribes.

Mr. Leshore: On a point of order, Mr. Deputy Speaker, Sir. The Minister has asked if I could give the Government Kshs56 billion. Is he implying that I am one of the looters?

Mr. Deputy Speaker: Mr. Leshore, I really sympathise with you.

Mr. Leshore: Mr. Deputy Speaker, Sir, why has the Minister referred to me? I am not a millionaire!

The Minister for Justice and Constitution Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, Mr. Leshore is a very good friend of mine. I know that he owns a lot of cattle, sheep and goats. He is not one of the looters, but if he could sell those goats and give us a cheque, that will be fine.

The Act has a limited definition of corruption. It defines corruption as giving and receiving bribes. Even with that limited definition of corruption, for over 20 years, the Act merely existed in law. It merely existed as a

dead letter in our statute books, hardly in use, and very few people were prosecuted under that Act. The only case I can remember was that of Shimechero versus the Republic of Kenya sometimes in 1960s. There was really no implementation of that Act.

Mr. Deputy Speaker, Sir, it was not until 1978 when former President Moi came to power that the language of corruption gained currency. Those who were there in 1978 will remember - I am sure Mr. Biwott knows this very well - that former President Moi came to power on a ticket of anti-corruption. When he came to power, he declared total war against *magendo*. He came in after *Chepkube* and all the coffee thefts in this country. Former President Moi popularised the war against corruption in this country and made it a Government policy. Whenever he spoke, he spoke against corruption. Unfortunately, former President Moi's war against corruption did not go beyond rhetoric. It was not accompanied by any practical action on the ground. So, although the former President continued talking about corruption and fighting against *magendo*, for the next decade, corruption systematically entrenched itself in every sector of the Kenyan society. Between 1980 and 1990, corruption almost became an official policy of the Government.

The political structures of the one-party state, with its hostility to transparency and accountability, created an enabling environment for corruption. It was very easy to cover-up corruption under the one-party rule. Those in high places who committed acts of corruption and economic crimes had a *de facto* immunity from prosecution. People were afraid of them. They were glorified in their villages. Some were made church leaders and became role models for our society. Then the culture of Harambees developed and the more money one gave, the better a leader he became. Our people forgot about production. They forgot to ask where the money was coming from. All they did was to create various centres for the money to be distributed every weekend.

Whereas the spirit of Harambee was there since the late Mzee Kenyatta's time, during Moi's regime, it acquired a new dimension. It was intensified, and some of the seeds of corruption that we see today were actually sown in the early 1980s as the Government was trying to popularise itself, with its leaders giving a lot of money to the people during Harambees. During those days, it was subversive and a threat to state security to talk about corruption, especially in high places. During the one-party rule up to 1990, this was the system. It was not until the struggle for democracy was launched in 1990, that some political space was opened up; some democratic space was opened up for freedom of expression and even for the media. If you look at the newspapers of 1990, 1991 and 1992, you will realise that there was massive exposure of corruption even in high places. Then we also saw the emergence of what we are now calling the "gutter press". Ninety per cent of the gutter press was gossip about corruption by top politicians, businessmen and even clergymen.

Mr. Deputy Speaker, Sir, these numerous scandals exposed by the Press formed material for the clamour for multi-party democracy in this country. When that clamour gained momentum, it also reached the donor community. It was poor governance and corruption which made all the donors sit down together at the Paris Club in November, 1991, and decide to suspend aid or financial assistance to Kenya. In 1991, we saw a Government response to that clamour and the donor action. The former KANU regime then amended the Prevention of Corruption Act, Cap.65, and provided for stiffer penalties for corruption. So, the change in 1991 was merely to increase the level of penalties, but there was no institutional change. No one was arrested and prosecuted for corruption. So, even the enhanced penalty did not make any change because one had to be convicted before he or she could be punished. So, without conviction, the punishment just hangs out there in the statute books, but has no effect on the ground.

Mr. Deputy Speaker, Sir, this situation continued until April, 1993, when President Moi, again, took action and requested the Commissioner of Police to set up what we now call the "Police Anti-Corruption Squad", with Mr. Stanley Mutungi as the Director. We have to give credit where it is due. The Police Anti-Corruption Squad was active and carried out a lot of investigations. This squad spread fear among the Civil Service, but those investigations did not lead to any prosecution. So, they just accumulated information, but no action was taken on the basis of it. It is unfortunate that all the evidence collected by the Police Anti-Corruption Squad went up in smoke when their offices were set on fire. Up-to-date, the police are investigating the cause of that fire.

The Police Anti-Corruption Squad came to an unceremonious end on 22nd June, 1995, when the President quietly disbanded it. In fact, if you look at the newspapers for that day, you will find that the Director of the squad, Mr. Stanley Mutungi did not know that he had been sacked and that the squad had been disbanded. He was telling the Press that those were rumours, he was still in office and he had not been contacted. This brought to an end the executive institution which was intended to fight corruption through the police without it having prosecuted a single person. We have no doubt that the exercises, both in 1991 and 1993, were mere gimmicks which were intended to hound wink the international community that the KANU Government was very serious about fighting corruption. It was implementation of its strategy of talk, talk and talk about corruption,

but do absolutely nothing about it.

For the next two years, after the Police Anti-Corruption Squad was disbanded, nothing happened. It was not until 1997 when the Government, again, amended the Prevention of Corruption Act, Cap 65 through Legal Notice No.10 of 1997. The Chair will remember how Mr. Wako came to this House, the last days of IPPG and said that there was a lot of pressure from the International Monetary Fund (IMF) and the World Bank to create that institution. That was passed by Parliament. When the Kenya Anti-Corruption Authority (KACA) was established through Legal Notice No.10 of 1997, we got the shock of our lives because you remember immediately after that there was a big Harambee for the disabled people and women at Uhuru Park. None other than Mr. Haron Mwau appeared at that Harambee carrying a big parcel that even the security people were wondering what it was and they even prevented him from getting near the President. During that Harambee, Mr. Mwau gave a donation of Kshs2.5 million in cash to support the disabled. His credentials went up, although he was still the boss of PICK. President Moi appointed him to be the Director of the new institution we had created called "KACA".

(Laughter)

Immediately thereafter, Mr. Mwau said he was no longer interested in politics and he would not be challenging President Moi in the Presidential election. In fact, he went round campaigning for the President. So, the job of the Director of the KACA was not awarded on merit, but purely on political considerations. This considerably weakened the institution which we created.

Mr. Deputy Speaker, Sir, Mr. Mwau did a few things, for instance, he wrote a letter to all the schools in Kenya, telling school children not to be corrupt. Mr. Mwau was given a very low budget, only Kshs50 million to fight corruption in the entire country. When Justice Ringera was appointed the Director of the KACA, he tried to look for the office of the Director, and he was unable to find it. So, nobody knew where Mr. Mwau was operating from, as the Director of the KACA.

(Laughter)

Mr. Mwau later fell out with the system and in July, 1998, barely one year after his appointment, it was thought proper to appoint a Tribunal to inquire into his conduct. The charges were that he was too arrogant and incompetent to run the KACA. The Chair will remember that the three judges sat at the Kenyatta International Conference Centre (KICC), heard a lot of evidence and did a report which they handed over to His Excellency the President. The people of Kenya, up-to-date, do not know what that report said. But upon receipt of the report, the President dismissed Mr. Mwau from being the Director of KACA. Many Kenyans believe that the crime Mr. Mwau committed was to arrest some senior Government officers. The case was in connection with tax fraud and evasion.

An anti-corruption authority is sometimes a threat to people in power and we see Mr. Mwau falling a victim. He became a threat to those in power. He came too close to them and you know the strategy was to do nothing on the ground; he went to the ground. That is the crime he committed.

Mr. Deputy Speaker, Sir, after Mr. Mwau was removed as the Director of KACA, Justice Ringera was appointed to head that Authority. Justice Ringera was then the Solicitor-General in the Attorney-General's office. I would like to say that Justice Ringera did a fantastic job. When he could not find where the offices of KACA were, his first job was to try to look for an office for himself and he recruited some staff. He did some strategic thinking and did a five-year plan for the fight against corruption. It took him a long time to do this preliminary work, but when he started to work, he got into trouble. He got into trouble when he got the then Minister for Water Resources and some senior Government officials arrested and charged in court with abuse of power. Some of those officials went to court and in December, 2000, the High Court in the strange judgement I was referring you to, declared the KACA to be illegal and unconstitutional.

Mr. Deputy Speaker, Sir, that was the sad story of the struggle against corruption in the last 25 years. Since then, the assets of KACA have gone back to the Police Department. So, we have now what we call the Anti-Corruption Police Unit, which the NARC Government has inherited and we are trying to make good use of.

Mr. Deputy Speaker, Sir, what emerges from this history is that in the last 25 years, since 1978, not a single Kenyan has been successfully prosecuted and convicted of corruption in our High Court. Maybe there are a few in the Magistrate courts, but no case has been heard and concluded in our High Court. You remember the famous Goldenberg case which has been making rounds in the High Court. It has been such a "legal cobweb" that even brilliant lawyers like Dr. Godana here would find themselves totally lost in that case. So, it is for that reason

that we put a stop to that game. The NARC Government has said that it is not interested in this game which has been in the court for the last ten years. We want to play a different game.

Mr. Deputy Speaker, Sir, that is why we have set up the Commission of Inquiry to investigate Goldenberg scam and we call upon all Kenyans, anybody with information on Goldenberg, to please, come and give evidence before the Commission. We want all the available evidence to be given to the Commission and it will make recommendations to the Government about what we should do about Goldenberg. If there is no evidence, we will close the Goldenberg chapter and move on. If there is evidence, let those who are found to be corrupt to face the law.

Mr. Deputy Speaker, Sir, this scam involves billions of shillings. Our "Chief Accountant" in Parliament, hon. Obwocha, once told me it is Kshs68 billion that we are talking about and that he has evidence to prove that. If, indeed, there is Kshs68 billion there, we want that money to educate our children. If the Commission of Inquiry is able to find these people and recommend that they pay this money back to the Government, we shall be very happy. We know our jails are full and we do not want to continue feeding criminals. If we can get the money back; I think our primary interest will be recovery, we will be happy. We will have to deal with those who do not co-operate since Kamiti Maximum Prison is there.

Mr. Deputy Speaker, Sir, you will also recall that in July, 1998, this Parliament appointed a Parliamentary Select Committee on Anti-Corruption with broad terms of reference to investigate the causes, nature and impact of corruption in Kenya; to identify the key perpetrators of corruption; to recommend to this Government a Bill which will deal with perpetrators of corruption and, specifically, there was a term of reference requiring the Committee to come up with very stiff penalties for those who are found to be corrupt. I am proud to say that I served as a Member of that Committee under hon. Kombo. It had other Members of the House like hon. Kihoro, Prof. Anyang'-Nyong'o, hon. Osundwa, hon. Ayoki, hon. Ms. Karua and many other Members. I think we did an excellent job. We travelled all the---

Mr. Haji: On a point of order, Mr. Deputy Speaker, Sir. Since the hon. Minister has referred to the Goldenberg saga, could he agree that it is wrong for very prominent people, including Ministers to go to Kenya Television Network (KTN) and talk about Goldenberg and in the process exonerate some people? Could he stop that until the Commission of Inquiry which has been appointed can come up with its report?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that as a matter of fact, the Attorney-General has entered a *nolle prosequi* on all the Goldenberg cases now pending in court, and as of now, there is no case. So, the rule of *sub judice* does not apply and there is nothing as of now to prevent the members of the public from discussing this matter. That is my understanding and I stand to be corrected. Maybe when the Commission starts its work, it might be able to give guidance in that respect because this is a judicial Commission and we might not want to prejudice its findings.

Mr. Deputy Speaker, Sir, I was talking about the Parliamentary Select Committee on Anti-Corruption. It was the most serious effort ever undertaken by this Government to find out the root causes of corruption and to recommend long-term solutions to the problem of corruption. We visited most of the provincial capitals, in fact, all of them. We received evidence from the public and shocking issues emerged. I do remember when we went to Nyeri, I asked one of the *mzees* there: "Why are people so corrupt?". The *mzee* told me: "It is our clan which donated the land to the Government for the construction of Kiganjo Police Training College so that in turn our children could be recruited as policemen." However, he told me that they had discovered that none of their children were being admitted there but he further said: "If you go there now, you will find that, at least, one-third of the recruits are from this region." I asked him: "How?" He told me that they had discovered that it costs only Kshs30,000 to gain admission to the Kiganjo Police Training College. So, he said: "If it is the Kshs30,000 which is going to open the doors for us, why do you want our children to be at home, let them go to Kiganjo Police Training College."

Mr. Deputy Speaker, Sir, I was very moved by that story and we wanted to find out whether this *mzee* was actually corrupt or not and I have come to believe that the majority of Kenyans, although we say our people are corrupt, they are not corrupt. The majority of ordinary Kenyans are not corrupt, but they are subjects of extortion like that *mzee* who has to pay Kshs30,000 so that his child is admitted to the college. He did not give them bribes willingly. Even in law he did not have what we call the "*mens rea*" or the guilty mind, but he did it under coercion.

Mr. Deputy Speaker, Sir, I think the majority of petty corruption in this country falls under the category of extortion. Corruption must involve some bit of calculation and willingness. I think there is something we can do about that extortion, if we introduce transparency in our Government, in admission of students into the medical schools, recruitment into the army, police and teacher training colleges. If we do this, we can cut off a lot of corruption. However, as long as these institutions are blocked to certain sections of our society and do not admit

students on merit, we shall find many *wazees* like the one I talked about trying to open the doors and others trying to get in through the windows because they want to get into those institutions. So, it is upon us as the Government to introduce measures which will cut off that kind of corruption.

Mr. Deputy Speaker, Sir, our Committee prepared what we called the "List of Shame" which named names and we said these are people who should be further investigated by the Anti-Corruption Authority to find out whether they were involved in corruption or not.

Mr. Deputy Speaker, Sir, I am very saddened that our friend, hon. Anyona, moved a Motion before the Floor of this House that the list of shame be expunged from the Public Investments Report, which was tabled before this House. After intense lobbying by some hon. Members who are in this House, the list of shame was expunged from the records of Parliament. But I know it has never been expunged from the minds and hearts of the Kenyan people. We believe that one day that Committee is going to be vindicated. History is going to absolve them.

Mr. Deputy Speaker, Sir, the Committee also drafted a comprehensive Anti-Corruption and Economic Crimes Bill, to provide for a sound framework in the fight against corruption. We drafted that Bill, which was providing for a strong Anti-Corruption Authority and, which for the first time in the history of Kenya, defined corruption and economic crimes in broad terms. When we looked at the ground, we saw the various ways used to cheat the Government by contractors who say that they are going to construct a road which they do not construct. Basically, this is what we call "selling the air" to the Government.

Mr. Deputy Speaker, Sir, people cheated the Government in various ways. We looked into all these practices and we used them to come up with this definition of economic crimes. We were very happy with the Bill, and we were congratulated and celebrated by Kenyans for the work that we did. But I am sorry to say that, since we drafted that Bill, there has been a "cat and mouse game" between this House and the Government, then represented by the Office of the Attorney-General.

The Bill was watered down; it came here, we rejected it; it went to the Cabinet, and it was amended again. So, since 1998, we have been involved in a see-saw, and there has been absolutely no movement, as far as these Bills are concerned. So, I am very happy that we are now in the Government and there is a possibility for us to introduce the Bill which we drafted as the Parliamentary Select Committee, against corruption.

Mr. Deputy Speaker, Sir, the Bill which we will be debating, after the Constitution of Kenya (Amendment) Bill, the Anti-Corruption and Economic Crime Bill, is a version of that Bill which was passed in this House. It is very comprehensive; we have put aside all the intermediate drafts which were watered down, and said, let us go to the original position. So, I am happy to report that, this House now has an opportunity of putting the fight against corruption on a very sound basis with the enactment of these Bills.

Mr. Deputy Speaker, Sir, we would like to bring this long struggle to a happy and a satisfactory conclusion. It is on this basis that we are urging hon. Members, from both sides of the House, to support this Constitutional (amendment) Bill, and also the subsequent Bills, when they come before the House because they form the centre of our struggle against corruption.

Mr. Deputy Speaker, Sir, as I said at the beginning, the struggle against corruption should go beyond political propaganda. It should not be about scoring points against each other. We want Kenya to be the winner. It is not Kiraitu Murungi, Dr. Godana nor Mr. Biwott, we want the people of Kenya to be the winner at the end of the day.

(Applause)

Mr. Deputy Speaker, Sir, with that lengthy but necessary introduction, I would now like to go to the specifics and, to look at the Clauses of the Bill.

I do remember reading an old joke in the law books, where a daughter wrote a long letter to her aging father. The old man asked his daughter, "why did you write such a long letter to me?" The daughter said, "dad, you know I love you. I could not write a short letter to you." I would like to tell the people of Kenya that, we also love them, we hate corruption, and this is why we cannot make a shorter speech, we have to go on.

(Laughter)

Mr. Deputy Speaker, Sir, as I said in the beginning, the principle object of this Bill is to make provisions in the Constitution of Kenya for the establishment of the Kenya Anti-Corruption Commission, and to invest in the Commission constitutional powers of investigation and prosecution of offenses of corruption and economic crime by public officers.

Mr. Deputy Speaker, Sir, the definitions are contained in Clause 113A, on page 96. The important ones are the definitions of corruption and of economic crime.

Corruption is defined broadly to mean:

- (a) bribery;
- (b) fraud;
- (c) embezzlement or misappropriation of public funds;
- (d) abuse of office;
- (e) breach of trust;
- (f) an offence involving dishonesty-
 - (i) in connection with any tax, rate or impost levied under any Act; or
 - (ii) under any written law relating to the election of persons to public office; or and
- (g) an offence prescribed by law to be an offence constituting corruption for the purposes of this Chapter."

So, there is another law which can define an offence under it to be an offence of corruption.

Mr. Deputy Speaker, Sir, economic crime is defined to mean;

- (a) an offence involving dishonesty under any written law for providing for maintenance or protection of the public revenue; again, a very broad provision; or
- (b) an offence prescribed by law to be an offence constituting economic crime for the purposes of this Chapter.

So, another law could be written which defines an offence under it, to be an economic crime.

Mr. Deputy Speaker, Sir, there is also a definition of a "public body". Again, this is defined broadly to include;

- (a) the Government, including Cabinet, or any department, service or undertaking of the Government; (b) the National Assembly or the Parliamentary Service;
- (c) a local authority; parastatals, corporations, *et cetera*.

A public officer is defined to mean an employee or a member of a public body as defined.

Mr. Deputy Speaker, Sir, it is

Section 113B.(1) sets up the Anti-Corruption Commission, and states that:

The Kenya Anti-Corruption Commission is hereby established as a body corporate.

(2) The Commission shall have all the powers necessary or expedient the performance of its functions. The power includes the capability to sue and being sued, holding or alienating moveable or immovable property.

Mr. Deputy Speaker, Sir, under Clause 113C.(1), the Commission is intended to have the following functions:-

- (a) to investigate any matter that, in the Commission's opinion, raises suspicion that any of the following have occurred or are about to occur -
 - (i) conduct constituting corruption or economic crime;
 - (ii) conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
- (b) to investigate the conduct of any person that, in the opinion of the Commission, is conducive to corruption.

So, any conduct conducive to corruption can be prosecuted under Clause 113(b).

- (c) to assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
- (d) to institute and undertake criminal proceedings against any person for corruption, economic crime and related offences.

(e) at the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices.

(f) to examine practices and procedures of public bodies in order to facilitate discovery of corrupt practices.

(g) to advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices.

Those are preventive functions.

(h) to educate the public on the dangers of corruption and to enlist and foster public support in combating corruption;

(i) to investigate the extensive liability for the loss of or damage to any public property and to institute civil proceedings against any person for the recovery of such property or for compensation; and

(j) such other functions as Parliament may by law prescribe. So, those are very broad functions.

Mr. Deputy Speaker, Sir, Clause 113C(2) deals with matters which may be investigated by the Commission. It states:-

"A matter may be investigated by the Commission under subsection (1) at the request of the National Assembly, the Minister responsible for integrity issues or the Attorney-General, or on receipt of a complaint, or on its own initiative.

So, a committee of the National Assembly may refer a matter to the Commission for further investigation, like the Public Accounts Committee (PAC) or the Public Investments Committee (PIC). I might receive a complaint which I might refer to them, or the Attorney-General.

It further states:-

"Parliament may by law make provision for or with respect to -

(a) co-operation by the Commission, in the exercise and performance of its powers and functions, with other agencies."

It can give the Commission authority to work either with the Office of the Attorney-General, the CID and so on.

Parliament should also provide for funding and financial arrangements with respect to the Commission. It should also provide for auditing of the accounts and annual reports of the Commission.

Mr. Deputy Speaker, Sir, Clause 113c(5) states:-

"The Commission shall have power in any case in which it considers it advisable to do so-

(a) to take over and continue any criminal proceedings in respect of corruption, economic crime or a related offence instituted or undertaken by another person or authority, including the Attorney-General; or---"

As far as criminal proceedings are concerned, it has the same powers as the Attorney-General in matters of corruption. So, the Commission can take over and continue any criminal proceedings in respect of corruption and economic crimes which have been instituted by other persons including the Attorney-General. So, all the corruption cases now pending in court will be taken over once the Commission is in place.

Similarly, the Commission can discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by the Commission itself. We are talking about this power, because after instituting the criminal proceedings, the Commission might find that there is, either new evidence or that there are some technical flaws which could adversely affect the prosecution. So, we are giving them power to withdraw the proceedings and maybe bring them back in a more polished form.

Mr. Deputy Speaker, Sir, Clause 113D provides for the office of the director and the staff of the Commission. The chief executive of the Commission is a director, who will be responsible for the direction and management of the Commission. The Commission can have up to four assistant directors to assist the director in the performance of these functions. The Director and Assistant Director are supposed to be persons who are recommended by the Advisory Board. The Advisory Board is also set up under this Bill and it will be constituted in a manner which is prescribed by the Kenya Anti-Corruption and Economic Crimes Bill. So, various stakeholders, accountants, the Law Society of Kenya and religious organisations are supposed to nominate names. Those names will be brought to Parliament for vetting. Once Parliament has vetted them, then they will be forwarded to the President for gazette. So, that is how the Advisory Board will be constituted. It is the Advisory Board which is going to recommend the persons to be appointed as director or assistant director to the National Assembly. The National Assembly will vet the appointment of these directors and once they have been approved by the National Assembly, then they will be gazetted by the President. So, the President is playing purely a ceremonial role in the appointment of both the Board and the Director.

Mr. Deputy Speaker, Sir, the Deputy Director will be appointed by the Director from among the directors who have already been vetted by Parliament and appointed by the President. Parliament is going to make provisions regarding the qualifications of the Directors and Assistant Directors. All these qualifications will be shown in the Kenya Anti-Corruption and Economic Crimes Bill.

Mr. Deputy Speaker, Sir, the principal function of the Advisory Board under Clause 113H, which is on page 104, is to advise the Commission generally in the exercise of its powers and performance of its functions. We are deliberately and very carefully going to ensure that the Kenya Anti-Corruption Commission is going to have independent powers. It is not going to work under the control or direction of any other person or authority. But the Advisory Board is not going to exercise any executive powers. It is merely going to advise the Commission in the performance of its functions. It is also going to assist in the appointment of the Director and the Assistant Directors. This is provided in Clause 113 (i) which states that:-

"In the performance of its functions, the Advisory Board shall not be subject to the direction or control of any other person or authority and shall only be accountable only to Parliament".

Mr. Deputy Speaker, Sir, Clause 113 (J) makes a very broad provision for Parliament to make provisions through another law to deal with the powers of the Commission with respect to investigations, compensation of persons suffering loss as a result of corruption or economic crime, forfeiture to the Republic in prescribed circumstances of unexplained assets of persons who was or is a public officer, or disqualifications of persons convicted of corruption or economic crimes from standing for public office. I think we need to explain this concept of unexplained assets.

A clear example is where, for instance, one is a court clerk, and we know the salary of a court clerk does not exceed Kshs6,000. Then you go to a rural town and find that this court clerk is constructing an multi-million supermarket. The Commission, if there is occasion to suspect some circumstances of corruption, will be in a position to go and ask that clerk to explain where he has got all the money to put up his multi-million supermarket. If the clerk does not give a satisfactory explanation as to how he has got this money over and above his salary, then that property can be forfeited to the State. It will be presumed to have been built on corruptly received funds. What is important to understand here is that there must be some circumstances of corruption which give rise to that suspicion facts. These are innovative strategies for dealing with corruption.

Mr. Deputy Speaker, Sir, we think this is a very good Bill. It is the furthest the Kenya Government has gone in the fight against corruption. We are asking all the hon. Members of this House to support this Bill. I am going to listen very carefully to the comments that the hon. Members are going to make. As we said, we have certain legal limitations because this is a constitutional amendment Bill, and we cannot change a comma, dot a "t", or change a paragraph in this Bill. The Bill is either accepted as a whole or it falls as a whole. The consequences of this Bill not going through this Parliament will be enormous for this country and the children who are going to school. It will be quite disastrous if this House does not pass this Bill.

Mr. Deputy Speaker, Sir, I beg to move. I would like to request Mr. Muite to second this Bill.

Mr. Muite: Mr. Deputy Speaker, Sir, Mr. Murungi has very ably gone through the Bill. In seconding it, I would like to emphasise a number of points. The first one is that this constitutional amendment is necessary because of the Gachiengo case. The Gachiengo case involves an employee in the office of the Attorney-General who went to court to challenge the legality of the KACA piece of legislation which was an Act of this House. Our rules do not permit us to criticise the conduct of a judge, but they also do not prohibit us from criticising a judgement. We can criticise a judgement because that is not criticising the conduct of a judge. A constitutional crisis was developing between Parliament and the Judiciary because the Constitution says Parliament is supreme. Why does the Constitution talk about the supremacy of Parliament?

Anybody who has gone through the electoral process and subjected himself to elections at the constituency level will realise that it is not an easy thing to persuade 10,000 people to vote for you. During the State opening of Parliament, you will see that when all of us are in this House, we are very crowded and yet we are only 222. If you were to put 1,000 people in a hall, it would become a sea of humanity. Mr. Deputy Speaker, you were able to persuade thousands of people in Mwingi to wake up very early in the morning to go and queue up until they voted for you to come to this House. That happens in every constituency. It is a very gruelling process. The people are charged and they wake up very early. Why do people numbering 10,000, 15,000, 30,000 and sometimes even 50,000 do so? They queue up because each Member of Parliament who is elected to come to this House represents the aspirations of his constituents.

Therefore, collectively, the 222 of us represent the collective aspiration of the Kenyan people. They speak through this House. That is why this House is supreme. The 30 million Kenyans can only speak through their elected representatives. That is the rationale for saying that Parliament is supreme in terms of expressing the collective will of the people of Kenya. The supremacy of Parliament is a fundamental constitutional philosophy because we represent 30 million Kenyans. Since the Judiciary has been given the function to interpret laws, in theory they can declare an Act of Parliament unconstitutional. The basis on which they can declare an Act of Parliament unconstitutional must be in respect of the most plain of cases where the logic and the reason of the person in the streets would be able to say "Yes, clearly Parliament here has violated this particular section".

For the courts to declare that an Act of Parliament, enacted by the House which represents the sovereign will of the people is unconstitutional the basis for doing so must be very plain, cogent and strong. This will ensure that When Members of Parliament read that judgement, they will be able to say: "If this particular section in the Constitution had been pointed out to us as Members of Parliament, we would never have enacted that Act of Parliament in that format." The case, the judgement and the legal reasoning should be plain. When you read the Gachiengo case you find that, that judgement confuses the incumbent holder of an office with the office. If for whatever reason we do not want the Deputy Speaker, Mr. Musila, to hold that office, we do not abolish the constitutional position of Deputy Speaker. We do not abolish that position because the Deputy Speaker is perhaps unqualified. We say this particular individual is unqualified to be Speaker or Deputy Speaker, but the office

remains.

Mr. Deputy Speaker, Sir, one of the grounds used by the Judges to disband KACA was that Justice Ringera should not have been heading KACA when he had not resigned as a Judge of the High Court. Fine, I have no quarrel with that. But that does not invalidate the law that set up KACA. This is because a director of KACA is not synonymous with KACA. They should have been given the incumbent Director of KACA a chance to either resign his position as a Judge of the High Court, and therefore, continue to head KACA, or resign from KACA. The Act of Parliament that created KACA remained constitutional and valid. We cannot say that the Act was unconstitutional because of Justice Ringera. This reasoning does not impress anyone. You do not have to be a lawyer to see that, that judgement and reasoning was faulty. Just when we, in our Judiciary, were declaring KACA unconstitutional because it was being headed by a Judge of the High Court, in South Africa, by sheer coincidence, their equivalent of our KACA was also headed by a Judge. When that particular provision was challenged, the Constitution Court in South Africa gave the incumbent time to resign his position. They also gave the appointing authority time to appoint another director. But here, we find that fact being used as the basis for declaring an Act of Parliament unconstitutional. It was very unconvincing. In any case, it was not Parliament that appointed Justice Ringera to head the defunct KACA. We enacted an Act of Parliament and then we left the implementation to the Executive arm of the Government. It is not us as a Parliament who appointed him.

The other ground that was advanced by the court in that particular judgment was that the Act of Parliament that constituted KACA, violated Section 26 of the Constitution. This section provides that it is only the Attorney-General who has the power of prosecution. Again, that is fallacious. It is not only the Attorney-General who has got the power to prosecute. There are various examples across our statutes like the Immigration Act. Under this Act, immigration officers prosecute people for offences committed. When we had price controls, officers from the Ministry of Trade and Industry were doing the prosecutions. The labour officers are always prosecuting people. So, there are various examples of other individuals under other statutes who have got power to prosecute in addition to the Attorney-General.

In fact, Section 26 accepts that it is not just the Attorney-General who has got the power to institute criminal proceedings. If you look at subsection 4, it gives the Attorney-General power to take over prosecutions instituted by another person or body; either to continue with prosecutions or terminate them. So, on a plain reading of subsection 4, the Constitution is accepting that other authorities and other individuals have power to institute prosecutions.

When you look at the Judicature and, in fact, our own Constitution, we incorporated as a part of the Laws of Kenya, the statutes of general applications force in England as at August 1897. That body of laws is part of the Kenyan law under the Independence Order-in-Council. One of the most important constitutional laws accepted in England is the right of private individuals to institute private prosecution. It is recognised in England, and has been recognised in Kenya, that a private individual can institute a private prosecution. It has been stated by eminent judges in England that, that constitutional safeguard is very important in situations where the Attorney-General, for one reason or another, may opt not to undertake prosecution of a particular individual.

In the last ten years, we have had many cases where members of the public were left wondering why the Attorney-General had not instituted prosecution against certain individuals. So, over that period of time, there have been several attempts by private individuals to institute private criminal prosecution. That is a right which is recognised in our Constitution. Because of political considerations, the Attorney-General may be unwilling, at particular times and in a particular countries, to undertake prosecution against certain individuals. However, the Attorney-General has constitutional powers to take over a private prosecution and continue with, or terminate, it.

Mr. Deputy Speaker, Sir, I am giving this example to illustrate the fact that the argument in the Gachiengo Case, that the powers of the Attorney-General were being eroded by the Kenya Anti-Corruption Authority (KACA), which was subsequently declared unconstitutional, was fallacious. So, one is left wondering what the real reasons for the Judiciary to declare the Anti-Corruption Authority Act unconstitutional were. One can only speculate that it was because certain personalities were being arrested and taken to court. Is it possible that we enacted the Kenya Anti-Corruption Authority (KACA) Act, so that donors could resume lending to Kenya, and then subsequently do away with that Act through the Judiciary?

This constitutional amendment will enable us to get round a very fallacious judgement. Apart from the Gachiengo case, we had other examples. We attended a seminar at Safari Park Hotel, where we decided that a participatory approach in the management of the Fuel Levy Fund would be the way forward for our nation. After debating that issue at Safari Park Hotel, we came back here and enacted the Kenya Roads Board Act. This was a major step forward, which paved the way for hon. Members to participate in decision making on roads at the district level. Hon. Members would now sit down with local council chairpersons and district roads engineers and administer the Fuel Levy funds. When we enacted the Kenya Roads Board, we represented the collective will of

the Kenyan people, who had elected us. However, when powerful people in the former Government realised that they would not have control over the Fuel Levy Fund, Mr. Harun Mwau rushed to court to have the Fuel Levy Fund declared unconstitutional. He argued that the doctrine of separation of powers had been breached because Members of Parliament would be sitting on the District Roads Committees. What separation of powers? As it stands today, the President, in our constitutional dispensation, is a Member of this House and yet, he is the Chief Executive. The entire Cabinet, including the Vice-President, Ministers and Assistant Ministers are all Members of this House. So, where is the constitutional separation of powers between the Executive and the Legislature? We have a hybrid constitutional arrangement between the Westminster model and the American model where there is true separation of powers. In the United States of America (USA) model, where there is separation of powers, the President and his Cabinet are not Members of the Legislature. But here, the constitutional arrangement that we have is that the President and his entire Cabinet are Members of the Legislature. How do you respect a judgement that declares an Act of Parliament unconstitutional, on the basis that, if MPs sit on the District Roads Committees, the doctrine of separation of powers is violated. There are many other examples. I do hope that some thought will be given by the Government to bringing an enactment in this House to provide the legal framework for reversing some of those judgements that cannot stand any independent scrutiny. The Kenyan people should not be held hostage by judgements that were granted on basis other than sound legal reasoning. We need to enact a law to enable us to get round those judgements.

We have got huge buildings in this capital City that were constructed using public funds, and one of them was constructed at a cost of Kshs600 million. Those public funds were taken from the Deposit Protection Fund (DPF) via a now collapsed bank and they were subsequently used to construct a skyscraper. How can you get a judgement saying that security documentation in favour of the Central Bank of Kenya was faulty? This documentation was prepared, drawn and registered by a leading law firm, that has been drawing those security documentations for the last 100 years. We know as lawyers, since we went to the same law schools, that there is nothing faulty with that security documentation. Do we allow the individual to keep the building without repaying the Kshs600 million of public money?

So, there are those judgements! We had come to a point where it is clear that certain individuals were using the Judiciary for particular ulterior purposes. I am urging that, at a more convenient time, the NARC Government brings a legislation which we shall enact here, giving authority for the reopening, questioning and setting aside of some of those judgements that are very malicious, so that the public can legally recover their money in a systematic manner. Had those judgements been clear, it would not have been necessary for us to enact these laws. But the judgements are there and we cannot wait until the legal framework is provided, so that we set aside some of those judgements. We want to move forward and we do not have the luxury of time on our side.

Therefore, I would certainly very strongly second the Bill, because it is going to give anchorage to the enactment of the other two Bills. As the Minister has said, there is nothing to hide. The World Bank, the IMF and the donors have made it a condition to renewal of aid, that we must enact these Bills. We cannot enact them before we amend the Constitution in order to give anchorage to the Bills that we are going to debate. So, the Public Officer Ethics Bill and the Anti-Corruption and Economic Crimes Bill are necessary if we are going to jump-start the economy. As has been said, there is, of course, a danger, and I am sure the National Rainbow Coalition (NARC) Government is awake to the danger. We must not encourage the dependency syndrome in this country. We must not proceed on the basis that the World Bank and other donors are permanently open taps in respect of our Recurrent Expenditure. No economy can develop on that basis. We borrow money from the donors, and the International Monetary Fund (IMF) and the World Bank are like any other banks. When you do not have money and you borrow from a bank, the bank gives you its terms and conditions. Banks can never force you to borrow money from them. You are the one who goes to them. Since you are the one in need, and you go to the banks, they lay down their terms. Some of the terms banks lay down for you to comply with can be very embarrassing. There are cases where they tell you that your salary is not enough to secure a loan, and you should take to them a letter from your wife's employer undertaking that your wife's salary will be paid to the bank from where you are borrowing. But because you are the one who is borrowing money, you must comply with the humiliating terms. So, it is not for us to start complaining about the terms that the World Bank and other donors have laid down. They lay down conditions, for example, that we must enact the Public Officer and Ethics Bill and the Anti-Corruption and Economic Crimes Bill before they can consider our request for funding.

We need to jump-start the economy. Our people have been living in poverty. The poverty levels are completely crushing.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is hon. Muite in order to mislead this House? He has said that we want to pass these Bills solely because we need funds from the IMF and the World Bank. I thought we were doing it as a matter of principle and to benefit this nation.

Mr. Muite: Mr. Deputy Speaker, Sir, you will remember that I did not use the word "solely" in my contribution. That is a word that my friend, Mr. Angwenyi, is graciously making part of my contribution.

There is no secret. We live in Kenya and read newspapers. The issue of conditionalities is not a secret. It is true that we need to consider that we are cleansing the nation. This is not just because of the donor funding. But we will not get any money from the donors unless we enact the Anti-Corruption and Economic Crimes Bill and the Public Officer and Ethics Bill. The donors have made that quite clear. So, whether you say that, that is priority number one or two, or that our sense of morality is priority number one is a matter of personal preference. For the sake of the 30 million Kenyans, we should put aside partisan political considerations and enact this Constitution of Kenya (Amendment) Bill to pave way for the enactment of the other two Bills, in order to have the taps of aid re-opened for the benefit of the Kenyan people.

I agree with hon. Angwenyi that when it comes to morality - Mr. Murungi mentioned that issue - we need to focus on it as a major issue in terms of affirmative action. It is a complex issue. You can have all the enactments you want, but unless you change the morality of the Kenyan people, you will not be effective. When you talk about morality, you are talking about shared values. This is the sense of right and wrong. That is what it encompasses. There will be a need to start a moral renaissance for the entire Kenyan nation in a very affirmative and systematic manner. This should include teaching values to our children from Standard One, so that we can evolve high quality morality, and be able to collectively say that this is right and that is wrong. We need to do these things.

Mr. Deputy Speaker, Sir, a nation without culture is decayed. This is because without exception, when the missionaries came, they did a very good thing in bringing christianity, education and health services. But one negative thing which coincided with the advent or impact of missionary activities in this country is that all the African practices or culture were discouraged. Instead of examining the cultural aspects which were compatible with civilization or christianity, every African cultural practice was condemned by the missionaries as primitive and unchristian. In the process, we were completely de-cultured. Compare the impact of christianity on the Asians nations. They clung on to their culture despite christianity. This is because there are some cultural values which are compatible with christianity. Christianity *per se* cannot replace culture. A people without a culture are people without any anchorage.

When we are talking about establishing a new morality for the nation, we are talking about crystallising shared values by each Kenyan, so that we know that stealing is wrong and we accept it is wrong. We need to re-examine the role of culture in terms of what is right and wrong and come up with an affirmative action through one of the Ministries, so that we can take all these steps to identify the cultural practices which are compatible with christianity and civilization, and restore some sense of anchorage to our people; restore some sense of identity to our people.

Personally, I have been concerned with the perception which has been created by the Ministers, whom we support 100 per cent. But if you have looked at it carefully, you will find that practically, each Minister has been very happy to host delegations after delegations of Ambassadors or High Commissioners and what have you. I am not saying that, that is bad, but we should strike a balance. The message we are sending is that unless they approve what we are doing, then we do not feel that we are on the right track. First and foremost, it is our people and their sense of direction - what they want - that should be given the first priority even as we go consulting with these donors. Therefore, even when we come to negotiating, once we comply with these terms, I would like to see us in a very participatory manner developing our programme of reforms and marketing that to the donors, rather than the donors developing it and telling us this is our package of reforms. We know what is good. We know how to revive the economy of this nation. We do not need any lessons. We know how pathetic corruption has been. We are all anxious to have a new beginning and new values without any witch hunting. Once we provide this legal framework, all we are saying is that anybody who has taken public money must refund that money to the public. That is not being selective or vindictive and this Government is proceeding in the correct way. I have heard very good statements from Ministers saying: "You have time to refund the money you had taken from the National Social Security Fund (NSSF)." Extend that to every other area. You have time to refund this money. Nobody is seeking to send you to prison, but public money must be returned to the public coffers because it belongs to the Government. It does not even belong---

Mr. Deputy Speaker: Mr. Muite, your time is up!

(Question proposed)

Dr. Godana: On a point of order, Mr. Deputy Speaker, Sir. I thought hon. Muite was still contributing. Did he finish?

Mr. Deputy Speaker: Mr. Muite, did you finish?

Mr. Muite: Mr. Deputy Speaker, Sir, I was seconding---

Dr. Godana: Mr. Deputy Speaker, Sir, he had not seconded and you proposed the Question. You cut him short, unless the rules have been changed.

Mr. Deputy Speaker: Yes, I accept. Mr. Muite, you had not seconded. Could you do so now?

Mr. Muite: Mr. Deputy Speaker, Sir, I was going to second. I thought it is already 6.30 p.m. and I was going to continue on Tuesday next week. If it is my time that is up, I beg to second.

Mr. Deputy Speaker: Mr. Muite, you talked for 30 minutes.

Hon. Members: Continue!

Mr. Muite: Mr. Deputy Speaker, Sir, could I continue?

Mr. Deputy Speaker: No! You just second and then I propose the Question. Your time is up!

Mr. Muite: Mr. Deputy Speaker, Sir, if my time is up, I beg to second.

Mr. Deputy Speaker: Very well. Your time is up and you have seconded.

(Question proposed)

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute on this very important Motion. Hon. Muite has just said that we are going to acquire a new morality in this country. Take it from me that we are not going to acquire a new morality in this country; we are going to regain our former morality. As you know, there was a time in this country when if you were a student and you took your colleague's pencil, you would be forced by circumstances and your conscience to return that pencil to your fellow student. Therefore, as we discuss this Bill, we should discuss it on the basis that we are going to regain the morality of this nation that might have been destroyed over the years. We are not doing it because we want money from the donors. We are doing it because we feel it is in the interests of this country to regain our morality and say that this is wrong and this is right.

Mr. Deputy Speaker, Sir, it is not corruption which has destroyed us. What has destroyed us is the syndrome of worshipping money. People have worshipped money. One can steal and misappropriate public funds and take them to an Harambee, a church or religious affair. The religious people know that you have stolen that money from somewhere and yet because the morality of this nation has been destroyed over the years---

ADJOURNMENT

Mr. Deputy Speaker: Order, Mr. Angwenyi! You will have 28 minutes when we meet again on Tuesday to continue. Hon. Members, it is now time for the interruption of today's business. The House is, therefore, adjourned until Tuesday, 11th March, 2003 at 2.30 p.m.

The House rose at 6.30 p.m.