

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 11th December, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya Utalii College for the year ended 30th June, 2000 and the certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Agriculture
(Mr. J. Nyagah) on behalf of the Minister
for Tourism and Information)*

Annual Report and Accounts of Kenya Agricultural Research Institute for the year ended 30th June, 2002 and the certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Pests Control Product Board for the year ended 30th June, 2001 and the certificate thereon by the Auditor-General (Corporations)

*(By the Assistant Minister for Agriculture
(Mr. J. Nyagah) on behalf of the Minister
for Agriculture)*

Report of the Official Visit by the Chairman of the Liaison Committee, the Chairmen of Committees of the House and three other Members of Parliament from various Committees to the Canadian Parliamentary Centre, the Canadian Parliament and New York State Assembly in Oban, USA, between July, 28th and 8th August, 2003

Report of the 43rd Session of the Executive Committee and the 26th Conference of the African Parliamentary Union held in Accra, Ghana, between 17th and 21st October, 2003

Report of the Study Tour of the Library Committee to the Parliaments of Zambia and Uganda on 3rd and 22nd November, 2003

(By the Deputy Speaker)

COMMUNICATION FROM THE CHAIR

REDUCTION OF QUESTION TIME

Mr. Speaker: Hon. Members, I would like to seek the understanding of the House. We will try to restrict Question Time to one hour because there are Ministers who wish to issue Ministerial Statements, and one or two other hon. Members who wish to seek Ministerial Statements. So, please, be understanding.

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Mrs. Nyiva Mwendwa!

Mrs. Mwendwa: Mr. Speaker, Sir, before I ask my Question, I would like to bring to your attention the fact that I have not received a written reply to it.

Question No.941

SHOOTING OF MR. MUNYOKI MULI

Mrs. Mwendwa asked the Minister of State, Office of the President:-

(a) whether he is aware that on 20th June, 2003 Mr. Ben Rodgers Munyoki Muli was shot dead by an Administration Policeman (AP) inside Uchumi Hypermarket on Ngong Road;

(b) what action he has taken against the officer; and,

(c) what plans he has to compensate the late Muli's family for the loss.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, before I answer the Question, I would like to apologise to the hon. Member. She should have received a copy of the written reply. I will find out what happened.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that on 20th June, 2003, Mr. Ben Rodgers Munyoki Muli died as a result of bullet wounds from an Administration Policeman's gun at Uchumi Hypermarket on Ngong Road.

(b) The case has been forwarded to the Attorney-General for direction on action to be taken with regard to this matter.

(c) Compensation to the family of the late Muli will be determined by a court of law after conclusion of an inquest.

Mrs. Mwendwa: Mr. Speaker, Sir, I would like to know whether the inquest has actually started.

Mr. Tarus: Mr. Speaker, Sir, it has.

Mrs. Mwendwa: Mr. Speaker, Sir, when did the inquest start, and what is its number? The family of the deceased has no information about it.

Mr. Tarus: Mr. Speaker, Sir, a report of the shooting was made to Kilimani Police Station, and Inquest File No.8/2003 was opened.

Mr. Speaker: Mr. Wario, ask the last question on this matter.

Mr. Wario: Bw. Spika, maofisa wa usalama wamezoea kuwaua wananchi wasiokuwa na hatia. Waziri Msaidizi anachukua hatua gani kutatua tatizo hili?

Mr. Tarus: Mr. Speaker, Sir, it is not true that in this particular case the security officer shot the deceased. On 20th June, 2003 Administration Police Constable (APC) No.201870, Samson Ng'ahu Njohi, and APC No.224597, Jackson Odhiambo, were deployed on official duties of escorting money at Uchumi Hypermarket, Ngong Road. One Mr. Daniel Oginga Nyangwiso, a security officer of Uchumi Hypermarket, reported that there was a suspect within the supermarket trying to use a fake credit card, and led the officers to the late Muli. In an attempt to resist arrest, the late Muli started

struggling with APC Samson Ng'ahu Njohi, leading to a melee in the supermarket. During that struggle, the officer's gun went off and some bullets hit Mr. Muli.

Mr. Speaker, Sir, it is, therefore, not true that Mr. Muli was shot. However, we have made it clear to security officers that, while on duty, they should guard against putting themselves into situations that may be difficult to handle.

Mr. Speaker: Next Question, Maj. Gen. Nkaissery!

Maj-Gen. Nkaissery: Mr. Speaker, Sir, I would like to bring to your notice the fact that I have not received a written answer.

Question No.997

PAYMENT OF DUES TO
MR. KASIRANTE'S DEPENDANTS

Maj-Gen. Nkaissery asked the Minister of State, Office of the President:-

(a) whether he was aware that Mr. Daniel Ipite Kasirante, an Administration Policeman, Force No.89011669/33 based in Narok, died in 1997 and his dues have not been paid to his dependants; and,

(b) when his dependants will be paid and how much is due to them.

The Assistant Minister, Office of the President (Prof. kibwana): Mr. Speaker, Sir, yesterday, I referred this Question to the Ministry of Finance, and the Ministry is processing payment for Mr. Daniel Ipite Kasirante. I have that information as at now.

Maj-Gen. Nkaissery: Mr. Speaker, Sir, the Assistant Minister has said that he referred this Question to the Ministry of Finance and he knows when these dues are going to be paid to the late Mr. Kasirante's dependants. When is this money going to be paid to the dependants of the late Kasirante?

Prof. Kibwana: Mr. Speaker, Sir, the information that I have from the Ministry of Finance is that whenever payment requests go to them, they have been instructed not to delay the payments. Therefore, I am confident that within a very short period of time, the payment will have been done.

Mr. Omingo: Mr. Speaker, Sir, the Assistant Minister stated that he has given instructions so that the payment is not delayed. Are there no written guidelines on dispensing these cases other than waiting for hon. Members to ask Questions for them to be told directions have been given? What are the guidelines regarding such payments?

Prof. Kibwana: Mr. Speaker, Sir, I did not say that I have instructed the Ministry of Finance to pay the dues. My answer was that the Ministry itself has told me that there are guidelines that when payment requests of this nature are made, they must be made with immediate effect. I am confident that within a week or so, payment will be forthcoming.

Maj-Gen. Nkaissery: Mr. Speaker, Sir, could the Assistant Minister confirm to this House that the death gratuity due to the late Kasirante be paid to the dependants not later than January, 2004?

Prof. Kibwana: Mr. Speaker, Sir, because the hon. Member is my neighbour, I confirm that.

Mr. Speaker: Very well! Next Question, Mr. Moroto!

Question No.616

ALLOWANCES FOR APS ON ATTACHMENT
IN WEST POKOT

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

(a) whether he is aware that Administration Policemen in West Pokot do not get their

allowances after completion of attachment; and,
(b) what he is doing to ensure that the officers get their dues.

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

(a) I am not aware. However, West Pokot is a regular hardship area where hardship allowance is paid to all personnel and there is no pending payment on this item except for those recently posted.

(b) I appreciate the good work being performed by Administration Policemen, specifically in difficult areas of West Pokot to which effect Combo ten rations and water are supplied with occasional night-out allowance. The allowance is not mandatory as the situations are permanent, but due to hardship, personnel are rotated regularly and considered for token payments.

Mr. Moroto: Mr. Speaker, Sir, the Assistant Minister has surprised me because the written answer I have with me is different from what he has read. However, this Question was deferred twice because the Ministry was looking for a better answer.

Mr. Speaker, Sir, these officers have done us proud because the people of North Rift have now experienced a lot of peace as a result of the two attachment centres at Cheseгон and Nasokol. These officers were supposed to receive an allowance of Kshs900 per night. They were sent there since these centres were established but none has been paid the allowances. Could the Assistant Minister, Table the amount of money given to the officers and their names?

(Applause as Mr. Raila entered the Chamber)

Mr. Tarus: Mr. Speaker, Sir, I appreciate the concern of the hon. Member with regard to the officers working in those particular areas. However, I want to confirm that Cheseгон and Nasokol are not temporary stations. They are permanent stations where we post Administration Police to assist in provision of security.

Mr. Speaker, Sir, I also want to say that, situations on the ground have sometimes demanded that these officers are considered for allowances outside the normal remuneration. Sometimes, this depends on availability of funds. This is where we call for the understanding of the officers on the ground because the Government is looking for ways of improving their remuneration while they are in such hardship areas.

Mr. Rotino: Mr. Speaker, Sir, this is confusing because the stations the hon. Member has asked about; Cheseгон and Nasokol, are not permanent stations. The Assistant Minister is misleading the House that they are permanent stations. Whom are we going to believe? I come from the area and I know they are not permanent stations. Could the Assistant Minister confirm that the stations

are not permanent and ensure that the officers are paid their allowance?

Mr. Tarus: Mr. Speaker, Sir, it is in the interest of the people of that area that we make those stations permanent for the officers for purposes of planning and provision of that service to the people.

Mr. Moroto: Mr. Speaker, Sir, could the Assistant Minister confirm or deny that the officers in the two mentioned centres are taken care of by the Government? Whoever falls sick, it is just between him and God. Nobody goes there to assist them. In West Pokot, there are about three water bozzers and those officers are going without water.

When officers are transferred to those places, they are forced to buy their own food. The Government cannot even give the Combo, these are biscuits and other snacks. So they are thrown in the bush as if nobody cares about them--

Mr. Speaker: Mr. Moroto, can you ask your question! I have been very sympathetic to you.

(Laughter)

Mr. Tarus: Mr. Speaker, Sir, it is not true that these officers are not taken care of by the Government. Sometime in the past, the conduct of those who were administering the district has been questionable. We have received these concerns from the officers on the ground and we are taking the necessary measures to make sure that we have catered for their medical needs while in the field, and also, the three water bozzers in the district are used for purposes of provision of water to the officers in these hardship areas. As I said, we give them food in what we call combo ten. Occasionally, there must have been unreliability of supplies, but we will make sure that these officers do not get into distressed situations.

Question No.954

GOVERNMENT POSITION ON SETTLEMENT
OF REFUGEES

Mr. Oparanya asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) what the Government position is on settlement of refugees in the country;
- (b) if she is aware that rental fees for residential houses have risen to unaffordable levels for local citizens as a result of foreigners settling in the following estates - Zimmerman, Makina, Githurai 45, Pumwani Highrise, Milimani and Eastleigh; and,
- (c) what action she will take to ensure that the local residents are not evicted from these estates.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) The Government's policy is that refugees should reside in the designated camps unless exempted from the requirement by competent authorities and for that I mean, United Nations High Commission for Refugees (UNHCR) and the Government.

(b) I am not aware.

(c) The estates mentioned are not refugee designated areas, hence the Ministry's lack of jurisdiction in determining who should reside there.

Mr. Oparanya: Mr. Speaker, Sir, it is surprising that the Assistant Minister is not aware that there are refugees in those estates that I have mentioned when it is common knowledge that they reside there. Due to the presence of refugees in these estates, there is a lot of insecurity there. Could the Assistant Minister tell this House where the refugee designated camps are and how many refugees are residing in those camps?

Dr. Machage: Mr. Speaker, Sir, there are two refugee camps in Kenya and those are Kakuma and Dadaab with a total population of---

(Loud consultations)

Mr. Speaker: Order! I am pleading with the hon. Members there to consult in low tones. Please, I am making a special plea to the hon. Members seated down there to consult in quiet tones. Please, consult quietly so that we can hear what the Assistant Minister is saying.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Could you guide the House on whether an hon. Member of the House, Mr. Ndolo, is in order to fly the flag of some political party in this House?

Mr. Speaker: What flag?

*(Hon. Ogur took the flag from
Mr. Ndolo and waived it)*

Mr. Speaker: Order! Be seated please! Order, Mrs Tett! I really do not know what is happening there. I do not know whether it was the one that was causing the commotion. However, what is there?

Hon. Members: A flag!

Mr. Speaker: Which flag?

Hon. Members: The Liberal Democratic Party (LDP) flag, Mr. Speaker, Sir.

Mr. Speaker: Order! This House only recognises the national flag raised at the tower. Any other masquerading cloth will be treated by this House as a mere piece of cloth. So, that is either a piece of cloth or paper. It is of no consequence.

Proceed!

(Applause)

Dr. Machage: Mr. Speaker, Sir, there are two refugee camps in Kenya and these are Kakuma and Dadaab with a total population of 230,000 documented refugees mainly from Somalia and Sudan.

Mr. Kamama: Mr. Speaker, Sir, it is common knowledge in this city that Eastleigh Estate is occupied by refugees from Somalia and Ethiopia. When you go to Highrise Estate there are so many refugees from Sudan. These estates are not refugee camps. What is the Assistant Minister doing to take these refugees to the designated places, that is Kakuma and Dadaab?

Dr. Machage: Mr. Speaker, Sir, indeed, since August 2003, all cases of refugee status determination are referred to the two camps which I have mentioned instead of being adjudicated in Nairobi. This measure is intended to remove the large numbers of asylum seekers from Nairobi and other urban centres. Otherwise, hon. Members know very well that there is a Bill in Parliament now that is going to guide this country on this issue and I welcome all hon. Members to fully participate in this discussion.

Mr. Oparanya: Mr. Speaker, Sir, it is general knowledge that there are so many refugees in this City. What measures is the Assistant Minister going to take to ensure that these refugees are taken to Kakuma and Dadaab refugee camps?

Dr. Machage: Mr. Speaker, Sir, indeed, we know that we have about 15,000 or so asylum seekers that are not yet registered in and around Nairobi. The strong instructions are that all asylum seekers must report to the Government for proper designation and allocation of whichever camp they are supposed to be in. These are criminals. If you know of any as an hon. Member, please let us know.

Mr. Speaker: Very well. Next Question by Mr. Bahari!

Question No.646

GOVERNMENT TREASURY FOR
GARBA-TULLA

Mr. Speaker: Mr. Bahari is not here. The Question is dropped!

(Question dropped)

Mr. Speaker: Next Question by Mr. Wamunyinyi!

Question No.787

RETIREMENT BENEFITS FOR MR. MAKALI

Mr. Speaker: Mr. Wamunyinyi is not here. His Question is dropped!

(Question dropped)

Mr. Speaker: Next Question by Mr. Kamanda!

Question No.984

ABANDONMENT OF JUJA ROAD PROJECT

Mr. Kamanda asked the Minister for Roads, Public Works and Housing:-

- (a) whether he is aware that the contractor for Juja Road has abandoned the project in spite of having been paid the full contract sum; and,
- (b) if he could consider terminating the contract and recovering the paid amounts plus interest.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the contractor for Juja Road has abandoned the project nor that he has been paid the full contract sum. What I am aware of is that the contractor has been slow in the implementation of the project, but has now picked up and executed 65 per cent of the project for which he has been paid 45 per cent of the contract sum.

(b) Considering that the contractor is now performing satisfactorily, it will not be opportune to terminate the contract at this stage. Instead, the contractor has undertaken to complete the project by 28th February, 2004. I will closely monitor his performance with a view to having him beat this deadline, failure of which, I will terminate the contract.

Mr. Kamanda: Mr. Speaker, Sir, this is a project which has taken more than two years and initially it was supposed to take one year. By March this year, the Minister and his officials went to the ground and added the contractor another eight months within which to complete the project. Eight months have already ended and the contractor has not done 40 per cent of the job. If we give the contractor another three or four months, I do not see him completing the job and that is why we are asking the Minister, if possible, to terminate the contract.

Mr. Raila: Mr. Speaker, Sir, right now I have just come from the site. I have carried out a very extensive inspection of the work. According to my own engineering estimates, he has done 45 per cent of the work. He has done the most difficult part of the work which involves removing the services like the electricity cables, water pipes and so on. What remains right now is putting on the final layers on the road and in my estimate, it can be done within this period that I have given him. However, I have personally informed the contractor that if he does not complete the project by 28th February next year, I shall terminate the contract.

Mr. Manoti: Thank you, Mr. Speaker, Sir. Sometimes contractors get a lot of problems on site because they are not paid promptly. What is the Minister going to do to make sure that they are paid as per their certified certificates of contracts?

Mr. Raila: Mr. Speaker, Sir, that is a thing of the past. It is true that the payment to

contractors used to be delayed. However, I have given instructions to my officers to the effect that once works are certified by those who are supposed to inspect and certify them, they must be paid promptly. I have said that we do not want to see contractors coming to the offices to chase payments. They should be paid promptly. If any hon. Member has any information to the contrary, I would like to be informed.

Mr. Wanjala: Mr. Speaker, Sir, the NARC Government is trying to rehabilitate the dilapidated infrastructure in this country, especially roads. What plans does the Minister have to use the army in accordance with the speech of His Excellency the President, and the National Youth Service in order to save a lot of money which goes to the contractors who charge the Government exorbitantly?

(Applause)

Mr. Raila: Mr. Speaker, Sir, it is true that the army has equipment that can be used for road construction and even maintenance. However, we use them only when it is necessary. But we must know that the army's work is not to construct roads but for something completely different. We are using the National Youth Service and we have a programme called the "Roads 2000 Programme" under which we intend to make a very extensive use of the National Youth Service, particularly where manual labour is concerned. However, this will actually only compliment the work that is going to be done by other Kenyans who are not employed, particularly the youth and women in the rural areas.

Mr. Mwenje: Mr. Speaker, Sir, the Minister for Roads, Public Works and Housing is elected here in Nairobi. However, for some reasons, I am not very satisfied that he is very serious with Nairobi roads, because they are in a very bad shape.

With regard to this particular road, his Assistant Minister visited the site and promised that within three months, the road would be done. What has happened instead is that the contractor continues to be paid despite the shoddy job which has been done. We know what is happening, because it is a road which we use almost daily. The Minister has said that he has been there and that he has given them up to February, 2004 to complete the work. What assurance do we have that by that time, that work will be completed, or he will just extend the period of completion as he has been doing in the past.

Mr. Raila: Mr. Speaker, Sir, for record purposes, it is true that the Assistant Minister visited the site in March, 2003, and gave the contractor nine months to complete the works; that is up to 5th December, 2003. When I went to carry out inspections, I found that the contractor had not finished the work. But I realized that the cost of terminating his contract was much higher than making him complete the work in two months time, and that is what I have done. I would actually like to inform the hon. Member that we are Members of the Nairobi District Roads Committee (DRC). He was also at one time the Chairman of the same DRC, so he knows very well that most of the roads in the City do not fall under my Ministry. They fall under the Nairobi City Council, and therefore the right authority to address the Question is the Ministry of Local Government. The roads under my jurisdiction are basically Uhuru Highway, Waiyaki Way, Langata, Ngong, Muranga and Limuru Roads. Those are the only roads that fall under the Ministry of Roads, Public Works and Housing.

Mr. Speaker: Very well. Last question, Mr. Kamanda!

Mr. Kamanda: Mr. Speaker, Sir, the Minister has not even told us what is causing the delay.

Mr. Raila: Mr. Speaker, Sir, the delay has been caused by the following factors:

(i) Weather

(ii) The road that is being worked on has very heavy traffic, therefore, the contractor has to sometimes stop all the work due to the very heavy traffic on the road. I have given instructions today

to the contractor to work at night and also on Sundays so that he can speed up the work and also gain the time he has lost in the past.

Mr. Speaker: Very well. Proceed, Mr. Sambu!

Question No.438

FOREIGN CURRENCY EARNINGS BY
NANDI TEA ESTATES

Mr. Sambu asked the Minister for Agriculture how much money in foreign currency was earned by the Tea Estates in Nandi Hills area during the years 1998, 1999, 2000, 2001 and 2002.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(i) The following are the Tea Estates located in the Nandi Hills area: Chemoni, Kibwari, Kapsumbeiwa, Koisagat, Nandi, Kipkoimet, Kapchorua, Siret, Kepchomo and Savani.

(ii) During those six years, the tea production and earnings was as follows:

YEAR	Total Production (Million Kgs)	Export Earnings (Million US\$)
1998	24.7	46.4
1999	19.6	35
2000	17.7	35.7
2001	25.6	39.2
2002	24	35.6
2003 (Jan-Oct)	19	32.7

Converted at the current exchange rate, it brings the total earnings to Kshs16.4 billion. Thank you.

Mr. Sambu: Mr. Speaker, Sir, first of all, may I say that the Assistant Minister was not given the right information. The ten Tea Estates he has listed represents just about a half of the total number of tea estates. There are still other tea estates in that area, but I do not want to take time by naming them.

In order to create this land where the tea estates are. To be precise, between October 1905, and March 1906, five battalions of the British Army under one Gen. Manning had to move my people to the North, where we are now staying. Today, we do not get any benefit out of these tea estates. Will the Government consider paying the Nandi people some dividends out of the money made out of these tea estates?

Mr. J. Nyagah: Mr. Speaker, Sir, I wish to confirm that some of the people in that area do, indeed, sell their tea to the private companies, which have an obligation of paying those farmers a reasonable return, which they do. That is one of the ways among others, through which private owners of those tea estates contribute to ensure that the Nandi people are remunerated, because they do sell tea to these companies.

Mr. Speaker: You look very struck, Mr. Sambu!

(Laughter)

Mr. Sambu: Mr. Speaker, Sir, the Assistant Minister is making it a laughing matter, but it is not! Over 2000 Nandi people were killed between 20th October, 1905, and the whole of 1906 to create room for the British settlers in these farms. The Britons have been there, but will they share their income with the people who were forcefully evicted to create room for those farms?

Mr. J. Nyagah: Mr. Speaker, Sir, the question is a little clearer. As I said earlier, the private

tea estates have created employment opportunities to the Nandi people. They employ so many people from that area. The issue of whether the Nandi people will get back their shambas is not in my docket and I cannot talk about it. We should encourage tea estates to create employment opportunities for the local people.

Mr. Ndile: Asante sana, Bw. Spika. Mbali na pesa za kigeni kuletwa na majani chai na kahawa, Waziri hafikirii kuwa mboga pia huleta pesa za kigeni. Huko Kibwezi, tunakuza mboga ambazo zinapelekwa kila siku ng'ambo. Je Waziri Msaidizi anafanya nini kuhakikisha kwamba mboga zetu haziharibiwi na wanyama?

Mr. J. Nyagah: Mr. Speaker, Sir, the Question is about tea, but I am quite happy I have an occasion to talk about horticulture. Horticulture is very important and earns a lot of foreign exchange for Kenya.

Mr. Speaker: Order! That is irrelevant! I do not want anybody to hijack any hon. Member's question.

Mr. Sirma: Mr. Speaker, Sir, I do not think the Assistant Minister understood Mr. Sambu's Question. We want revenue in terms of cess and other developments to the local people. What is the Assistant Minister doing to ensure that the local people benefit from what the tea estates earn?

Mr. J. Nyagah: Mr. Speaker, Sir, I had not prepared an answer to that question. I will consult. I now understand the question. I will look into it and come back to the House with an answer to it because we need to address that issue. At the moment, I do not have an answer to that question.

Mr. Speaker: At least, you are very honest.

Mr. Sambu: Mr. Speaker, Sir, could the Government assist these tea estates by allowing them to sell their tea through the Export Processing Zones (EPZs) arrangement like other manufacturing concerns? Tea is also a manufactured product. Could the tea estates be allowed to sell their tea abroad through the EPZs arrangement?

Mr. J. Nyagah: Mr. Speaker, Sir, as we review the policies on some of these crops including tea, we will address that issue if it will be found to be helpful to this country. At the moment, we are reviewing the policies on some crops and tea is included. If that will help, we will be very happy to assist. At this point, I do not know what the conclusion of the study will be.

Question No.963

PAYMENT OF AINAMOI SUGAR-CANE FARMERS

Mr. Too asked the Minister for Agriculture:-

(a) whether he is aware that sugar-cane farmers in Soin Division of Ainamoi Constituency have not been paid Kshs60 million by both Muhoroni and Chemelil Sugar Factories for sugar-cane delivered to the two factories in the years 1999 and 2000; and,

(b) what he is doing to ensure that the farmers are paid.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that sugar-cane farmers in Soin Division of Ainamoi Constituency have not been paid by Muhoroni Sugar Company Kshs39,099,268.65 and not Kshs60 million, for the cane delivered in 1999 as indicated by the hon. Member.

Chemelil Sugar Company Ltd. does not owe money to cane farmers in Soin Division. The last time farmers from the area delivered cane to the company was between October, 2001 and March, 2003, and full payment was made for the deliveries.

(b) The Government is currently working on a programme to restructure all parastatals, including the two sugar companies. My Ministry, in consultation with various arms of the

Government, is exploring potential avenues that are available, which may be used for the funding of the outstanding farmers' arrears for the entire industry, Soin Division included.

Mr. Too: Mr. Speaker, Sir, Kshs39 million is a lot of money. The farmers have been suffering a lot. Their children have not been going to school because of the non-payment of this money. You heard the Assistant Minister say that the Government is exploring some avenues to see how it can raise the money to pay these farmers. I am aware that Muhoroni Sugar Factory has been doing very well lately, in as far as payments of cane is concerned.

Could the Assistant Minister direct Muhoroni Sugar Factory to pay these farmers?

Mr. J. Nyagah: Mr. Speaker, Sir, the Kenya Sugar Authority (KSA) placed Muhoroni Sugar Company under receivership under Messrs Ndungu Gathenji and Kaplan and Stratton, and the company has, indeed, been doing reasonably well for the last few months. They are making some payments, but they are not generating enough money to pay all the farmers that they owe money. They owe huge sums of money to various cane farmers. I will request them to ensure that as they pay cane farmers from other areas, they should also pay farmers in the hon. Member's constituency.

Mr. Kosgey: Mr. Speaker, Sir, could the Assistant Minister give a breakdown of the amount of money owed to cane farmers by the two factories from the various zones that they operate in? I am sure he has those figures. Could he table those figures?

The Assistant Minister should stop saying that he is exploring. We do not want explorations, we want farmers to be paid.

Mr. J. Nyagah: Mr. Speaker, Sir, I am very happy to table a list of 35 societies in the hon. Member's area, showing how they are owed Kshs39 million.

(Mr. J. Nyagah laid the document on the Table)

Mr. Too: Mr. Speaker, Sir, could the Assistant Minister assure this House that, in future, farmers will be paid as soon as they deliver their cane to the factory?

Mr. J. Nyagah: Mr. Speaker, Sir, the restructured Boards of the various sugar companies are making every effort to be up to date in terms of current bills. We have had a problem with the debts we accumulated in the past. That is what is holding us back. Currently, we are trying our level best to pay efficiently and as quickly as possible.

Question No.1027

REMITTANCE OF WORKSHOP
PAYMENT TO BARINGO SCHOOL

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

(a) whether he is aware that Baringo High School has not been paid Kshs62,200 for expenses incurred during a workshop for Koibatek District primary school managers; and,

(b) what disciplinary action he has taken against the District Education Officer for failing to remit the money to the School.

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

(a) I am aware that Baringo High School is claiming Kshs62,000 for expenses incurred during a workshop for Koibatek District schools although payment voucher No.754 raised by the school for Kshs200 shows that the payment was done as per receipt No.4826 of 5th July, 2003.

(b) Investigations are being carried out to determine the point of impropriety and the necessary disciplinary action to be taken on any of the officers involved.

Mr. Sirma: Mr. Speaker, Sir, to date, the school has not been given the money. A letter was written by the Principal of Baringo High School to the District Educational Officer (DEO). Later, the DEO sent a private letter to the principal to ask him to share the balance with him secretly. I have given a copy of the letter from the DEO to the Minister. I thought that the Assistant Minister would now be saying that they have already reported the DEO to the Anti-Corruption Unit because that was corruption which the principal refused to take part in. Could the Assistant Minister tell us exactly what disciplinary action he is going to take against this corrupt officer?

Dr. Mwiria: Mr. Speaker, Sir, if Mr. Sirma would just admit it, the Principal claiming the money is also very corrupt. He is very cunning because he admitted having received the money although he did not receive all of it. We know from the cash flow records that the amount received was Kshs150,000. He admitted that he gave the DEO receipts to indicate that he had been paid all the amount. The reason we are likely to take sometime is because they are two greedy parties. It is clear that all the amount of money may not have been paid. However, we also know that the Principal made it much more difficult by trying to play a funny game so that he could share the money with the DEO.

(Laughter)

Mr. Korir: Thank you, very much Mr. Speaker, Sir. Could the Minister confirm if it is the Government policy or if it is in our imagination that everytime the DEO runs out of money he turns the secondary schools into Automated Teller Machines (ATMs), whereby he runs to get money?

Dr. Mwiria: Mr. Speaker, Sir, I did not hear the Question. Could the hon. Member please repeat it?

Mr. Speaker: He is asking if it is a Government policy for the DEO of that area to turn the local secondary schools into ATMs? Everytime he requires some money, he runs to the schools.

Dr. Mwiria: Mr. Speaker, Sir, you also know the answer. It is not!

Mr. Nyachae: Mr. Speaker, Sir, a very worrying statement has just been made here. The Assistant Minister representing the Ministry admits that he has corrupt officers yet, he is not telling us what action he is taking to deal with that.

(Applause)

Dr. Mwiria: Mr. Speaker, Sir, I have always said that we have a lot of corrupt officers in the Ministry of Education, Science and Technology just as much as we have in other Ministries. However, in this case, we have to give the officers a chance in terms of getting actual information as in who is to blame, then we take action. They will certainly be punished. I can promise that.

Speaker: Order! Order! Dr. Mwiria, I think what you said, of which Mr. Nyachae is following is that the Principal is in league with the corrupt DEO to take away the money from the school. Mr. Nyachae is worried that if you know very well that the DEO is corrupt, and your Principal according to you is also corrupt, why are you are still keeping them?

Dr. Mwiria: Mr. Speaker, Sir, I do not think that Mr. Sirma would have asked this Question if we said we were firing the Principal. However, I would like to say that we already know that there is a problem. Some money was lost somewhere between the Principal and the DEO. As soon as we have exact information on who is to blame we will take action. Already a "show cause" letter has been sent to the DEO. As soon as that is clear, they will be punished and probably interdicted.

Mr. Speaker: Very well. Last Question Mr. Sirma. Sorry Mr. Omingo. I asked the House

for indulgence today because we are almost finished.

Mr. Sirma: Mr. Speaker, Sir, the Minister is not sincere. When the headteacher brought the information about the corrupt deals of the DEO, in fact, the DEO influenced the Ministry of Education, Science and Technology to transfer the headteacher because of leakage of that information.

There is no way that the headteacher would have leaked information which also jeopardises his job. We should be sincere on that.

Could the Assistant Minister confirm that Prof. Saitoti was supposed to go there for a district education day? The school collected Kshs350,000 which got lost in the District Educational Office (DEO) and then wrote a letter to the Minister informing him not to attend the function? Could he also confirm that they are also investigating the same amount?

Dr. Mwiria: Mr. Speaker, Sir, I would like to say that there is no contradiction. The Principal wrote to explain that he had not been paid some money by the DEO. As you have heard before, the reason why people are prosecuted in the law courts is because they give contradictory stories.

Thieves often tell lies and forget the one they had told before. The Principal did not know the consequences. I cannot discount the fact that he knew what he was getting himself into by giving that information. It is clear that he admitted he had received the total amount of money when he had not.

The other issue regarding Prof. Saitoti visiting the area is being looked at.

Mr. Sirma: Mr. Speaker, Sir I think that the Assistant Minister is taking sides on this matter. He is blaming an informer. We are going back to the dark times when informers were punished. How are we going to get information to assist this Government?

Dr. Mwiria: Mr. Speaker, Sir, it just happened that in this case, both the informer and the one being informed on were telling lies and are both guilty. That is the point and does not excuse them. If you tell a lie and give information because you want somebody else to be caught when you are guilty, that does not excuse you.

Question No.989

SHORTAGE OF STAFF IN WESU HOSPITAL

Mr. Mwandawiro alimuuliza Waziri wa Afya:-

(a) Kama ana habari kuwa hospitali ya Wilaya ya Taita Taveta, Wesu ina upungufu mkubwa mno wa wauguzi hata wadi zingine zimefungwa na watoto wagonjwa wanalazwa katika wadi za watu wazima.

(b) Mipango ambayo Serikali inafanya ili kuboresha huduma za hospitali hii.

The Minister for Health (Mrs. Ngilu): Bw. Spika, naomba kujibu.

(a) Nina habari kuwa kuna upungufu wa wauguzi katika hospitali ya Wesu. Shida ya upungufu wa Wauguzi pamoja na madaktari inazikumba hospitali nyingi kote nchini. Shida hii pamoja na idadi ndogo ya wagonjwa wanaohudumiwa katika hospitali ya Wesu yabidi watoto walazwe katika wadi ya wagonjwa wa kike.

(b) Wizara ya Afya iko tayari kuwapeleka wauguzi zaidi katika hospitali ya Wesu, ili kuimarisha huduma. Tutafanya hivyo mara tutakapopewa fedha, na kuwaajiri wauguzi na madaktari. Kwa sasa, daktari mmoja zaidi amepolekwa katika hospitali hiyo na atawasili na kuanza kazi kabla ya tarehe 25 December, 2003.

(Applause)

Mr. Mwanacha: Mr. Speaker, Sir, the issue of patients sharing wards is not only confined to Wundanyi. In Keroka Health Centre where I was this weekend, males and females are sharing wards.

What will the Minister do to ensure that patients of different sexes do not share wards?

Mrs. Ngilu: Bw. Spika, huo sio ukweli hata kidogo. Ninataka kusema kwamba hakuna wadi hata moja popote nchini yetu ya Kenya ambapo utakuta wanaume wakilala pamoja na wanawake.

(Laughter)

Mr. Speaker: Order! What is it?

Mr. Mwancha: Is the Minister in order to mislead this House that there is nowhere where patients are sharing wards when in fact---

Hon. Members: Beds!

Mr. Mwancha: In Kisii and Keroka, mental patients are sharing wards. Is she in order?

Mrs. Ngilu: Bw. Spika, Bw. Mwancha anazungumza juu ya vitanda au wadi? Kwa sababu ninajua mara nyingine wanawake wanatumia kitanda kimoja na wanaume pia wanatumia kitanda kimoja, lakini si mwanamke na mwanamume.

Mr. Speaker: Next Question!

Mr. Mwandawiro: Kwa jambo la nidhamu, Bw. Spika.

Mr. Speaker: What is it Mr. Mwandawiro!

Mr. Mwandawiro: Ningetaka kuuliza swali la mwisho, Bw. Spika.

Mr. Speaker: Nafasi imepita. Nisamehe. Jaribu wakati mwingine.

Question No.968

IMPLEMENTATION OF REP IN BOMET

Mr. Kones asked the Minister for Energy:-

(a) whether he is aware that there is no Rural Electrification Programme in Bomet District,

(b) whether he is further aware that power supply to Kaparuso Secondary School, Tegat and Chemaner Markets stalled in the year 2000, and;

(c) what the Minister is doing to ensure that the programme is implemented in Bomet District.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that currently, there is no scheme being implemented in Bomet District under the Rural Electrification Programme (REP).

(b) I am not aware that power supply to Kaparuso Secondary School, Tegat and Chemaner markets has stalled; neither am I aware of any arrangements under the REP, to have power supplied to the said facilities.

(c) The Ministry of Energy is soliciting for funds to enhance rural electrification in the areas of concern to the hon. Member and other parts of the country. Discussions have been held with South Korea, Spain, France, Finland and Belgium and the indication is that substantial funding may be available in the financial year 2004/5. If the Ministry succeeds in soliciting for funds, Kaparuso Secondary School, Tegat and Chamaner markets will be considered among other applicants if the projects are discussed and forwarded to the Ministry as a priority by the Bomet District Committee.

Mr. Kones: Mr. Speaker, Sir, it is so sad that the whole district of Bomet is not benefiting under the REP. However, I am so surprised that the Minister is saying that he is not aware that the supply to Kaparuso, Tegat and Chemaner stalled in 2000 whereas in fact today, there are power poles lying along that route which have not been used as was intended. Now, the Assistant Minister is saying

that he is not aware that there was such a scheme. Why were those poles there? Does he want to tell us that he is not even aware that those poles are lying down there?

Mr. Kiunjuri: Mr. Speaker, Sir, you know it was a habit of the former Government that whenever somebody fell from favour, they would remove the poles and erect them in some other areas. However---

Mr. Kosgey: On a point of order, Mr. Speaker, Sir. If I recall, yesterday, you ruled that it is not an excuse to use something that happened in the past to explain the present. Is the Assistant Minister in order to try and say that if electricity poles were erected last year, but the project stalled, that is the reason why they should not be installed now?

Mr. Speaker: Just for clarity, I remember I said yesterday that is perfectly in order to score political points against your opponents. But roads have no parties. That is what I referred to yesterday. That if a road was not done by that party, then it should not be done by this party, is another issue. But he can say your Government has failed and you can also tell him his has failed. That is legitimate. Proceed.

(Applause)

Mr. Kiunjuri: Mr. Speaker, Sir, we also know very well that he was also a senior Cabinet Minister in that Government. However, I said that the former Government used to behave in such a way that when you fall out of favour with it, then everything that was directed to you also fell out of [Mr. Kiunjuri]

favour. However, the projects that have been going on in those areas have been implemented. Some of them started when the district was one. It was not even divided into two. The projects that the hon. Member is talking about are not listed with us in the order of priority so that we can undertake them. If the hon. Member can go ahead and do that, we will implement them.

Mr. Sambu: Mr. Speaker, Sir, projects do not belong to an individual. They belong to the people. People collected money through the REP. They were made to pay 10 per cent of the total cost to the Ministry of Energy through the Kenya Power and Lighting Company. Could the Government now honour all the projects for which people have paid the 10 per cent to the Ministry of Energy and implement them?

Mr. Kiunjuri: Mr. Speaker, Sir, before I answer that, the hon. Members are asking us to put them on trial for the misappropriation of funds that was done by the former system. However, billions of shillings was collected from Kenyans through group schemes. We are revisiting that issue because money was collected from some of those groups for projects that can never be implemented. Under the Economic Recovery Strategy for Wealth and Employment Creation, 2003/07, we shall establish the viability of those projects. We shall refund the money for the projects that are not viable.

Mr. Salat: Mr. Speaker, Sir, while appreciating the Nominated Member of Parliament's inquiry into the REP in Bomet, my question to the Assistant Minister is this: There are other areas---

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to impute improper motives on the questioner?

Mr. Speaker: Order! I see nothing improper about that. He in fact said he appreciated the Question.

Mr. Salat: Thank you, Mr. Speaker, Sir, for saving me from the onslaught of Ford-People.

Mr. Kones: On a point of order, Mr. Speaker, Sir. Is it legitimate for an hon. Nominated MP to ask a legitimate Question in this House? Is it also in order for a sitting MP from that constituency to start appreciating the Question, instead of the entire House appreciating it? What is the reason for this appreciation?

Mr. Speaker: Order, hon. Members! First of all, the two of you should just relax. A

nominated Member of Parliament has all the rights to participate in all the proceedings of this House in the same manner as every other hon. Member. Secondly, I would like to encourage hon. Members to appreciate each other. I think Mr. Salat, by appreciating the efforts of Mr. Kones, should be commended. So, relax both of you. I think you have done a good job by asking the Question.

An hon. Member: On a point of order, Mr. Speaker.

Mr. Speaker: Order! Could we now proceed with the Question?

Mr. Salat: Thank you, Mr. Speaker, Sir, for your clarification. My question was: The rural electrification programme in Bomet has stalled for a period of time. What is the Ministry doing to have a programme that includes most areas in Bomet district?

Mr. Kiunjuri: Mr. Speaker, Sir, first of all, I would like to commend the good work being done by Mr. Kones. He is always running to the Ministry requesting for projects for all over the constituency.

(Laughter)

However---

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

Mr. Speaker: What is it.

Mr. Salat: Mr. Speaker, Sir, when I go to the Ministry, I do not see the Assistant Minister. I see the Minister himself. So, that is why the Assistant Minister has not seen me!

(Laughter)

Mr. Speaker: Order! I think the people of Bomet must be very lucky because both of you are very hard working. Could we now proceed?

Mr. Kiunjuri: Mr. Speaker, Sir, over the last two years, the Ministry of Energy has already used Kshs36.5 million for Denai Market, which is in Chepalungu Divisional Headquarters. We have also spent Kshs57.7 million on other streams in Bomet District for the last five years. So, there is no way the hon. Member can complain that nothing has been going on in Bomet District.

Mr. Speaker: Last question, Mr. Kones.

Mr. Kones: Mr. Speaker, Sir, we learnt from the Assistant Minister that they are soliciting for funds from within and without, with a view to implementing certain projects in Bomet. Could the Assistant Minister be a bit more specific and tell us how much money they are soliciting for and which projects will benefit from that money? That way, we will not be asked to submit lists of priorities of projects that we want. We have already done that.

Mr. Kiunjuri: Mr. Speaker, Sir, you will agree with me that, that is a different question, which requires laying on the Table a list of those projects that will benefit, and how much money we are going to receive. We cannot anticipate until donor funding comes in. But I want to assure the hon. Member that, once we get the funds for the year 2004/2005, we shall undertake your projects.

(Loud consultations)

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

Mr. Speaker: Order! Just relax. I think we have given Bomet enough hearing. We must now go to others. You remember that, at the very early stage--

(Loud consultations)

Order, hon. Members! I had asked hon. Members to deal with Questions by one hour. We are already past that time. I cannot leave Questions by Private Notice. What I intend to do is that, at the end of Questions by Private Notice, I will ask Ministers who have Ministerial Statement to issue all of them, and then ask a few Members to seek clarifications. That way, we can save on time. So, we shall now go to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

UTILIZATION OF UNIVERSITY LEVIES COLLECTED FROM PRIVATE STUDENTS

(Mr. Leshore) to ask the Minister for Education, Science and Technology:-

- (a) How much money has been collected by the national universities in form of fees or levies from private and parallel degree students?
- (b) Could he inform the House how the monies have been utilised by each university?

(Question dropped)

ILLEGAL PAYMENTS BY SUGAR BOARD CHIEF EXECUTIVE

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

(a) Is the Minister aware that the Kenya Sugar Board (KSB) Chief Executive Officer, without authority from the Board, paid Kshs24 million to Hydery Limited, a fertilizer supplier in the year 2002?

(b) When will the Board ratify that payment?

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that in the financial year, 2000/2001, Sony Outgrowers Company Limited and Nzoia Outgrowers Company Limited procured and were supplied with fertilizer to the tune of Kshs36.4 million by a company called Hydery P, but both companies were unable to pay. As a result, Hydery P threatened court action against the two companies. Upon the request of the two companies, and in order to safeguard sugar development funds from interest in both the growers companies, the then Chief Executive Officer of Kenya Sugar Authority (KSA), at different times, authorised payments totalling Kshs33.3 million to Hydery P Company in anticipation that the Board would ratify the payments.

(b) The previous Board of KSA, during its 56th meeting held on 28th March, 2002, declined to approve the payments. The current Board has set up an audit committee to review all pending and un-ratified disbursements with a view to making recommendations to the Inspectorate of State Corporation for surcharge where necessary.

Thank you.

Mr. Speaker: Order, hon. Members! Just before I call Mr. Osundwa, there has been some queries about the Order Paper. I wish to confirm that, although there is a Supplementary Order Paper, it came out to bring out late amendments presented to the Speaker. But I wish to confirm that, later today, I will call upon the leader of Government Business to move a Motion of Adjournment of the House. I wanted to make that absolutely clear. The Supplementary Order Paper does not override the notice contained in the original Order Paper.

Mr. Osundwa: Mr. Speaker, the KSB has a Tender Committee which advertises and analyses tenders, and then awards them to various suppliers. Could the Assistant Minister tell this House why the Board refused to ratify those payments? Was there anything wrong?

Mr. J. Nyagah: Mr. Speaker, Sir, the Board of KSA, when it was asked to ratify what the Chief Executives had done, was not satisfied. That is why it refused to pay. That is why I have gone ahead and said that a committee under the Board has been set up to investigate the circumstances under which those payments were made. But I would like to clarify that the companies on whose behalf those payments were made have, in fact, accepted responsibility and started paying *pole pole*.

Mr. Omingo: Mr. Speaker, Sir, You heard the Assistant Minister say that the Chief Executives did actually perform their duties in excess of their mandates. Could the Assistant Minister now tell this House what action he has taken or he intends to take against those people who act illegally and pretend to regularise the illegality later?

Mr. J. Nyagah: Mr. Speaker, Sir, as I said, the critical decision that the Chief Executives had to make was one of, if they did not pay and the companies are in trouble, what is a bigger crime? Which is the bigger problem? That is why, in their wisdom, they made that decision. But I further said that the board recognises the problem and has instituted very serious investigations, with instructions that if the answers of the Chief Executives are unsatisfactory, they will be surcharged.

Mr. Waithaka: Mr. Speaker, Sir, I think if a company is threatened with court action and a suit is not filed, it cannot be a justification to pay another company to avert a case being filed. This is because a case has to be filed, you have to be served with summons, you have to enter appearance and it takes time and the company can have its own meeting. There is a tendency in this country where Chief Executives ask those whom they owe money to threaten to sue, so that they can pay without authority. Is the Assistant Minister aware that this is one of those cases where there is a connivance between the Chief Executive and the company being paid?

Mr. J. Nyagah: Mr. Speaker, Sir, I am not aware. However, I am also aware that because the board was not satisfied with the explanations that the Chief Executive gave, they decided to move a step further and bring in the Inspectorate of State Corporations in an attempt to get to the bottom of this. The resolution of that board meeting clearly stated that they would follow it up and if necessary, surcharge the officers if it turns out that they were wrong.

Mr. Osundwa: Mr. Speaker, Sir, could the Assistant Minister tell this House whether it is the policy of the Kenya Sugar Board to allow a Chief Executive Officer to unilaterally pay Kshs36 million without referring to anybody? This is farmers' money! Is it in order for the board to allow the Chief Executive to make such a huge payment alone?

Mr. J. Nyagah: Mr. Speaker, Sir, it is not the policy of my Ministry and the Kenya Sugar Authority to allow that kind of thing. That is part of the reason why we are trying to get to the bottom of this particular problem. But given the problems the company faced at that time, they had to act. But it is not a policy of the company.

CONTRAVENTION OF PUBLIC OFFICER ETHICS ACT

Mr. Kajwang: Mr. Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that public servants including Ministers, Members of Parliament and senior civil servants are engaging in public collection of funds and Harambees in contravention of the Public Officer Ethics Act, 2003?

(b) What steps is the Minister taking to eradicate this practice by enforcing section 12 of the Public Officer Ethics Act, 2003?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of any public servant including Ministers, Members of Parliament and senior civil servants who are engaging in public collection of funds or using their offices in public collection of funds or Harambees. The officers have only been participating in Harambees which have not been banned, through giving their personal contributions and appearing at the Harambees. This is not in contravention of the Public Officer Ethics Act (2003).

(b) The attention of all the public officers has been drawn to section 12 of the Public Officer Ethics Act which prohibits conflict of interest and appropriate action will be taken against any officer who contravenes this section.

Mr. Kajwang: Mr. Speaker, Sir, the answer is, of course, not candid and truthful because the Assistant Minister knows that some Ministers have actually gone to church and said they were participating in Harambees, whether the law is against it or not. In fact, some Assistant Ministers have said that they would rather be sacked from their Ministries but their people will not suffer and they must go on with Harambees. We hear over the radio, harambees being announced by Members of Parliament. Of course, when they go there, they hide behind somebody and say: "It is the priest who is the guest of honour." This was done by hon. Saitoti and hon. Michuki the other day. So, what really, is the policy, so that we know whether Harambees are either prohibited for public servants like me, or they are on-going, because this matter is bringing a lot of confusion?

Mr. Githae: Mr. Speaker, Sir, let me reiterate that Harambees have not been banned in this country. They have just been regulated. What is now required is that a public servant can go to any Harambee and make his or her personal contribution. That is a right which is enshrined in the Kenya Constitution. You cannot deprive somebody of the right to give out his or her money. But Harambees have not been banned and the public officers who have attended Harambees have made it very clear that they are not guests of honour and that they have participated or promoted the Harambees, but they are there in their individual capacities. They have made that very clear. Again, I would like to request the hon. Member that courtesy of section 35 of the same Act, if he has any information about a public officer contravening the Public Officer Ethics Act, I would call upon him to let us have that information and the facts and then, we will take up the matter.

Mr. Omingo: Mr. Speaker, Sir, I am getting a little worried that this Government says this and does the other. The Assistant Minister is not telling the House the truth. Recently, Assistant Chiefs were actually abusing the position of their offices by raising Kshs1,000 towards the 40th Anniversary Independence celebrations. Could the Assistant Minister tell Kenyans what the Government wants about this issue? You cannot say this and do the other. In fact, the first person to break the law---

(Applause as Ms. Karua entered the Chamber)

If I could say that again, Mr. Speaker, Sir, the Assistant Minister---

Mr. Speaker: Hon. Omingo, we are running out of time.

Mr. Omingo: Mr. Speaker, Sir, the Assistant Minister has told the House that Harambees are not banned and that nobody has abused the position of their offices when, in fact, Assistant Chiefs received letters from District Officers to collect funds. Could the Assistant Minister clarify that issue?

Mr. Githae: Mr. Speaker, Sir, I reiterate that Harambees have not been banned. Individual officers are allowed to participate in Harambees by giving their own personal donations. Secondly, chiefs have not been asked by anybody to raise money for any purpose at all. In fact, it would be illegal for them to do so.

Mr. Sungu: Mr. Speaker, Sir, the Government must be serious. When we pass a law in this House, that law must be respected, otherwise, it is wrong to pass a law that we are not going to

respect. The credibility of this Parliament is at stake. Even the Leader of the Official Opposition is on record as having said that he will defy the law and go on with Harambees. If the law is bad, why can we not bring an amendment and we reverse it? The Government must take action against these people. What action is the Assistant Minister going to take against public officers who are conducting Harambees?

Mr. Githae: Mr. Speaker, Sir, the Leader of the Official Opposition was very clear. What he said is that he does not agree with the law. That was his opinion about the law. He made it very clear that he was not the guest of honour, but he was only giving his personal contribution. From the little amount that he contributed, I think that is true.

Mr. Kajwang: Thank you, Mr. Speaker, Sir. A while ago, the NARC Government appointed a task force on Harambees headed by my friend, Mr. Wamwere to gather views from members of the public. What will be the use of the task force's report vis-a-vis what the Assistant Minister has told us now? The Assistant Minister has said that Harambees have not been banned in this country, but he has said that public servants are prohibited from attending them. Why can the Government not be positive? When will Mr. Wamwere present his report after moving all over the country collecting views from members of the public and spending public money?

(Laughter)

Mr. Githae: Mr. Speaker, Sir, I would like to confirm to this House that a task force on Harambees was commissioned by the Minister and its report is ready. The report will be presented to the Minister any time from now. The recommendations contained in the report will be studied. This task force has come up with many recommendations on how Harambees should be structured. The recommendations will become known as soon as the report has been presented to the Minister.

Mr. M. Kariuki: Mr. Speaker, Sir, before I ask my Question, I would like to say that the correct inquest file number is 13/98 and not 13/95.

DEATH OF JANE NJERI KIMANI

Mr. M. Kariuki: Mr. Speaker, Sir, I beg to ask the following Question by Private Notice.

In view of the findings of the Nakuru Chief Magistrate Inquest No.13/98, regarding the late Jane Njeri Kimani, could the Attorney-General order further investigations to establish the identity of the police officer who shot the deceased?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

It is, indeed, true that the inquest number is 13/98 and not 13/95. I spent some time to find out the correct inquest number. In the Inquest No.13/98, which relates to the late Jane Njeri Kimani and three others, the Resident Magistrate ruled that an offence or offences was/were committed by unidentified or unknown persons. It is, therefore, the intention of the Attorney-General to order further investigations to identify the culprits.

Mr. M. Kariuki: Mr. Speaker, Sir, the background information is that riot police were called in to quell a riot when ballot papers were being counted on 31st December, 1997. These officers left the venue where the ballot papers were being counted and went to the market, where they shot three women and one man dead. During the inquest, a ballistic expert was called but the police refused to co-operate by surrendering all the guns which were used on that day. Consequently, he was unable to identify the gun which fired the shots that killed these people. The Attorney-General has said further investigations will be carried out. Could he make sure that he orders the police to surrender all the guns which were used on that day, so that ballistic experts can establish the guns which fired the bullets which killed these people?

Mr. Wako: Mr. Speaker, Sir, the allegations of the ballistic expert as recorded by the court will, of course, be the subject of further investigations. The police will be asked to give maximum co-operation to the investigators in that regard.

Mr. Angwenyi: Mr. Speaker, Sir, the Attorney-General has said that he will institute further investigations. Could he tell us how many deaths of this kind have not been investigated for the last six or seven years? The Government waits for Questions to be asked in this House before it carries out investigations on deaths caused by the police.

Mr. Wako: Mr. Speaker, Sir, I do not have the figures right now. But if the hon. Member has in mind a death which has not been investigated, let him bring it to my attention and investigations will be carried out. In this particular case, I am told that my learned friend represented the families of the deceased persons during the inquest. So, he is very familiar with the inquest hearing. Had he brought this matter to my attention at an earlier stage, I am quite sure that we could be somewhere now.

Mr. M. Kariuki: Thank you, Mr. Speaker, Sir. The deceased persons had families. The three ladies who died were single mothers and had children. It is quite clear from the circumstances of their deaths that it was the police who killed them. What was unresolved during the inquest was the policeman who shot them dead. Under those circumstances, I would like the Attorney-General to tell this House whether he has made arrangements to compensate the families of the deceased?

Mr. Wako: Mr. Speaker, Sir, the Questioner is a lawyer and knows what should be done by any claimant, who wants to lodge a claim against the Government. Once claims are lodged, they will be considered in the normal way.

Mr. M. Kariuki: On a point of order, Mr. Speaker, Sir. I am talking about the shooting to death of citizens of this country, but and the Attorney-General is not taking this matter seriously. This is a serious matter. It is not possible for some citizens to go to court. The Government has an obligation when death occurs as a result of misconduct by its servants to compensate the families of the deceased. This is precisely what I am asking him to do. These are poor families which cannot afford to lodge a claim in court.

Mr. Wako: Mr. Speaker, Sir, once again, the hon. Member did not listen to my answer. I did not say that these families should go to court, but that they should lodge their claims and they will be considered in the normal manner.

Mr. Speaker: Very well. Hon. Members, that is the end of Question Time. Although we are late by 35 minutes, I have some Ministers who want to make Ministerial Statements. I will allow them to make those Statements. I would like all the Ministers to make their Ministerial Statements before hon. Members seek clarifications from them, if that will be convenient. The Chair may not know the Minister an hon Member would like to seek a clarification from. If that will not be possible, I will allow hon. Members to seek their clarifications one by one. I will restrict hon. Members to two clarifications because of time factor. I think this is the best to go about this matter. I will begin with the Assistant Minister, whom I have kept coming here for the last three sitting days.

Yes, Mr. Kenneth!

MINISTERIAL STATEMENT

CANCELLATION OF LOANS OWED TO CO-OPERATIVE BANK OF KENYA

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Thank you, Mr. Speaker, Sir. I rise to give a Ministerial Statement, which was requested by Mr. Mwanzia on the write-off of loans owed by coffee co-operative societies.

In 1973, the Government of Kenya in liaison with the external donor agencies namely, the World Bank and the International Development Association (IDA) saw the need to rejuvenate and jump-start the then ailing coffee industry, which at the time was the leading foreign exchange earner. This was achieved through loans sourced under three distinct projects, namely, the Small-Holder Coffee Improvement Project (SCIP I), SCIP II, the Export Stabilization Fund, which is known as STABEX. Funds were borrowed directly from the Co-operative Bank of Kenya to finance working capital to co-operative societies. All this amounted to Kshs5.863 billion.

The main objectives of these projects were to rehabilitate the small-holder coffee industry, with emphasis on improvement of the quality of coffee produced by small-scale farmers and processed by factories owned by about 400 coffee co-operative societies across the country, to rehabilitate neglected coffee farms through the provision of farm inputs and extension services and rehabilitate coffee factories through right-sizing, electrification and construction of new ones.

Mr. Speaker, Sir, the implementation of these projects started in July 1984, when the Government and the Commonwealth Development Co-operation signed an agreement that the proceeds should be paid to the Co-operative Bank of Kenya, acting as an agent of the Government for onward lending to co-operative societies.

The second improvement project was implemented in 1996 and later supplemented by STABEX funds. By 30th November, 2003, the total outstanding loans plus accrued interest under the said projects amounted to Kshs5,981,000,000 which included the SCIP I, SCIP II, STABEX and funds borrowed directly from the Co-operative Bank of Kenya. The factors that affected the repayment and the servicing of these loans comprised of:-

(a) Adverse climatic conditions due to the effects of drought and *El Nino* rains which affected the coffee production and quality.

(b) A decline in coffee production from a total of 128,000 metric tonnes in 1988 to a mere 51 metric tonnes in 2002, due to high production costs as a result of inflationary conditions fuelled by depreciation of the Kenya Shilling, hence, low returns to the farmers, causing majority of them to neglect their coffee farms.

(c) There was a record drop in coffee prices from an average of US\$360 in 1998 per 50 kilogramme bag to US\$89 per the same 50 kilogrammes bag, in 2002.

(d) Inadequate usage of farm inputs especially chemicals for control of Coffee Berry Disease and Leave Rust that are prevalent in the country, resulting into low production and poor quality that fetches low income.

Mr. Speaker, Sir, against this background of poor prices, unfavourable climatic conditions and diminishing returns to the farmers, the Government has progressively introduced reforms with regard to legislation, milling, marketing and value addition in the coffee sector, with a view of turning it round. To improve the management of the co-operative sector, the Co-operative Societies Amendment Bill, 2003, has now been published and is on the Floor of this House. Coffee production in the country has continued declining while prices---

Mr. Speaker: Sorry, Mr. Kenneth, you know we are already very late. Try and do what is called a precise.

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, I am just about to finish.

Coffee production in the country has continued declining while prices have nose-dived. The burden of servicing these loans has added to the woes facing the farmers. As a result, farmers have lost motivation to produce or to do farming activities. The objective of the proposed write-off will go a long way in reviving the coffee industry and help restore it to its former status of a leading foreign exchange earner in the country, as well as help alleviate poverty in line with the Government policy.

Mr. Speaker, Sir, the Ministry presented a figure of Kshs5,865,000,000 to the Cabinet as at

February this year. The Cabinet discussed the matter and directed that the matter of writing-off be further discussed between the Ministry of Finance and the Ministry of Co-operative Development and Marketing, after which the Ministry will present a Sessional Paper to this House in accordance with the requirements of Government financial regulations and procedures, for consideration and approval. We are, therefore, requesting hon. Members of Parliament for indulgence in this matter. I will table here the proposed list for write-off.

(Mr. Kenneth laid the document on the Table)

Mr. Speaker: I will only allow one hon. Member to seek clarification. Mr. Kagwe!

(Loud consultations)

Order! We do not have all the time.

Mr. Kagwe: Mr. Speaker, Sir, I think the Ministerial Statement is well put. However, we just want a clarification regarding the assets that are currently being sold because of this debt. Some of them are already being auctioned. In view of the fact that we are thinking of writing-off the debts, could we then withhold the sale of the assets that belong to these co-operative societies?

Mr. Mwanzia: Mr. Speaker, Sir, I want to thank the Assistant Minister for bringing this Ministerial Statement to the House, because it had caused a lot of concern to the people who grow coffee. I have listened to the Ministerial Statement and it is very good. We thank the Ministry, if truly they are going to write-off this Kshs5.8 billion loan owed by coffee farmers. However, my concern is whether fairness is going to be exercised. What we need to know is; he has said that 400 coffee societies are going to benefit from this write-off. He has also indicated, because he has given me the report, that he is going to table a schedule of the districts which are going to benefit. My concern here as a clarification is: Could he table the list of the names of these societies and not districts, which are going to benefit, the amount of loan which is going to be written-off and the original loans?

Mr. Speaker: Very well! That is enough now.

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

Mr. Speaker: Order, Mr. Obwocha! Please, relax.

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Mr. Speaker, Sir, let me first start by saying that the culmination of this list actually started with the Eighth Parliament, when they were trying to write-off coffee debts and debts that were owed through Agricultural Finance Corporation (AFC). At the time the list for AFC went through, the one for coffee did not go through.

I have taken note of Mr. Kagwe's question on the issue of the societies that are indebted to the Co-operative Bank of Kenya and are being auctioned. However, it is also important to note that some of these societies have borrowed from other banks other than the Co-operative Bank of Kenya. It is, therefore, important to verify this fact. Where the Co-operative Bank of Kenya is concerned, it is something that I believe is within our Ministry and we can look into it. Looking at the list which I have tabled here, and going back to the second question, this list contains co-operative societies in the entire country that borrowed from SCIP I, SCIP II and STABEX funds. I think the list covers the entire country. I may not be in a position to mention each society, but I have tabled the whole list that indicates the four classes that were borrowed; from SCIP I, SCIP II, STABEX and Co-operative Bank of Kenya. Hon. Members are free to look at the list and see how much is proposed to be written-off on each co-operative society.

Mr. Speaker: Very well! Mr. Angwenyi, please, seek your Ministerial Statement.

POINT OF ORDER

GOK/UNICEF FUNDS AGREEMENT

Mr. Angwenyi: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Finance regarding an agreement which was undertaken between the Government of Kenya and the United Nations International Children's Education Fund (UNICEF) to make available resources that can assist children in this country. A sum of Kshs125 million was advanced to the Government, out of which Kshs66 million has not been accounted for in the previous financial year. Therefore, this agreement might lapse at the end of this year and we stand to lose Kshs850 million which could have been used for our children unless we can account for the Kshs66 million before the end of this calendar year.

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I will do my best to find out what happened to the Kshs66 million, but let me warn this House that it is sometimes almost impossible to check old records. However, I will do my best.

Mr. Speaker: Very well! You may take the opportunity of giving your own Ministerial Statement now.

MINISTERIAL STATEMENTS

FORMULATION OF WAGE POLICY

The Minister For Finance (Mr. Mwiraria): Mr. Speaker, Sir, let me give a brief statement on Government Wage Policy as requested by Mr. Nyachae.

I refer to the request for a Ministerial Statement by Mr. Nyachae on the formulation of wage policy by the Ministry of Finance. The formulation of a wage policy is a joint responsibility of the Directorate of Personnel Management (DPM), the Ministry of Planning and National Development and my Ministry. Nonetheless, I will represent the others and say a few words. However, once the policy has been announced, the management of that policy is the function of the DPM.

Mr. Speaker, Sir, when the NARC Government took over power, we realised that there had been numerous attempts by the previous Government to structure a wage policy. Several committees and commissions were set up. Reports were written and recommendations on wages and wage structure presented. The Kipkulei Commission is the latest of these attempts. The Commission made specific recommendations on wage structure and on the formulation of a wage policy. Subsequent to this commission, a committee under the Permanent Secretary, Secretary to the Cabinet and Head of Public Service, has for the last two years instituted mechanisms for fast implementation of the Kipkulei Commission recommendations. However, this piecemeal implementation has not done any good to the proposed wage policy. For this reason, the Government has realised the folly of attempting to manage the wage bill without a wage policy. In fact, the lack of an integrated wage policy is what has led to the selective implementation of wage adjustments, leading to great disparities, disharmony and completely irregular salaries in the public sector.

Mr. Speaker, Sir, as elaborated in the Economic Strategy Paper for Wealth and Employment Creation (ESPWEC), the country envisages to contain its wage Gross Domestic Product (GDP) ratio at 8.5 per cent over the next two years and to decline to 7.5 per cent in three to four years. This position is considered to be economically tenable given the fact that we expect the economy to be growing at between 4.7 and seven per cent within the next five years.

Mr. Speaker, Sir, the Government has, in furtherance of the need to have a viable wage policy, appointed a Permanent Public Service Remuneration Review Board whose mandate is to regularly

review the remuneration packages for public servants, in line with the market rates and to reduce the existing disparities. In the meantime, the Government has also contracted a consultancy on Wage Bill Management and Civil Service Performance Enhancement. This consultancy will soon hand over its report. The report of this consultancy will greatly inform the work of the board. Here, I am referring to the Permanent Public Service Remuneration Review Board. The board will also rely greatly on the on going public sector rationalisation and job evaluation exercise which is being undertaken by the DPM.

In the medium term, the board will, however, work within the stated Government budgetary constraints of 8.5 per cent to 7.5 per cent of the GDP as the public wage bill to guide formulation of an overall wage management policy.

Mr. Speaker, Sir, over the long term, the three Ministries are expected to develop guidelines for a comprehensive policy framework to govern the wage structure and its management within the macro-economic projections, the expected core functions of the Civil Service and the optimal levels of manpower requirement. I would like to assure the House that within one year, the necessary prerequisite for developing a wage policy will be in place and the current *ad hoc* and selective adjustment of the wage structure will become a thing of the past.

Mr. Speaker: Very well! Mr. Nyachae, do you want anything out of that Ministerial Statement?

Mr. Nyachae: Mr. Speaker, Sir, I know this is a very complicated subject. I agree with the Minister that one year will be a reasonable period. So, we expect to have a wage policy before we go for our next Christmas.

Mr. Speaker: I think I will restrict the House to two or three Ministerial Statements because we are running out of time. I will allow Mrs. Ngilu, Mr. Githae and Mr. Makwere to give their Statements, so long as they do not read bulky information. We have no time left now. Mrs. Ngilu, just give the salient features and hand over the written Statement to the Clerk.

DUMPING OF CONDOMS INTO THE COUNTRY

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, in one of the newspapers today, an impression was created by the Chairman of the Departmental Committee on Health, Housing, Labour and Social Welfare, Dr. Galgallo, that Kenya Medical Supplies Agency (KEMSA) was in a dilapidated state. I want to give a short Ministerial Statement on the state of KEMSA.

Mr. Speaker, Sir, it is true that the Ministry of Health did import 300 million condoms between 2000 and 2002. In the year 2000, the Government entered into an agreement with the World Bank on a loan of US\$50 million. In the development credit agreement, it was expected that about US\$9 million was to be used for the purchase of condoms. The agreement was that the purchase of these condoms would be staggered in such a way that there would be 100 million condoms every year. However, this year, the company that won the tender decided to bring all the 300 million condoms. That is the time I went to KEMSA and found them in the process of trying to hire a room elsewhere; further putting the Government into extra expense. I stopped it and instructed them not spend more money on that. So, we actually ensured that all the condoms that were already here were housed in our KEMSA stores.

Mr. Speaker, Sir, I want to inform the House that KEMSA is no longer the old KEMSA. We have really rehabilitated and restructured it. It is well arranged and cleaned up. We have a computerised store and now we have no more problems.

Mr. Speaker: I will now not even allow any clarification at all. I think I will give one last chance to the Attorney General and that is it.

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

Mr. Speaker: Order! It is 4.30 p.m.! The business of the House must be gotten into now.

What is it, Dr. Galgalo?

Dr. Galgalo: On a point of order, Mr. Speaker, Sir. First of all, the Minister created the impression that I talked to the Press. I did not address the Press. I sought a Ministerial Statement here in the House. Secondly, the gist of my Question was: Why did they allow the contractor to dump all the 300 million condoms which would be sufficient supply for a five year period, and allow KEMSA to now start grappling with storage of 300 million condoms? This was done against the tender agreement which said that they would be staggered over a period. I think this is a crisis, and she did not respond to it. Otherwise, my statement would have no meaning, as she has put it.

Mr. Speaker: I think it is absolutely clear that Dr. Galgalo sought the Ministerial Statement on the Floor of this House. He did not do so outside this House.

The Minister for Health (Mrs. Ngilu): Mr. Speaker, Sir, I did not say that he sought the Ministerial Statement outside the House. I am sure that Dr. Galgalo was an Assistant Minister for Health when the consignment arrived.

(Laughter)

Mr. Speaker: Order! Order! Hon. Members, relax. Let us hear a Ministerial Statement from the Attorney-General.

REPORTED RAPE AND DEFILEMENT CASES IN KENYA

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I rise to issue a Ministerial Statement on the issue of rape and defilement, as requested for by Ms. Abdala. I will try to summarise the Ministerial Statement, but I will table it to form part of the record of our proceedings.

Mr. Speaker, Sir, the number of reported rape and defilement cases has steadily increased over the last three years. In the year 2001, there were 1,987 such cases reported. In the year 2002, the number rose to 2,005 and in the year 2003, up to the end of November, the number rose to 2,055. This trend is attributable to many reasons, which include moral depravity of the society, drunkenness, drug abuse, among others.

The Government is gravely concerned and has taken measures, and will continue to do so, to combat this crime. First, at the legislative level, this Ninth Parliament enacted the Criminal Law (Amendment) Act, 2003, which commenced on 25th July, 2003, implementing the recommendations of the taskforce, which increased the penalty for defilement of a girl under 14 years of age from a maximum of 14 years imprisonment to a maximum of live imprisonment. The Act also made it easier to prosecute such cases by removing the requirement for corroboration if the court is satisfied that the child is telling the truth.

The need for a comprehensive and specific Sexual Offenses Act is recognised by the Government, and a draft is currently being considered. A draft Bill on the same subject has been submitted to the Government by the Federation of Kenyan Women Lawyers, FIDA. The proposed law will particularly address the issue of how to deal with paedophiles who, after they are set free, roam around in society freely. We will deal with those issues through a Sexual Offenses Bill, which we intend to bring to Parliament for enactment into law.

Secondly, at the investigation level, the Commissioner of Police will now permit that the P3 Forms can be signed not only by a police doctor, but also by any Government doctor. The police are also taking steps to recruit doctors. It is anticipated that with a new salary structure for police officers commencing in January, 2004, more doctors will enrol in the police force. When that happens, five doctors will be deployed in Nairobi Area, Kiambu and Thika Districts. Also, women and children

protection desks will be established at all police stations in Kenya. The first intensive training course for 20 trainer police officers drawn from all the provinces was completely only yesterday. The officers will, in turn, train the officers who will man these desks, so that they can know how to handle and investigate such cases. As far as new police recruits are concerned, the police training syllabus already contains such training. So, once new recruits pass out, they will be able to investigate and handle such cases.

Thirdly, at the judicial level, you will have noticed that already life imprisonment has been meted out to the offender in the Kiambu defilement case. Prior to that, such punishment was meted out to an offender in Kerugoya. That, in itself, is indicative of the seriousness with which the Judiciary now takes rape/defilement cases. The Chief Justice is now considering putting cases involving rape and defilement on what is called "first track" within the courts, so that they are expeditiously handled and disposed of.

Lastly, Ms. Abdala asked whether we should consider making castration as one of the penalties that should be meted out to such offenders. While one can understand and sympathise with such feelings, it should be noted that under Section 74 of our Constitution, Article 5 of the Universal Declaration on Human Rights and Article 7 of the International Covenant on Citizens' Political Rights; torture, cruel, inhuman and degrading punishment and prohibited. Castration amounts to torture, cruel, inhuman or degrading punishment. Therefore, I cannot recommend to the Government to make castration one of the penalties that should be meted out to sexual offenders.

I would like to take this opportunity to appeal to the public to co-operate with law enforcement officers in reporting such incidents, and generally helping in their investigation.

Ms. Abdalla: Mr. Speaker, Sir, on behalf of the entire House, which wishes to unite and ensure that Kenya becomes a safe society for our children, I wish to thank the Attorney-General for that comprehensive Ministerial Statement. While revising the Penal Code, we abolished the death penalty. Also, the Attorney-General has quoted Article 5 of the Universal Declaration on Human Rights, which we would be contravening if we adopt castration as a form of punishment to be meted out to sexual offenders. However, I would like to point out that sexual offenders, especially paedophiles, do not adhere to such international laws. There are other jurisdictions where castration is being practised. I think without adopting a more serious penalty---

Mr. Speaker: Order! Ms. Abdala, the rest of the issues will be sorted out between the two of you.

Ms. Abdalla: Mr. Speaker, Sir, could the Attorney-General, therefore, recommend a penalty that will deter sexual offenders from committing offenses, because I do not think life imprisonment will do so. Such offenders will probably be having a better "heaven" in prison.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, this country has yet to abolish the death penalty. In fact, the death penalty exists in our statute books. What is required under international law is to progressively reduce the offenses which carry capital punishment. The death penalty is a social issue. As you know, when the question of whether we should abolish the death penalty came before this House, it proved to be very controversial. Therefore, one hopes that when the issue comes before the House again, these are some of the things that this House can guide the Government on in order for it to come up with an appropriate legislation. If hon. Members think that the death penalty should be meted out to sexual offenders and resolve accordingly, why not?

COMPENSATION TO MR. GICHERE

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, I rise to issue a Ministerial Statement on the issue raised by Mr. Mwandawiro regarding Mr. Jim Wallace Gichere.

Mr. Speaker, Sir, Mr. Gichere had claimed Kshs245,950,048 as compensation. He has now reduced that figure to Kshs76,056,000. The Government has already accepted liability, and the only issue that was remaining was assessment of damages. The matter was handed over to the Solicitor-General, so that he could discuss with Mr. Gichere, but before the two parties could even sit down, Mr. Gichere went on a hunger strike. However, the Government has now accepted to pay him a total of Kshs9,400,000 to cover all damages he has suffered, in an effort to alleviate the suffering he is experiencing.

Mr. Speaker: Very well. That is it, Mr. Githae.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, I will table the Ministerial Statement.

Mr. Speaker: It will be part of the record of the proceedings of this House.

COMMUNICATION FROM THE CHAIR

ANNUAL LEAVE FOR PARLIAMENTARY STAFF

Mr. Speaker: Hon. Members, I believe that all of you appreciate the fact that we have taken quite some time on the Ministerial Statements. I think it was necessary as we will be debating the Motion for adjournment of the House to next year. I also wish to bring to the attention of the House the fact that all parliamentary staff members take their annual leave only in December, during the Christmas recess. Therefore, all Committee work will cease until next year, so as to enable parliamentary staff to take their well-earned annual leave. If they fail to proceed on leave, they will lose part of their annual leave entitlement. I am not willing to let parliamentary staff lose their leave. So, take note that from next week, members of staff will be going on leave. Those who will not want to go on leave will be deemed to have forfeited it.

Thank you.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, we are now in the Committee of the Whole House to look at two Bills, namely: The Persons with Disabilities Bill and the Public Audit Bill. We will start with The Persons with Disabilities Bill, and on your Order Paper, we will start with page 666.

THE PERSONS WITH DISABILITIES BILL

Clause 2

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended-

(a) in the definition of "assistive devices and services" by inserting the expression "(including the services of qualified interpreters for the deaf and qualified teachers for the blind)" after the words "specialised services".

(b) by deleting the definition of "disability" and substituting therefor the following definition-

"disability" means a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on social, economic or environmental participation;"

This is the interpretation of "assistive devices" and "disability".

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 be amended-

(a) by deleting paragraph (a) of Subclause (1) and substituting therefor the following paragraphs:-

(a) not more than eight persons nominated, in a manner approved by the Minister, by organizations representing persons with various categories of disabilities:

(b) in the proviso to Subclause (1) by inserting after paragraph (ii) the following paragraph-

(iii) one of the members of the Council shall be from a rural-based organization.

(c) by inserting at the end of the clause the following subclause-

(4) The member appointed under subsection (1)(c) to represent the Ministry of Education shall be a child psychologist.

The Temporary Deputy Chairman (Mr. Khamasi): Order, hon. Members! We are in serious business here and we need a response from the Government side as to whether you are agreeing to these amendments or not. If you are going to keep quiet, I will not know the ultimate answer.

(Question of amendment proposed)

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

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

(Clause 4 as amended agreed to)

(Clauses 5 and 6 agreed to)

Clause 7

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended-

- (a) in Subclause (1)(b)(i) by deleting the words "so far as possible" and substituting therefor the words "to the maximum extent possible";
- (b) in the Subclause (1)(d), by deleting the words "as far as possible" and substituting therefor the words "to the maximum extent possible";

(Question of amendment proposed)

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

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

(Clause 7 as amended agreed to)

(Clauses 8, 9, 10, 11, 12, 13, and 14 agreed to)

Clause 15

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended by inserting after Subclause (4) the following subclauses-

(5) An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the workplace as may reasonably be required to accommodate persons with disabilities.

(6) The minimum retirement age for persons with a disability shall be sixty years.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, whereas I appreciate the proposed amendment by the Minister, in Subclause (5) he says that:-

"An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the workplace as may reasonably be required to accommodate persons with disabilities".

Who will determine what is reasonable in each circumstance; is it the commission or the employer?

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, for clarity, it is the council that is going to put the criteria and standards for the physical facilities and all that is required.

(Question of amendment proposed)

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

(Clause 15 as amended agreed to)

(Clauses 16 and 17 agreed to)

Clause 18

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 18 be amended-

(a) in Subclause (1) by inserting a comma and the words "if the person has the ability to acquire substantial learning in that course" after the words "such disability".

(b) in Subclause (2) by inserting the words "entry requirements, pass marks, curriculum, examination auxiliary services" and a comma before the word "use".

(c) by deleting Subclause (3) and substituting therefor the following subclause-

(3) special schools and institutions, especially for the deaf, the blind and the mentally retarded, shall be established to cater for formal education, skills development and self-reliance.

(Question of amendment proposed)

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

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

(Clause 18 as amended agreed to)

Clause 20

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 be amended in paragraph (d) by deleting the word "marginalised".

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

Clause 21

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 21 be amended by inserting the words "and disability-friendly" before the word "environment".

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

(Clauses 22, 23, 24 and 25 agreed to)

Clause 26

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 26 be amended by inserting after Subsection (1)(d) the following paragraph-
(e) on the ground of any ethnic, communal, cultural or religious custom or practice, discriminates against a person with a disability.

(Question of the amendment proposed)

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

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29, 30, 31 and 32 agreed to)

Clause 33

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 33 be amended by deleting Subclause (1)(a) and substituting therefor the following paragraph-
(a) such moneys as may be appropriated thereto by Parliament;

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

(Clause 34 agreed to)

Clause 35

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 35(2) be amended by deleting the words "thereon as he deems fit" and substituting therefor the words "thereon, if any, as he deems fit, exempting the applicant wholly, or to the extent provided by the order, from income tax or other levies specified therein, and any such order shall notwithstanding the provisions of any other Act, have effect according to its terms".

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

Clause 36

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 36 (1) be amended by inserting the words "or to organisations involved in such rehabilitation and registered with the council for the purpose of this section" after the word "disabilities".

(Question of the amendment proposed)

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

(Clause 36 as amended agreed to)

New Clause

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting after Clause 36 the following New Clause-
37. It shall be the
duty of the Minister responsible for matters relating to credit unions, co-operatives and other lending institutions to encourage the extension by such institutions of credit to persons with disabilities.

(Question of the new clause proposed)

(New Clause read the First Time)

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

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

(The new clause was read a Second Time)

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

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Order Paper I have does not have an amendment to Clause 37. So, what is happening?

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Obwocha, it is in the Supplementary Order Paper. Hon. Obwocha, if you look at page 669---

Mr. Obwocha: Is it the old Order Paper, Mr. Temporary Deputy Chairman, Sir?

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Obwocha, we are talking about the old Order Paper. We are talking about Page 669 in the old Order Paper.

Mr. Obwocha: If you look at Page 669, you will see that it starts with Clause 35, then followed by Clauses 36 and 43. I do not know which one you are referring to. Is it a new clause?

The Temporary Deputy Chairman (Mr. Khamasi): It is a new clause which has been amended to be Subclause 37. Are you all right, Mr. Obwocha?

Mr. Obwocha: I am all right.

(Clauses 38, 39, 40, 41, and 42 put and agreed to)

Clause 43

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 43 be amended by deleting paragraph (d).

(Question of the amendment proposed)

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

(Clause 43 as amended, agreed to)

(Clause 44 agreed to)

Clause 45

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to withdraw the amendment to Clause 45.

(Proposed amendment withdrawn)

The Temporary Deputy Chairman (Mr. Khamasi): So, do you want it to remain as it is in the original Bill?

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Yes.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Minister, the Bill is now the property of the House. The House has got to give consent to your request.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I plead with the House to withdraw the amendment to Clause 45. This could be a [**The Minister for Gender, Sports, Culture and Social Services**] very serious issue. As you have seen, there are doctors who are either fake, or not highly qualified although they hold fake degrees, who harm patients. According to this clause, it is very clear that any doctor who negligently causes disability to a patient should be heavily penalized. The proposed amendment was seeking to delete this clause so that such doctors are not penalized. So, this clause is meant to protect the interests of Kenyans, because it says that any doctor who is found guilty should be penalized. That is why I am withdrawing the proposed amendment. I, therefore, seek legal advice.

Hon. Members: No!

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order, hon. Members! This amendment has not even been proposed. We have heard the Minister's explanation. The Question has not been proposed.

(Loud consultations)

Mr. J.M. Mutiso: On a point of order Mr.---

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order, Mr. J.M. Mutiso! What do you want to do? Can you explain yourself?

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Chairman, Sir. I would like to bring an amendment to Clause 45. I have just given a notice---

The Temporary Deputy Chairman (Mr. Khamasi): Mr. J.M. Mutiso, we must adhere to the rules and procedures of the House. Have you given notice of your amendment?

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, thank you for accepting to retain Clause 45---

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order! I must consult first. All right, Minister, you now have permission to move your amendment.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I want to thank the House for accepting to retain Clause 45, but with a small amendment, which reads as follows:-

"Any person who, being a doctor or other medical practitioner, negligently causes a disability to a patient is guilty of an offence and is liable to conviction and a fine not exceeding Kshs100,000, or to imprisonment for a term not exceeding one year, or to both such fine or imprisonment".

(Applause)

Dr. Godana: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Ministers' amendment is out of order. He has to give prior notice for his amendment. The only case where he does not need to give prior notice is where he is moving an amendment to an amendment which is already before the House. Now, in fact, it means that the hon. Minister should not have withdrawn his proposed amendment, and that he should have asked somebody else to move an amendment to that amendment. That is the only way in which we can take his proposal into account.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, we have--

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order! Order, Minister! Let us look at our Standing Orders so that we can do this the right way. Look at Standing Order No.106(2), which reads as follows:-

"No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill (in this case it is the Minister), unless a written notification thereof shall have been given to the Clerk before the commencement of the sitting at which that part of the Bill is considered in the Committee".

So, in this case, the Minister is quite right as per the Standing Orders.

So, you can proceed, Minister.

Mr. J.M. Mutiso: But he has already given the notice!

The Temporary Deputy Chairman (Mr. Khamasi): Oh, you have already done that. So, now it is upon me to propose the Question and then the hon. Members can contribute.

(Question of the amendment proposed)

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Chairman, Sir. I stand to support the amendment because Clause 45 was only providing for the doctors. But we know that we have other practitioners within the medical field, who include clinical officers and nurses, who had not been brought within the scope of the Bill. Besides, I also propose that the penalty be increased to Kshs200,000.

Thank you, Mr. Temporary Deputy Chairman, Sir.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, as much as I appreciate the explanation by the Minister, I think that as a House, we must make laws that are clear to everybody. When we say:-

"Any doctor or medical practitioner who, through negligence in the course of his practice, inflicts or causes disability---"

We are creating confusion, in that we already have laws that prescribe penalties; for example, Section 234 of the Penal Code, which defines "grievous harm" and fixes a maximum penalty of life imprisonment. So, we are just causing conflict here. Even the medical practitioners and dentists have a law which has its own provisions regarding how they treat errant doctors or doctors who cause such-like injuries to patients.

I, therefore, oppose the proposed amendment.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Temporary Deputy Chairman, Sir, it is very clear that this Bill aims at ensuring that all key laws relating to disabilities are contained in this particular Bill so that the reference to other laws does not necessarily remove the need to include it in this particular law.

Mr. Temporary Deputy Chairman, Sir, we know from practice that many people are made disabled by bad medical practice. Therefore, this amendment is very much in order and should not be withdrawn. It should be amended as proposed by the Minister and supported by Mr. J.M. Mutiso.

Dr. Godana: Mr. Temporary Deputy Chairman, Sir, I also oppose the proposed amendment. The intention, obviously, looks good and innocent, but this is a very serious matter that requires wide consultation and comparison between the proposed provision and provisions in other laws. It is evident that the proposed amendment has just been thought-out by the Minister here - that is why he did not give notice - without the benefit of proper consultation and advice from the professionals concerned, including the Attorney-General's Chambers. I wish he does not ambush us to bring in something of this magnitude at such a short notice.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, this is a very serious amendment. We are talking of negligence, but not criminal negligence. We are talking of somebody who makes an error. We are saying that if a professional makes an error and causes harm, he should be jailed. That is a very serious matter and we will jail all our doctors.

So, matters like this one should not be put in law. We should leave them to those professions which know what is negligence; what is criminal negligence, and what is likely to make somebody be deregistered or something like that. If you put this provision in law, the Attorney-General will be picking every other doctor who makes a mistake, and mistakes can be made in any profession. But if a mistake in the medical profession takes somebody to jail, most doctors will not even touch patients.

Mr. J.M. Mutiso: Mr. Temporary Deputy Chairman, Sir, just to clarify what Mr. Muturi has said, we know that there are also laws which deal with a criminal offence. If, for example, we take theft which is provided for under the Penal Code, we still have other laws like the anti-corruption laws, which also prescribe further penalties to certain mischiefs. So, there is nothing wrong at all to have a second remedy being provided for in this Bill.

Secondly, the issue which has been raised by Mr. Kajwang, that we are trying to punish doctors by imposing a fine, should also be reflected on in terms of, here, we are talking about trying to deter medical practitioners who are not properly qualified or do not measure up, from handling certain practices. Therefore, there is nothing wrong with taming that. So, I strongly support the amendment.

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

(Clause 45 as amended agreed to)

(Clauses 46, 47 and 48 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its

consideration of the Persons with Disabilities Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, we will now go to the Second Bill, which is the Public Audit Bill.

THE PUBLIC AUDIT BILL

Clause 2

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended by inserting the following:-

"Local authority" means a body established under the Local Government Act".

"Government" includes the Central Government, the courts, the National Assembly, the Commissions established under the Constitution and any other institution connected with the Government or bodies set up under an Act of Parliament".

Mr. Temporary Deputy Chairman, Sir, I propose to amend Clause 2 by introducing an explicit definition of a "local authority" as that body established under the Local Government Act. This is important, so that we can bring the explicit body; the local authority, into the ambit of the definition in Clause 2.

I also propose to delete the definition of "Government" and thereof introduce a new definition that will include the Central Government, the courts, the National Assembly, the Commissions established under the Constitution and any other institution connected with the Government or bodies set up under an Act of Parliament.

This is critical. It appears as if "Government" is already defined elsewhere in the Bill. We may be knowing it as it were, but I think it is fair, for clarity purposes, to effect these amendments.

(Question of the amendment proposed)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I support the amendment and I think it is brilliant. This clarity makes sure that nobody escapes this definition.

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

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

Clause 2 as amended agreed to)

Clause 3

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 be amended:-

(a) in Subclause (3) by deleting the word "three" and substituting thereof the word "two".

(b) in Subclause (4) by deleting the word "five" and substituting thereof the word "four".

In view of the advancement of computer technology and the delay we are receiving of the reports and submissions, it should be possible to prepare these audit reports within two months at the end of the financial year.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I oppose the amendment, not because I do not want efficiency, but because I have taken into account, in preparing this law, the period that private companies are required to submit their accounts.

It is normally within three months. Therefore, we have really brought the Government to the same level. Knowing the bureaucracy and the problems of the Government, I plead with the hon. Member to leave it at three months. Making it two months would make them continue coming late, and is perhaps not reasonable. I really appeal with him because it is the practice even in the private sector.

Mr. Obwocha: If you look at it, there are two amendments. If he is asking that we allow them three months in Clause 3(3), yet there is also Clause 3(4), where we are reducing it from five to four, and which I believe, if he has no objection, then---

The Temporary Deputy Chairman (Mr. Khamasi): I think that we are dealing with Clause 3(a). Thereafter, we shall go to (b).

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

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 3(b) be amended in Subclause (4) by deleting the word "five" and substituting thereof the word "four".

Mr. Temporary Deputy Chairman, Sir, since we have given in the other subclause and I have even voted for him, I believe that he should not have a problem with reducing it from five months to four months. That is quite a long period.

(Question of the amendment proposed)

Mr. Mwiraria: Mr. Temporary Deputy Chairman, Sir, I am prepared to accept the amendment because I think it is workable.

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

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

(Clause 3 as amended agreed to)

(Clauses 4, 5, 6, and 7 agreed to)

Clause 8

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 8 be deleted and replaced with the following new clause:-

"The Controller and Auditor-General shall audit the accounts submitted under Sections 3 to 7, and shall express an opinion on the account based on the results of each audit stating whether:-

- (i) All information and explanations considered necessary for the audit was received.
- (ii) Proper records were maintained of all transactions as required under the generally accepted accounting practices.
- (iii) The accounts are in agreement with the records referred to under 8(ii).
- (iv) In his opinion, the accounts reflected fairly the financial position of the entity audited.

Mr. Temporary Deputy Chairman, Sir, this is one of the Bills that is close to my heart so far as we are operating within it. If the Minister indicated in his statement that he wants to be in conformity with the private practice, it is true also then that in terms of giving an opinion on certified records, he must state an opinion as to what he found in the books. That is why I want the Controller and Auditor-General to audit the accounts, submit them under section 3 to 7, and express an opinion on the accounts based on the results of each audit, stating whether all information and explanations considered necessary for the audit were received; whether proper records were maintained of all transactions as required under the general accounting practices; that the accounts are in agreement with the records referred to under section 8(2); and, in his opinion, whether the accounts reflect fairly, the financial position of the entries audited. These are critical for the purpose of expressing an opinion and stating what is found.

One may go through the Public Accounts Committee records sometimes and then the Controller and Auditor-General comes and says he sent a query and no one responded. So, he needs to state it under that paragraph so that we blame someone entirely as opposed to bringing that person to come and bear witness and say that he or she received a statement from the Controller and Auditor-General and did not respond. We want the Controller and Auditor-General to express that opinion and we blame whoever did not give the record when the issue came up.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I thank the hon. Member for making the clause a little clearer. I think that we are all in pursuit of the same goal to get audit which is accurate and timely.

I support the amendment.

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

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

(Clause 8 as amended agreed to)

Mr. ole Ntimama: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Order Paper reads that the Motion for Adjournment should start not later than 5 p.m. Are we not flouting the

rules because we have already "eaten up" half-an- hour into the Motion for Adjournment? What is the directive?

The Temporary Deputy Chairman (Mr. Khamasi): Mr. ole Ntimama, that has been referred to the Speaker. Normally, the Motion for Adjournment takes three hours. Today, being a Thursday, we are going until 8 p.m. If it is in the interest of the House to have our three hours from the time we start on the Motion, since we cannot interrupt this business, then, it is up to the Members to decide so.

Therefore, we can proceed.

Clause 9

The Temporary Deputy Chairman (Mr. Khamasi): We have two notices of amendments, one by Mr. Obwocha and the other one by Mr. Omingo. So, I will request Mr. Obwocha to move his amendment - and it appears as if the difference is almost negligible-then we will request Mr. Omingo to move his so that we deal with them together.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, that is good because we will kill two birds with one stone. Of course, we will ask Mr. Omingo to move a further amendment. Mine is about timing. We have been complaining that these audit reports take too long. I, therefore, beg to move:-

THAT, Clause 9 be amended in Subclause (4) by deleting the word "eight" and substituting thereof the word "five".

We expect these reports to be brought to the House within five months to avoid taking too long before the reports are issued. These proposals should apply to even State corporations because they take too long.

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

(Question of the amendment proposed)

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 be amended by deleting Clause 9(1) and inserting the following new Subclause:-

(a) 9(1) The Controller and Auditor-General shall prepare a report based on the audit conducted under Section 8 and submit the report to the National Assembly and such report shall include the matters covered under Section 8 and any other information he may consider appropriate including but not limited to matters concerning efficiency in the usage of resources.

Mr. Temporary Deputy Chairman, Sir, I have no quarrel with the amendment by Mr. Obwocha because of the time. Mine concerns something similar to a management letter in accountancy in the private sector. The opinion that the Controller and Auditor-General should give should be separated from the report provided to the National Assembly under Section 9, as the letter is likely to be more detailed; that is something similar to a management letter in private companies. What we are saying is that when the Controller and Auditor-General does present his accounts, he needs to point out the weaknesses in the internal control system of the Government, for instance accounting systems. Today, we were dealing with cash accounting as opposed to accrued--- That is acceptable in the entire world. It is for that reason that the Controller and Auditor-General also requires to give a management letter to advise the Government on how best to run its affairs for purposes of increasing efficiency.

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

The Temporary Deputy Chairman (Mr. Khamasi): I notice that Mr. Omingo has actually expounded on Clause 9(1) and not 9(2) which is more or less the same as Mr. Obwocha's, although on

different periods.

*(Question of the amendment
to the amendment proposed)*

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I have difficulty in accepting the deletion of "eight" to "five". I believe that even in the private sector, the audited accounts are required---

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Minister! We are dealing with Clause 9(1) on page 681 of the Supplementary Order Paper where we are deleting Clause 9(1) and inserting the following new subclause ---

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I notice here that the change is the submission of the report to the National Assembly and not to the Minister for Finance. Under the current law, I think it is only reasonable that the report be made to the Minister responsible for finance. If we change, in the new Constitution, and place the Controller and Auditor-General under the National Assembly, then the position can change. For the time being, I would plead that we leave it as it is.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, the hon. Minister is really talking about the period of time. I thought you gave guidance that we would dispense with Clause 9(1) and then we got to the period that is covered in 9(2). The Minister is referring to the time frame. That is addressed in 9(1).

The Minister for Lands and Settlement (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I would tend to agree with the Minister for Finance that the report should be submitted to the Minister in the first instance. If you look at Clause 10, it actually prescribes the time within which the Minister will submit it to the National Assembly. So, there is already a sequence of events. I would then ask that we amend this further from: "Submit to the National Assembly" by deleting "National Assembly", and replacing it with "Minister in charge of Finance".

The Temporary Deputy Chairman (Mr. Khamasi): Are you making a further amendment? The Minister would prefer the clause to remain the way it is, where it is submitted to the Minister for Finance.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, my former chairman is also learning this game. I have already submitted an amendment, and I wish to move a further amendment to Mr. Omingo's amendment:-

"Delete the words "National Assembly" and insert "Minister for Finance".

*(Question of the amendment
to the amendment proposed)*

The Temporary Deputy Chairman (Mr. Khamasi): We have got to take Clause 9(4). Mr. Obwocha has got to delete the word "eight" and substitute it thereof with the word "five". Mr. Omingo has got to delete the word "eight" and substitute it with "six". We must find a compromise. Mr. Obwocha has already proposed his amendment on that Clause. I will request Mr. Omingo to argue his case.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, it is this issue of timeliness of the reports that comes to the Floor of the House. Since I am desirous to be more current, I would want to support the argument of "five" as opposed to "six", because that would be more current than six months.

The Temporary Deputy Chairman (Mr. Khamasi): So, effectively, you are withdrawing your "six"?

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I am persuaded by the argument.

Otherwise, if we were to finish with Mr. Obwocha's than mine, then I am sure I will argue my case better, depending on the outcome of Mr. Obwocha's presentation.

The Temporary Deputy Chairman (Mr. Khamasi): So, we are remaining with the proposal from Mr. Obwocha which is from "eight" to "five".

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, we have already agreed that the accounts be submitted three months after the close of the year. To require the Controller and Auditor-General to issue an audited report within two months of the receipt of the report, when we are giving him work for everything, is really being unrealistic. I would have preferred the amendment by Mr. Omingo who has dropped it because six months is really what happens in private companies. I would like to push the Government to a level where we work as the private companies do. To try and do better than the private companies at this stage is unrealistic.

So, I oppose Mr. Obwocha's amendment.

The Temporary Deputy Chairman (Mr. Khamasi): Then yours Mr. Omingo has got no effect because you had already--

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I did not withdraw it. You only put it in that event if this is acceptable. The issue here is "if". I do not think you need to deal with these two issues at the same time. I am suggesting that if the Minister does agree, let us go by "six" as opposed to "five".

The Temporary Deputy Chairman (Mr. Khamasi): So, you are literally proposing to amend Mr. Obwocha's figure to six.

Mr. Omingo: Yes, it is a further amendment. I am amending Mr. Obwocha's figure, moving it from eight to six.

*(Question of the further amendment
to the amendment proposed)*

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

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

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

Clause 12

The Temporary Deputy Chairman (Mr. Khamasi): I have received a proposed amendment by Mr. Obwocha. The amendment is on page 677 on the Supplementary Order Paper.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 be amended in Sub-clause (1) by inserting the words "for audit" after the word "submit."

Basically, you submit accounts for audit. That is all I am asking.

With those few remarks, I beg to move.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, they could not be submitting the accounts for anything else other than audit. So, I accept the amendment.

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

(Clause 12 as amended agreed to)

Clause 13

The Temporary Deputy Chairman (Mr. Khamasi): I have received notice of an amendment by Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I am in a dilemma! Since I accepted the first one, I withdraw this one because the issue has been overtaken by events.

(Proposed amendment withdrawn)

(Clause 13 agreed to)

Clause 14

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, we have received a notice of amendment from Mr. Omingo.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I want to assure the House that there is no mischief intended in this clause. We amended Clause 9 to provide for an opinion paragraph. What I am trying to bring in here is in line with the previous amendment that has been accepted, of an opinion which Mr. Chairman has accepted and expounded.

I beg to move:-

THAT, Clause 14 be amended by inserting a comma after the word "incorporation" and inserting the following words after the comma, "express an opinion", and by deleting the word "shall" after the word "and".

The new Clause will read:-

"The Controller and Auditor-General shall examine and audit the accounts submitted by the State corporation, express an opinion and certify the results of examinations and audit."

It is simply to incorporate the opinion paragraph as we did in other clauses to cover the corporations well.

(Question of the amendment proposed)

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

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

(Clause 14 as amended agreed to)

Clause 15

The Temporary Deputy Chairman (Mr. Khamasi): Again, we have got two notices of amendments. We will start with the amendment by Mr. Obwocha on page 677.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended -

(a) in Subclause (1) by deleting the words "Minister responsible" and substituting thereof the words "Appropriate Minister".

(b) in Subclause (2) by rewording the section to read that: "Proper books of account have been kept and the accounts are in agreement therewith".

(c) in Subclause (4) by -

(i) deleting the words "Minister responsible for Finance" and substituting thereof the words "Appropriate Minister".

(ii) deleting the word "eight" and substituting thereof the word "five".

The reason for the amendment is that proper books have been kept and the accounts are in agreement therewith. It is a professional requirement of such reports. There is nothing new about it. The words "eight" to "five" have been overtaken by events. So, let us deal with them one by one, and then we can agree on the total amendments on Clause 15.

The Temporary Deputy Chairman (Mr. Khamasi): Order! Let us go to Clause 15 (a), (b) and (c).

(Loud consultations)

Order, hon. Members. We have got business to transact here. Those who are engaged in a different business from us can do us a favour by leaving quietly, so that we can complete our business. I will first propose Clause 15(a).

(Question of the amendment proposed)

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I do know the critical path that we are following in terms of descriptions of the Ministry of Finance. I stand to oppose this amendment simply because the Constitution bestows the Minister for Finance that management of the finances of the Government. So, by trying to define a new Minister outside the context of the old Constitution, I think it will be flawed. So, I beg to oppose.

Mr. J. Mutiso: Mr. Temporary Deputy Chairman, Sir, I oppose the amendment because by changing the Minister responsible for Finance, I think the statement will be repugnant and superfluous.

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

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 15 be amended in Subclause (2)(b) by rewording the section to read that "proper books of account have been kept and the accounts are in agreement therewith".

Mr. Temporary Deputy Chairman, Sir, I said this is a professional requirement that you state whether proper books of account have been kept and that the accounts are in agreement with the books. So, I do not think there is any problem with this.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, as I said, we want to move to modern private accounting for the Government. So, I support the amendment.

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

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

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 15 be amended in Subclause (4) by:-
(ii) deleting the word "eight" and substituting thereof the word "six".

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20 and 21 agreed to)

Clause 22

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 22 be amended in Subclause (1) by deleting the word "six" and substituting thereof the word "three".
This is in submitting the reports. With those remarks, I beg to move.

(Question of the amendment proposed)

The Minister for Lands and Settlement (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I also notice there is another amendment by hon. Omingo. But in any event, I believe that with the capacities we have in our local authorities, we have not even asked them to prepare accounts for 20 years. Therefore, asking them to move to six months is even rather ambitious, and I would like to oppose those amendments as and when they come and we stick to the six months as provided for in the Bill.

An hon. Member: You cannot oppose an amendment that has not been moved!

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I think---

The Temporary Deputy Chairman (Mr. Khamasi): Order! Mr. Omingo, you have to catch the eye of the Chair before you speak. But you can proceed.

Mr. Omingo: It is all right, Sir.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I just want to say one word. I think to

suggest that our local authorities are not very efficient and, therefore, we must give them some more time to continue being inefficient is terrible, this coming from a Minister. So, I think the amendment is correct; we must encourage them to be efficient and we have already provided for the hiring of accountants outside the auditor's office. So, I do not think there is anything to stop us from reducing it from six to four.

The Temporary Deputy Chairman (Mr. Khamasi): May I now call upon Mr. Omingo to proceed, if he has anything to amend on Mr. Obwocha's amendment.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I do appreciate the inefficiency in the local authorities. Nevertheless, you know they have been guzzlers of public resources; that is for sure. Since these are teething problems and, of course, most local authorities cannot be connected by internet so that they can access records quickly, I want to move a further amendment to hon. Obwocha's amendment by deleting the word "six" and substituting it with the word "four", to give them one extra month as a grace period.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I think it is good that in making amendments to the Bill that shall become law, we should take a pragmatic position and know that we are actually suggesting something that can be done. It is true that we do not like the fact that the local authorities have been very late in terms of having their audits carried out. But I think four months is such a short time. I think six months is a fairly good beginning. We are proposing something that is going to create a lot of problems all the time, and we shall be complaining here all the time. So, let us go by what is already contained in the Bill.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, what is the former Vice-President talking about? We are talking about accounts under one roof. We are not talking about accounts, for example, of a Ministry where auditors must move to Coast Province and all other provinces to get reports. We have given the Ministries six months. We are talking about a municipality or a county council under one roof, and we are telling them that after one or two months, the accounts must be finished and audited. So, I believe we are trying to encourage efficiency. In any case, we are moving to an era of computerisation. So, it should not be a big deal.

(Question of the amendment to the amendment proposed)

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

(Mr. E.K. Maitha raised his legs)

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Obwocha! Under which Standing Order are you raising your point of order? Is it a point of order?

Mr. Obwocha: Yes, Mr. Temporary Deputy Chairman, Sir. Is it in order for the Minister for Local Government to shout while raising his legs? Honestly, is this good conduct? We have never seen this kind of behaviour.

The Temporary Deputy Chairman (Mr. Khamasi): Unfortunately, the Chair did not notice him do that!

(Laughter)

The Minister for Local Government (Mr. E.K. Maitha): Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Khamasi): Mr. E.K. Maitha, you do not need to respond to Mr. Obwocha's point of order because the Chair did not see you raise your legs.

Could we proceed?

(Clause 22 agreed to)

(Clause 23 agreed to)

Clause 24

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, after consultation with the Minister, I wish to withdraw my proposed amendments to Clauses 24 to 27 because all of them are the same. I urge the Minister for Local Government to ensure that these reports are submitted to the Minister for Finance until the Constitution is amended or changed.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I am not irrational, and I do not need to be persuaded. I do not want to move my proposed amendment to this clause because my proposed amendment to Clause 22 was shot down. This is because we will reduce the time frame within which the Controller and Auditor-General will present these reports to Parliament. We have given the Accounting Officer enough time to present the Controller and Auditor-General's reports. It is because of this, and the shouting by the Minister for Local Government while his legs were up in the air, that I withdraw my proposed amendment.

(Proposed amendments withdrawn)

(Clause 24 agreed to)

*(Clauses 25, 26, 27, 28, 29, 30,
31, 32 and 33 agreed to)*

Clause 34

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 34 be amended to state the establishment of the Kenya national Audit Office.

Basically, this clause does not tell us that, that office has been established. The amendment I have moved will establish that office.

(Question of the amendment proposed)

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

(Clause 34 as amended agreed to)

Clause 35

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 35 be amended by deleting the word "Government" and substituting thereof the words "Kenya National Audit Commission"

Basically, it is the Kenya National Audit Commission which should ensure that the Kenya National Audit Office carries out its functions properly and not the Kenya Government. If you give the responsibility to the Kenya Government you are being too general. This should be done by the proposed Kenya National Audit Commission.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, it is with regret that I rise to oppose the proposed amendment for a very good reason. The Commission will be a creature of the Government. So, when we talk about the "Government", we are really putting the buck where it stops. Mr. Obwocha was in this House when the old office of the Controller and Auditor-General was emasculated by the Government. We do not want to leave the Commission to be set up and its staff to the whims of some one. I think by putting this Commission under the Government, we are placing the buck where it belongs. It is for this reason that I oppose this proposed amendment.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I rise to support this amendment for one or two reasons. The Chair knows that a Government is a kind of monster, which does not have a head or tail. You also know that when the office of the Controller and Auditor-General became very powerful, the Government "broke" its feet so that, that office could not run after it. We must also reflect backwards. If the Minister has in mind somebody who will recruit staff. For example, in the Judicial Department, we have the Judicial Service Commission, which recruits staff. Here in Parliament, we have got the Parliamentary Service Commission (PSC). Why can we not allow the Kenya National Audit Commission to recruit its staff?

Mr. Temporary Deputy Chairman, Sir, I beg to support this amendment.

The Minister for Lands and Settlement (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I sympathise with the sentiments expressed by my colleague. We are giving a responsibility to a commission, whose mandate does not include staffing of the Kenya National Audit Office. This is because the Kenya National Audit Commission's duties are specified in the Bill, and they do not include staffing. We should leave this responsibility to the Government, so that, if for any reason the Kenya National Audit Commission is not in place, we do not "kill" the Kenya National Audit Office because there is nobody to recruit its staff. Let us leave this responsibility to the Government.

I oppose the amendment.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Minister in order to mislead the House, when in Clause 54, it says clearly that the duty of the National Audit Commission includes the appointment of staff? He should just read Clause 54.

The Temporary Deputy Chairman (Mr. Khamasi): Okay!

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

(Clause 35 agreed to)

(Clauses 36, 37 and 38 agreed to)

Clause 39

The Temporary Deputy Chairman (Mr. Khamasi): I have received notice of amendment from Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

"THAT, Clause 39 be amended in Subclause (2) by inserting the words "and practising" after the word "registered."

The purpose for this is that not all accountants who fall under the Accountants Act are practising accountants. Therefore, the purpose of my amendment is that the institute gives certificates and registers those who are practising as accountants. Not all of them practise. We will want those who have been registered as practising accountants to do these jobs.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, this is a very reasonable proposal and I fully accept it.

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

(Clause 39 as amended agreed to)

(Clauses 40, 41, 42 and 43 agreed to)

Clause 44

The Temporary Deputy Chairman (Mr. Khamasi): We have received notice of amendment from Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

"THAT, Clause 44 be amended:-

(a) in subclause (1) by deleting the words "Controller and Auditor-General" and substituting thereof the words "the Accounting Officer for the Kenya National Assembly Audit Office".

(b) in subclause (2) by deleting the words "Controller and Auditor-General" and substituting thereof the words "the Accounting Officer for the Kenya National Assembly Audit Office".

(Question of the amendment proposed)

(Mr. Mwiraria moved to the Dispatch Box)

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Mwiraria, you know I had proposed the Question, and I was now putting the Question.

Hon. Members: We cannot reverse!

The Temporary Deputy Chairman (Mr. Khamasi): Okay, Mr. Mwiraria, what have you got to say?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I just wanted to draw your attention to the fact that there is a difference between the Kenya National Audit Office and the Kenya National Assembly Audit Office. I accept the Kenya National Audit Office and not the Kenya National Assembly Audit Office. It is the first time that the word "National Assembly" is

appearing. So, I am moving an amendment that we delete the words "National Assembly".

(Question of the amendment to the amendment proposed)

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

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

(Clause 44 as amended agreed to)

(Clauses 45 and 46 agreed to)

Clause 47

The Temporary Deputy Chairman (Mr. Khamasi): We have a notice of amendment from Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, having looked at Clause 47 very closely, I believe the age limit has been set at 65 years and I wish to withdraw my amendment.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I had an amendment and I am glad to inform you that the secretariat which looked at that amendment is sitting with you. Nonetheless, the intended amendment and import of what I wanted to move was to restrict the period of the Controller and Auditor-General to two terms.

The Temporary Deputy Chairman (Mr. Khamasi): Order, Mr. Omingo! You cannot begin proposing what is not before the House. You cannot debate!

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, it is good for record and I am not agitating. I am only saying that there is an omission in the Order Paper.

(Proposed amendment withdrawn)

(Clause 47 agreed to)

(Clause 48 agreed to)

Clause 49

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, I have received a notice of an amendment to Clause 49 from Mr. Wamunyinyi.

Proceed, Mr. Wamunyinyi!

Mr. Wamunyinyi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 49, Subparagraph (b) be amended by adding the following words immediately after the word "Assembly"; "or in his absence the Chairman of the Public Investments Committee of the National Assembly."

Mr. Temporary Deputy Chairman, Sir, I have three reasons for moving this amendment. First, both the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) are Select

Committees of the House and they both deal with the public accounts, investments and finances of the Republic of Kenya.

Secondly, in view of the importance of the Commission, it is only fair that a substantive chairperson acts in place of the Chairman of the PIC. Therefore, it will be in order for us to pass that the Chairman of the PIC sits in place of the Chairman of the PAC.

Finally, it has been the tradition and practice in the past that the Chairman of the PAC is the Leader of the Official Opposition. Most of the time, he will be a busy person and therefore, he needs someone to assist him.

Mr. Temporary Deputy Chairman, Sir, with those few remarks, I beg to move.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, the proposal made by Mr. Wamunyinyi is very reasonable. However, instead of putting it as an alternative to be, I want to propose that we have a separate item which provides that the Chairman of the PIC becomes a member.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Mwiraria, are you
[**The Temporary Deputy Chairman**]
proposing to add part "f" to Clause 49 to include the Chairman of the PIC?

The Minister for Finance (Mr. Mwiraria): Yes, Mr. Temporary Deputy Chairman, Sir.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I rise to support the proposal by the Minister to have the Chairman of the PIC as a member. I think it is important.

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

(Clause 49 as amended agreed to)

Clause 50

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, I have received a notice of an amendment to Clause 50 from Mr. Obwocha.

Proceed, Mr. Obwocha!

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 50 be amended:-

(a) in Subclause (2) by inserting the words "on such terms as may be determined by the Commission" after the word "Secretary"

(b) by inserting a new Subclause 50(3) as follows:

50(3) provided that the Kenya National Audit Commission shall appoint, promote and discipline the staff of the Kenya National Audit Office.

Mr. Temporary Deputy Chairman, Sir, in part "a" of my amendment, I am proposing that the Kenya National Audit Commission shall appoint a secretary on such terms as may be determined by the Commission. In part "b" I am proposing an amendment that it will be the responsibility of the Kenya National Audit Office to appoint, promote and discipline staff so that the work under that office is properly carried out.

I beg to move.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I have no problem with the amplification to Clause 50(2). I think it was understood even without the addition. However, I have a problem with the addition of item 50(3). I think it is well covered under Clause 50(4). So, is it really necessary to add this other one?

Mr. Obwocha: Mr. Chairman, Sir, if the Minister looks closely at Clause 50(4), he will notice that it talks about making regulations governing the remuneration and appointments. However, my addition is about promotion and discipline of staff. So, matters of discipline of staff are not included. So, basically I do not think this is a big deal.

The Temporary Deputy Chairman (Mr. Khamasi): Mr. Obwocha, what does "remuneration and other terms" mean? I think, for easy flow, Clause 50(3) is duplicated by Clause 50(4). So, we can as well do away with 50(3) and only relate to Clause 50(a).

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

(Clause 50 as amended agreed to)

*(Clauses 51, 52, 53, 54,
55, 56, and 57 agreed to)*

First Schedule

The Temporary Deputy Chairman (Mr. Khamasi): Hon. Members, I have received a notice of an amendment to the First Schedule by Mr. Wamunyinyi.

Proceed, Mr. Wamunyinyi!

Mr. Wamunyinyi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the First Schedule, Part 5, be amended by adding the following proviso.
"provided the successor shall be appointed within one year from the day this
Act comes into operation"

Mr. Temporary Deputy Chairman, Sir, obvious reasons dictate that we set some time limit for the implementation of the Act. This will ensure that we will not have the holder of the office who has been there since 1961 staying on for another ten years.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, I have received a notice from Mr. Kajwang of his intention to further amend the First Schedule.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the words "one year" appearing in the amendment proposed by Mr. Wamunyinyi to the First Schedule, Part V, be deleted and the words "three months" be inserted in place thereof.

Mr. Temporary Deputy Chairman, Sir, I support the amendment except that one year is a long time to wait for appointment of a successor to the Controller and Auditor-General. Since the current holder of that office is already more than 65 years old, we should ask the President to identify a successor immediately he assents to this Bill so that, in three month's time, the position can be filled.

(Question of the amendment to)

the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, considering that the Controller and Auditor-General has been in office for 40 years, it is very reasonable to suggest that his successor takes over from him within one year. As suggested by Mr. Wamunyinyi, the successor of the current holder of that office needs time to familiarise himself with the goings-on in that office. If you have somebody taking over from a person who has been in office for a long time, that person will not perform his duties properly, because he needs to know---

Hon. Members: No! No!

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, hon. Members will have time to vote. Let me give reasons for defending this position. One will need time to know how the previous office holder has been working. In any case, the Office of the Controller and Auditor-General has branches countrywide. It does not audit only one office. So, really, the current holder of that office should retire, but his successor should have one year to understand him.

Hon. Members: No! No!

The Temporary Deputy Chairman (Mr. Khamasi): Order! Order, hon. Members! Mr. Musila, you may have the Floor!

Mr. Musila: Mr. Temporary Deputy Chairman, Sir, I rise to support Mr. Kajwang's proposal. First and foremost, no one is indispensable. The normal notice period for public officers who are about to retire is three months. In any case, we are talking of one person who has a deputy, and who is represented throughout the country. Therefore, it will not cause any problem for him to leave after three months and then someone else takes over the office.

(Applause)

The Temporary Deputy Speaker (Mr. Khamasi): We will hear one or two other hon. Members and then I will put the Question. Mr. Angwenyi, you may have the Floor.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I support what Mr. Obwocha has said. The person who is currently in office has done his job. It is this House and the Attorney-General who have not implemented the recommendations of the Controller and Auditor-General. It is true that, that man has been in office for 40 years, but he has done his job well. We want him to hand over that office to his successor systematically. What is the hurry in sending him home?

Mr. Muchiri: Mr. Temporary Deputy Chairman, Sir, one year is too long. Keeping somebody in office, for even a day, whose time in office is up, is dangerous.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I think Mr. Obwocha is worried about the handing over process. Handing over of an office and retiring are two different things. There is nothing wrong in the Controller and Auditor-General handing over to his successor within three months after the President assents to this Bill. He can take as long as he likes to hand over the office, but suppose he dies tomorrow! What will happen? Does it mean that we will not have a Controller and Auditor-General? So, three months is sufficient. We do not need to give him any more time.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I am torn between the two lines taken by the House but I think what is important is for us to have a new Controller and Auditor-General appointed within three months. If the need arises for him to take a little longer to hand over, that will be discussed later.

(Question of the amendment to the amendment, that the words to be left

out be left out, put and agreed to)

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

(First Schedule as amended agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of The Public Audit Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker took the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE PERSONS WITH DISABILITIES BILL

Mr. Khamasi: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Persons with Disabilities Bill and approved the same with amendments.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Mwiraria) seconded.

(Question proposed)

Mr. Muturi: Mr. Deputy Speaker, Sir, while congratulating the Minister on the passage of this important Bill, I do wish that, at the earliest opportunity, a thought be given about a proposition as to how we can provide that persons with disabilities will retire at the minimum age of 60 years without putting a maximum age.

With those few remarks, I beg to support.

(Question put and agreed to)

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Deputy Speaker, Sir, I beg to move that The Persons with Disabilities Bill be now read the Third Time.

The Minister for Finance (Mr. Mwiraria) seconded.

(Question proposed)

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE PUBLIC AUDIT BILL

Mr. Khamasi: Mr. Deputy Speaker, I beg to report that a Committee of the whole House has considered The Public Audit Bill and approved the same with amendments.

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Education, Science and Technology (Prof. Saitoti) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I beg to move that The Public Audit Bill be now read the Third Time.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala) seconded.

(Question proposed)

Mr. Muchiri: Mr. Deputy Speaker, Sir, while congratulating the Minister for bringing this Bill, I want to say that this is an indication of the Government's policy of accountability and transparency. I hope the Government will now be able to have its books audited in good time. I also hope that this Parliament will not always be treated to reports without any action being taken.

Mr. Obwocha: Mr. Deputy Speaker, Sir, we have passed this Bill on the understanding that the constitutional review process is still going on and, once it is completed, the oversight role will go to the National Assembly. The Controller and Auditor-General should not be reporting to the Minister for Finance as we have resolved today. He should be reporting to Parliament so that Parliament can audit the Government. So, we believe that, after the conclusion of the constitutional review process, this Bill will be amended.

Mr. Omingo: Mr. Deputy Speaker, Sir, I appreciate the spirit with which this Bill has been passed; there was consensus from both sides of the House. Our children have a debt burden because of

extravagance in terms of public expenditure. I believe that this Bill is now going to relieve us of this burden through the introduction of efficiency and accountability in the management of public expenditure. The Government must ensure that there is sufficient staff in the office of the Controller and Auditor-General to do what we have passed. We do know that as we move towards the good governance that we intend to put in place, we should not frustrate the efforts of this particular office.

Thank you, Mr. Deputy Speaker, Sir.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE *SINE DIE*

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to move the following Motion of Adjournment:-

THAT this House do now adjourn *Sine Die*.

We have got every good reason here to be happy over what we have accomplished by the time we are closing this year. Certainly, several very important Bills have actually gone through this House, and we have passed them. One of them is the Public Audit Bill, which is going to contribute a great deal to the manner in which resources are going to be managed and used by the Government. Another one, which is extremely important, and which we have also passed today is the Persons with Disabilities Bill. By passing that Bill, the National Assembly is sending out a very important message to the people with special needs, namely that this Parliament and this country generally wants to treat these people as equals, so that they can be able to enjoy equal rights with all Kenyans. That is a very fundamental achievement that we have made today.

Mr. Deputy Speaker, Sir, I also do believe that, yesterday, we were also able to actually make the point that we do care for the Institution. The enactment of the Presidential Retirement Benefits Bill is itself important, from an institutional point of view. I was actually very happy that there was no bi-partisan or partisan way of looking at that issue. This is the way we should build institutions and, indeed, irrespective of who it is, we want to ensure that those who give valuable services continue to be respected. That is the way we are going to work as a country, even in the future.

Mr. Deputy Speaker, Sir, I also want to take this opportunity to commend the hon. Members, first and foremost, for the dedication that we have all shown in recognizing the fact that HIV/AIDS is a very major problem. It is a threat to this country economically, and it is a threat to the lives of many people. Indeed, we know quite well that it is not too long a time ago that hon. Members of Parliament went to Mombasa to attend a workshop whose outcome is very clear. Now, the fact that, indeed, the Constituency Aids Control Committees are going to be formed, we all have got a duty to make the greatest contribution to fight against this great evil, which is destroying the lives of our people. If we do not do that, everything else we are trying to do will not be achieved.

Mr. Speaker, Sir, I also believe that we should be happy, and on this occasion, I want to commend the Minister for Finance along with all his team. They have done us proud as a country because they have been able to tackle a very outstanding and major problem, namely ensuring that Kenya is once again back on its track in its good relationship with the Bretton Woods Institutions. I know that some people have expressed fear that, perhaps, the agreement in place has some kind of conditionalities that may bring problems. But I am afraid at this time that we must agree to bite the

bullet, because there is no way we can accept to be outside the International Monetary Fund framework because, if we do so, there is no way we are going to attract foreign investments to come into this country. If we do so, this country will not be held in high esteem. We will deny ourselves a great deal of benefits which we need; the resources to address poverty, which is our number one problem.

Mr. Deputy Speaker, Sir, the International Monetary Fund (IMF) and the World Bank have given us conditionalities, but even if you go to any bank and you want to borrow money, you will be given conditionalities. I believe that these conditionalities have been very well negotiated by a competent team for the interest of this country.

It is most appropriate that we are going on recess today because we should take into account the fact that we have already agreed elsewhere that the National Constitutional Conference will begin in January, 2004. So, between now and then, we definitely require time. We will go for Bomas III and from there come back to Parliament, because the Constitution mandates that we must meet within 90 days. This means that we will have a very difficult year and we require all our energies. But a word of caution is important: The Constitution belongs to all of us; it belongs to all Kenyans. It is important that we take that message to Bomas III, so that even the delegates understand that you cannot achieve a meaningful Constitution through an exclusive process. It must be an all-inclusive process.

The Constitution must be accepted by everybody and that is why the two-thirds majority is required. The Constitution does not belong to one person or to one section of the people. First and foremost, it must protect an individual. There is no individual in the Constitution who is bigger or lesser than the other one. All of us are equal and, therefore, it is important to respect the opinion of every individual during the constitutional review process. The Constitution must protect the community and the whole nation. That message must be very clear.

I would hate to see a scenario like the one we saw at the Bomas of Kenya where hon. Members were being treated as outsiders and with a great deal of contempt. It is important that, as elected leaders, we must live up to our responsibilities. In any constitutional review process, in any country that has a Parliament, the role of the Parliamentarian is supreme. We cannot abdicate our role. We were elected by the people and we cannot accept to be told off. We must play our role. If anything goes wrong, we will be held answerable by the people of this nation. I, therefore, hope that when we go for Bomas III, we must make sure that things move properly.

Mr. Deputy Speaker, Sir, I also want to thank hon. Members. Despite the fact that this is a multi-party system, the debates have been fairly cordial. There have been differences because of the respective positions that we hold but, by and large, I have seen that since the "birth of multipartyism" here, we have come to maturity because I have not seen any violent confrontation. We should carry that message to our people. In the long-term, democracy in this country will come of age. That is what we must be building up.

Finally, I want to wish hon. Members a very happy Jamhuri Day.

Kenyans will be celebrating 40 years of Independence. We have every good reason, incidentally, to be proud of ourselves. If anything, we have been able to sustain stability in this country.

We have been able to hold elections in a very peaceful manner. There are not many countries in Africa which can come nearer to our record. That is something for us to be proud of. As we move to the next era, I believe that we should do so with a great deal of hope.

My final word is to wish every Member of Parliament a Merry Christmas and a Happy New Year.

I beg to move.

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Deputy Speaker, Sir, I rise to second this Motion.

We have all worked hard this year. We all need to return to our constituencies, talk to our

constituents and launch our constituency AIDS Control Committees and generally, account to our constituents on how we have spent this year.

As we go on recess, one issue that is uppermost in every Member's mind and in every Kenyan's mind is security. As a member of the Government, I am aware that the Government is doing its best to ensure the security of every Kenyan. Having said that, as a member of the Cabinet, I consider myself just as any other Kenyan, sharing the same security risks shared by my constituents and by the citizens of this country. Although I am privileged to have security guards, it is not compulsory that I have them at all times.

(Applause)

I use them when I need them, but when I do not need them, I do not have to use them. Therefore, like any other Kenyan, I have faced the risk of being carjacked. I must say that I am happy that I was able to get out of it, I was not harassed unnecessarily by the robbers, and I was kept where I was able to find transport. I want to take this opportunity to say that the issue is about the security of every Kenyan. I am not on trial, nor am I required to explain where or how I was travelling; just like any other Kenyan is not required to explain.

(Applause)

Indeed, this week, there have been many Members of Parliament who have been carjacked. I have not heard people express interest as to where they were going or coming from. We must learn to tackle issues in a responsible manner. If it is a matter that falls within the public domain, so be it. If we have reached a stage in this country where leaders must account for every move, then I would be happy to explain. However, if that stage has not come, and if questions have not been asked of every one, then I will not answer anybody.

(Applause)

Mr. Deputy Speaker, Sir, having made that point, I want to say that our police officers should take their time investigating crime. They should double their efforts to know what is happening within their areas of jurisdiction. If they paid as much attention to those issues as they are paying to the Press, we may have a better and secure Kenya.

Mr. Deputy Speaker, Sir, I want to join my colleague in saying that Kenya has made very big strides this year by being accepted back by the international community and the lending institutions. There are those who see drawbacks but I want to say that maybe, there is some misunderstanding about the term "donor conditionality." As a responsible Government, conditions are negotiated that are acceptable to us as a country and as a Government. There are those things that, as a Government, we will be required to do by prudence as a question of management. These are things that we would do even if the donors were not there. These things are contained in our manifesto.

The fight against corruption should not be seen as donor conditionality. It is good for us and the economy. It is something we promised Kenyans. If it is the issue of making Kenya secure, including the issue of terrorism, the only thing that would be wrong is to do things that may affect the human rights of Kenyans. We should, therefore, discuss whatever is before us to our best interests without opposing something merely because you think the lending community has an interest in it.

Mr. Deputy Speaker, Sir, I want to agree that Members of Parliament are not mere passengers in the constitutional review process. Amongst the delegates who are in Bomas, it is only Members of Parliament who have a double mandate by having been elected to represent their constituents by

popular will. We, therefore, have a very big responsibility to ensure that we represent our constituents to bring a Constitution that will last this country for years to come. It should not be a Constitution that has quick political fixes but a Constitution for posterity.

I wish Kenyans and my constituents a merry Christmas and a prosperous coming year.

Mr. Deputy Speaker: Order, hon. Members! This Motion should last for three hours. We started it at 6.45 p.m. and it will continue, if there is need to speak, until 9.45 p.m. The time limit is five minutes.

(Question proposed)

Who is the Official Opposition Responder? You have five minutes!

Dr. Godana: Thank you, Mr. Deputy Speaker, Sir. I stand to support the Adjournment Motion. After weeks of very busy sessions in the House, I think this is an appropriate time for us to take the traditional Christmas break which also precedes the new Session of Parliament that normally comes at the end of the first quarter of the year.

As we go back to our constituencies in the countryside, we have to bear in mind that there is a major national business which is still unfinished. I am glad that both the Mover and the Seconder of the Motion did refer to the business of the constitutional reform or the Bomas process which is still pending before us. I do hope that, over the next few weeks, before the 12th of January, we will be able to look for bridges across the political spectrum on the contentious issues which have divided us and sometimes created unnecessary acrimony even in the media and causing us embarrassment as a country. The NARC Government came to power with a promise of a new Constitution for Kenyans in the first 100 days. I think they, more than anybody else, should be embarrassed that, one year after that solemn promise which was made even in this House on the occasion of the official opening of Parliament by the Head of State himself, we are still seeing signs of people seeking to scuttle the constitutional review process from within the Government. I wish to appeal to them that, for once, they should be sincere and support the process to its conclusion.

Mr. Deputy Speaker, Sir, the question of the worsening national security has been raised and very appropriately spoken of by a Cabinet Minister who was herself kidnapped. I think when a Cabinet Minister feels that at a time when he or she is free to move around, the thugs have the better part of her freedom, then something is seriously amiss. The Minister in charge of internal security has to awaken to this. It is not enough for Ministers to say that the Government is doing its best. The fact is that on this score and many others, the situation is far worse that it was in December, 2002, when the NARC administration was elected.

We welcome, with caution, the return of the multilateral institutions which are lending money to us. I say "with caution" because we know the conditions which always have to be there are not easy and have not been easy. Every Government gets the conditions that it negotiates. Time will tell whether those conditions, which this administration conceded to, were all worth the commitment that this Government made. In particular, we are watching to see how the commitment to retrench 45,000 public servants will be carried out. It is our sincere hope that, in targeting individuals and sectors, there will be as much transparency, fairness and objectivity to ensure that no groups, particular bodies or special interests of particular regions will be specifically targeted.

Mr. Deputy Speaker, Sir, I say this because in the past, there was an individual who was promoted, but the letter of promotion was stopped by his immediate boss, who wanted to include him on the list of those who were to be retrenched. He knew that if he got that promotion, he would not have qualified for retrenchment. The letter was only discovered a year after he was retrenched and, thanks to the Public Service Commission (PSC), he was reinstated and is now back in service.

I also wish to talk about the worsening situation of the economy and, in particular, the tourism

sector. The Ministry of Tourism and Information has failed badly in turning around the decline in that sector. The Ministry of Foreign Affairs has not done enough in presenting our case to the source areas of tourism, particularly to the American Government on the question of the travel advisories. If you access the website, the kind of description of threat to security that is given to Kenya is really bad. For tourists wishing to travel to Kenya, they are advised to travel at their own risk. That is the message! It is time we got real leadership in those two areas, particularly in the Ministry of Tourism and Information. I think the Kenya Tourism Board has failed miserably. The Minister for Tourism and Information seems to be good at communicating with the media and nothing more!

Mr. Deputy Speaker, Sir, this morning, I was with a senior official in the tourism industry. He said that in Egypt, tourists are massacred! They are guarded by machine guns. Egypt has nothing to offer except the pyramids. Nothing more! Yet, tourists go there in millions.

With those few remarks, I beg to support.

Mr. Khamasi: Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to contribute to this Motion. It is worthwhile to take stock of what we have done since our Government took over power. To a large extent, we have done very well. Those who are blaming the Government unnecessarily should look at what has happened since the NARC Government took over power.

Mr. Deputy Speaker, Sir, I want to comment on the question of corruption. This Government must be commended very highly for what it has done in fighting corruption. Corruption has been the biggest problem in this country. If we fight it and succeed, a lot of other things will follow. On the Judiciary, we have done very well.

However, having said so, I must ask this Government to move very quickly and do something about corruption in the Cabinet itself! Members of the Cabinet who have been adversely mentioned as corrupt will do a lot of favour to the President by resigning and giving him an opportunity to appoint people of integrity to those positions. We cannot have baggage in the Cabinet and think that we can move very fast.

Mr. Deputy Speaker, Sir, the Civil Service has let this Government down. I do not know why we are slow in making changes in the Civil Service. If we still retain the same people who failed the last Government and expect them to make any changes, then we are cheating ourselves. This Government must move fast and make changes in the Civil Service, if it wants reformists. That is because those who are there want the *status quo* to remain. Ministers have come here complaining! Even yesterday, we had one complaining that he has problems in making civil servants in his Ministry work. If we are not going to make any changes in the Civil Service, we will not achieve the changes that we are trying to get.

I would like to commend the Government on the question of free primary education. The Minister in that particular Ministry has done very well, although he is being mentioned adversely in other areas.

(Laughter)

Mr. Deputy Speaker, Sir, this is the biggest thing that has ever happened in this country; providing our people with free primary education. It must be managed well. The monies that are going to schools are huge amounts which the schools have never seen before; since Independence. Unless we put proper management arrangements in place, that money will be misused. It should not be a question of us failing in that particular programme.

On the Constitution, I am telling this Government and the Minister: Please, let us have a new Constitution before our next election campaigns. We can do no better. Please, for those who want to show us their might or how great they are, let them know that Kenyans are still waiting for this Government to deliver to them a new and workable Constitution. It is important that we must move in

that direction and the people who are trying to act funny, like in the previous Government, must know that Kenyans have become cleverer than they were before 2002.

On the resumption of aid, I must commend the Minister for Finance. He has done very well and I believe this will go a long way in resuscitating our economy. We should not be greedy and renege on the promises we made to the donors and development partners, because what used to happen in the previous regime was that it was a question of saying: "Yes, we shall do A,B,C,D" only to find it impossible. Hon. Mwiraria came here and told us that he himself and his Ministry, and the Government in general, agreed on all the terms, which means that he knows he can perform and meet those requirements and we do not want them to renege on what they agreed with the donors, so that we can continue getting aid and move this country further ahead with regard to the economy.

With those remarks, I beg to support the Motion.

Mr. Manoti: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity also to support this Motion of Adjournment. We started well and we are now closing the year. There are so many areas where the Government has started to do well but they have not accomplished to the level the people required.

The Minister for Energy promised to give people electricity in trading centres, but if you go around, you will only see cables running over some trading centres without those people benefitting. When I moved the Motion on electricity, the Minister promised that any area with electric cables passing nearby, would get electricity. They have not done it. Whoever applies is asked to pay a lot of money before he can be connected to electricity. I can see my friend, hon. Kiunjuri, looking at me whereas he responded very well to my Motion and yet, they have not done anything that can benefit the people. Everybody knows that if we get electricity to our trading centres, we shall create a lot of jobs. Our youth who move to big towns to look for jobs can get some work to do in the rural areas. Therefore, it is very crucial that the Ministry of Energy should make sure that the Rural Electrification Programme kicks off in all corners of this nation.

The Minister for Roads, Public Works and Housing, hon. Raila, is a very good worker. But it is becoming very difficult for road projects to start anywhere. Our roads are in a very bad state. Contractors are awarded contracts but to move to the site is a problem. It is a problem for some contractors to move to the site when they have been awarded a contract to repair a road. For example, we have urged the Government, for many years, to repair the road from Nyangusu to Keroka. The road is impassable, and yet some money was set aside to repair it. I request the Minister for Roads, Public Works and Housing, who is capable, to order the contractor, who was awarded a contract to do this road, to move to the site.

Mr. Deputy Speaker, Sir, the Kisii-Kilgoris Road is also in a pathetic state. The Government has set aside Kshs50 million for its repair, but we do not know how long it takes to sign a contract so that the contractor can start repairing it. Many accidents occur on this road because it has many potholes. This is the case, and yet some money was set aside to repair it.

We have the Local Authorities Transfer Fund (LATF). Although the Ministry disburses the LATF money to various local authorities, it is the chief officers who control its expenditure and not the councillors. This gives chief officers a leeway to spend this money the way they want. Even most hon. Members do not know how this money is spent. Therefore, I urge the Minister for Local Government to, at least, give the chairmen of local authorities some powers, so that they can know how the money is spent. Unless we are careful, that money will end up in the pockets of the chief officers of local authorities.

All of us agree that our councillors earn very little money. The Kshs7,000 paid per month to a councillor of a ward, which may have about 30,000 people, is very little. It is high time we became realistic. We should come together and see how we can pay councillors higher salaries. Councillors have families and have personal problems like any other person. So, the Government should increase

their salaries so that they can do their work properly.

An hon. Member has talked about the free primary school education programme the Government has implemented. Indeed, the Government uses a lot of money to maintain and buy books for our primary schools.

Mr. Deputy Speaker, Sir, I beg to support.

The Minister for Lands and Settlement (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion. I would like to begin my contribution by correcting the impression that has been created; that we have been in office for one year and have done nothing. Despite all the problems the Government has experienced during the transition period, for example demoralised staff and inadequate resources, I believe we have done a lot.

On land, my Ministry has virtually wiped out corruption in the lands offices and kept away all the brokers. People can now access all the records and files they want. Kenyans are now served efficiently by the Ministry officials. While still on land, I would like to appeal to hon. Members, as we go on recess, to inform their constituents, on our behalf, about our notice which requires people in settlement schemes, and those who have settled in forest land, to surrender their title deeds to the Ministry. This applies to people who were not settled by the Government. I am talking about people who have settled on the forest land on their own. We are happy with the people who were settled on forest land by the Government.

Mr. Deputy Speaker, Sir, going down the list of our achievements, you will see the purge we have had on the Judiciary in our fight against corruption. I do not think any other country in the world has ever done that unless there is a war. We have all seen what has been done on education. As the saying goes, we have eyes but do not see. There has been an additional Kshs8 billion invested directly into schools and which is now money circulating within the economy.

Mr. Deputy Speaker, Sir, I think in the past as Kenyans, we had to go with our heads down, being looked at as refugees every time we travelled. But over the last one year, we have seen a new wave of Kenyans re-inventing themselves, holding their passports high and being very proud to be called Kenyans. I do not know how much value we can put to that goodwill and the realisation of the image of Kenyans in the international scene. This contributed to the more than 25 nations coming here during the Consultative Group Meeting and almost falling over one another in pledging their donations.

Mr. Deputy Speaker, Sir, I just wish to comment on the war on HIV/AIDS. I have not seen any other country where the Head of State, the First Lady and all women have come together and put all their efforts in fighting this scourge. I know parliamentarians have committed themselves and, I think, this is really part of the success we should be looking at in terms of what we have done as the NARC Government in the last 11 months.

I believe it is the same commitment we have had on the war on terrorism. I appreciate the concerns my colleagues have on the criticisms on the Suppression of Terrorism Bill. However, I would like us to look through the bigger picture and think of how we want to experience insecurity in this country, where Kenyans are being terrorised by all manner of things and the negative effect this has had on our economy.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, for several years, from 1993 when the interest rates went to up to 80 per cent, we were told that they could not come down. We were also told that it was

because the Government was borrowing. However, in just under one year, we have managed to bring Government borrowing to an interest rate of less than 2 per cent and 5 per cent on five-year Bonds. I do not think there is any other place where you can get these kinds of reforms within one year, and the effect that this has had on the economy, with all those savings on the payment of the interest rates financing our social services and the social sector.

Mr. Temporary Deputy Speaker, Sir, a lot has been said about the constitutional review process. We promised to give Kenyans a new constitution. I believe that everyone in the Government is committed to having a new constitutional and a new constitutional order for this country. But as we look at the constitution review process, all hon. Members here, agree to the problems and frustrations we have all had to endure when we are looked at as pariahs at Bomas of Kenya and not respected. I wish to reiterate what has been said before and request that hon. Members of Parliament should be respected and, that some of us should be respected irrespective of the geographical regions we represent? So that when I, for example, stand to contribute at the Bomas Conference, it is not assumed that because I come from Kipipiri which is in Nyandarua District, I am a "Mount Kenya mafia" bent on scuttling the Constitution Review Process even before I have uttered a word. I believe we need to be respected.

With those few remarks, I beg to support.

Dr. Shaban: Bw. Naibu Spika wa Muda, yangu si mengi isipokuwa ni kuunga mkono Hoja hii. Kwanza kabisa, mwaka huu umekuwa na mambo mengi sana. Mwanzo, tulikuwa na uchaguzi wa Serikali mpya ambayo ilikuwa ni lazima itekeleze maswala mengi ya wananchi wa Kenya. Mbali na hayo, tumekuwa na vifo vingi sana vya Waheshimiwa Wabunge wenzangu pamoja na viongozi. Langu ni kuwaombea roho zao ziende mahali pema peponi wakati tukiendeleza shughuli za kujenga nchi hii.

Pili, Katiba ya Kenya ndio msingi wa nchi hii. Kuna umuhimu wetu sisi kufunga mwaka huu tukijua ya kwamba tukifungua mwaka ujao, ni lazima Wakenya wote wajumuike na sisi ili tuweze kupata Katiba mpya. Katiba ya Kenya si jambo la mzaha. Wajumbe kule Bomas of Kenya wana jukumu muhimu la kutekeleza kazi hiyo. Vile vile, ningependa kuwahimiza Wabunge wenzangu kutilia maanani kazi tuliyopewa na wananchi wetu.

Tatu, ningependa kuchukua fursa hii kuwakumbusha Mawaziri kuwa wamepeleleza jukumu kubwa katika Serikali hii. Kwa hivyo, wasiwachukulie wananchi wa Kenya kiabunuwasi. Ninawaomba Mawaziri wafanye bidii kazini na waache kugombana ovyo ovyo hadharani. Wakenya wanataka kuendelea mbele. Hawataki kurudi nyuma kimaendeleo.

Bw. Naibu Spika wa Muda, vile vile ni muhimu kwamba wenzetu Serikalini wafanye kazi na waache kuangalia nyuma kwani hakuna makosa yanayorekebishwa na makosa mengine.

Ningependa kutaja kuwa ugonjwa wa UKIMWI umeangamiza watu wetu. Ningependa kutoa shukrani kwa Wabunge wote na hasa Rais Kibaki ambaye amekuwa mstari wa mbele katika kupigana na ugonjwa huu.

Bw. Naibu Spika wa Muda, ndovu wametuletea kasheshe kubwa sana. Wameharibu mashamba yetu na vile vile kuwaua watu ovyo ovyo. Ningependa kumkumbusha Waziri wa Mazingira, Mali Asili na Wanyama wa Pori kwamba ndovu hawawezi kuishinda Serikali nzima akili. Ni lazima Waziri aibue mbinu za kuwakomesha ndovu hao wanaoharibu mimea yetu na kuwaua watu ovyo ovyo.

Mwisho, nawatakiwa watu wa Taveta na Wakenya wote heri njema ya siku kuu za Jamuhuri, Krismasi na Mwaka mpya wenye baraka na mafanikio.

Bw. Naibu Spika wa Muda, kwa hayo machache naunga mkono Hoja hii.

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion. In so doing, I remember the very unfortunate case of the child who was defiled recently. As we go to recess, I call upon hon. Members of Parliament to fight misuse of drugs and alcohol. These are two major issues

that strongly contribute towards continued defilement and mishandling of children and mistreatment of women.

I would like to support the activities of the National Campaign Against Drug Abuse (NACADA) which is led by Mr. Kaguthi. The association has tried very hard to draw our attention to the fact that, besides the HIV/AIDS scourge, the abuse of drugs is also a major issue. We are not only scared of hard drugs, but also the misuse of tobacco. We want to ensure that the Ministry of Health does, indeed, ensure that there is enough warning to our young people to stop smoking because it is killing our people very silently. Since tobacco is a silent killer, it goes almost unnoticed.

Mr. Temporary Deputy Speaker, Sir, I want to emphasise that the misuse of drugs and alcohol has reached alarming proportions because it has presently pervaded our schools and it is contributing towards the disturbances in the schools. I would like to appeal to the Kenya Bureau of Standards (KEBS) to ensure that no alcohol is sold in sachets, or plastics. We know that some illicit alcohol is being put in plastics which can be recycled. The Kenya Bureau of Standards (KEBS) should come up with a glass bottle, which should be the standard one for packaging liquor. We should also have outlets specialising in the sale of liquor. Only adults should access such outlets. It should be made impossible for our children to access alcoholic drinks in shops. Bars found selling alcoholic drinks to our children, especially liquors in plastic sachets, should lose their licences immediately.

(Applause)

Mr. Temporary Deputy Speaker, Sir, in many situations, drugs are not handled by authorised persons. The people that we see are victims of drugs. I would like to call upon the media to ensure--

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

[Mr. Deputy Speaker resumed the Chair]

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

Mr. Deputy Speaker: Order! Order, hon. Members! The gracious lady's time is not yet up. She is only half-way through her time. So, do not interrupt her!

Proceed, Prof. Maathai.

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Mr. Temporary Deputy Speaker, Sir, drugs are quite often handled by people who appear very respectable; on our streets and in offices. That is partly why they get away with it. I would, therefore, like to call upon the media to expose people amongst us who deal in drugs, especially those who grow bhang. These people are known. These people cannot be going about their business without being known. I would like the media to expose them because they do things which are very harmful to our children. We know that many people who give illicit alcoholic brews to our children and to other members of society, they themselves, do not take it because they know that it is harmful. So, we need to ensure that the law that protects us from alcohol is followed.

Finally, I would like to call upon hon. Members to mobilise communities to plant trees. As we all know, we have forests that are greatly threatened. Even in ASAL areas, the rate of desertification is very high. So, we really need to mobilise our communities to plant trees.

With those few words, I beg to support.

Mr. Poghisio: Mr. Deputy Speaker, Sir, I wish to begin my contribution by congratulating my

colleagues for ending the year well and wishing them a merry Christmas, a happy New Year and a good Jamhuri Day. Forty years after Independence, Kenya can take stock of great successes. Former President Moi's 24-year rule of this country without bringing it to its knees or to war is a great achievement. So, we cannot celebrate 40 years of this country's Independence without appreciating the input of the immediate former President in the 24 years of his leadership.

Mr. Deputy Speaker, Sir, to be a Third World country is very terrible. Whenever we get credit from donors, we call our people to the streets to celebrate. That speaks a lot about us. Why should you call our people to celebrate because you have been allowed to borrow money? This country needs to get its priorities right. I heard an hon. Member on the Government side say that we have to bite the bullet. What KANU did was actually biting the bullet. Having stayed for so many years without donor funding, it was unnecessary to celebrate. In any case, banks have made so much profit that they are now willing to lend money. If you approach them for a loan, they may not want to know a lot about you, because they want people to borrow their money.

Mr. Deputy Speaker, Sir, I would like to challenge my colleagues on the Government side of the House that Kenya is a big country and Ministers are public officers. When they go out there to do public service, they should act like Government Ministers. It is very disappointing that many of the Ministers have spent one year without visiting other constituencies in the rural areas. I would like to say that this may be the time for some of them to visit Kacheliba Constituency because most of them have not been there.

Mr. Deputy Speaker, Sir, I would like to say something else about the Ministers and their work. When people are appointed to the Cabinet for the first time, nobody checks where they have come from; we just give them the jobs. When we give them the jobs, we need to retrain them so that they are in Government.

(Applause)

I believe that some seminars ought to be organised for the Ministers so that they can behave like Ministers. Nobody was born a Minister. Some of them come with the experience, but the others do not. So, the Ministers should learn how to do their work. I am saying this because there are some members of the Cabinet who have not acted like Ministers. This short recess will be a good time for us to visit our constituencies and I pray to God to help us to come back safely next year.

Mr. Deputy Speaker, Sir, let there be no other Bomas of Kenya Conference after Bomas III. I sincerely believe that, if we are committed, this will be the third and last Bomas of Kenya Conference. Let us move it that way and go to this last Conference. Those of us who are forwarding-looking and have a vision for this country should come together and give Kenyans a new Constitution quickly. By doing so, we will prove them wrong.

There is a lot of anxiety in the public domain especially in the transport sector. There is a lot of anxiety about fare hiking during this season. Will the Minister help the common man? The fares are going to be hiked because of the safety requirements introduced by the Government. Let us help our people to travel well and, again, I pray for safety during this season.

Thank you.

COMMUNICATION FROM THE CHAIR

ADJUSTMENT OF HOUSE SITTING TIME

Mr. Deputy Speaker: Hon. Members, please take seats for a minute. There is a procedural

problem. I mentioned that we will be closing at 9.45 p.m. However, on 16th, November, 2003, hon. Members will recall that the House passed a Motion that the business of the House will continue up to 8.00 p.m., on Thursdays.

I know that the Motion for the Adjournment of the House will take a maximum of three hours. In view of the Motion passed on 16th November, 2003, we will have to adjourn our business at 8.00 p.m.

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

Mr. Deputy Speaker: Order, hon. Members! That is not for debate! I give the Floor to Mr. ole Ntimama.

Mr. ole Ntimama: Thank you Mr. Deputy Speaker, Sir, for giving me this opportunity--

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that the time for contribution has now shrank, could we suggest that we reduce each Members speech to a maximum of two minutes so that we can have as many hon. Members as possible contributing?

(Applause)

Mr. Deputy Speaker: Is that the consensus?

Hon. Members: Yes!

*(Resumption of Debate on Motion
for the Adjournment)*

Mr. Deputy Speaker: Very well! Proceed, Mr. ole Ntimama!

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, I want to support this Motion.

We are fighting two wars; that is the war against HIV/AIDS and graft. The good thing is that His Excellency the President, who is the Chief Executive of the Government, is actually leading both wars and we are fighting on two fronts.

Mr. Deputy Speaker, Sir, secondly, I want to congratulate the Government for starting the fight against graft in the Judiciary. I want justice to be done for the suspended judges who are going to be tried. We must leave ethnicity and intrigue out of it. We must make sure that those people get a fair and just trial. The other thing is that we have not probed lawyers yet. Lawyers are the biggest problem in the administration of justice. They are the ones who coerce the judges to be corrupt. They are the ones who meet the litigants. Look at the people who have been mentioned in the Goldenberg Commission of Inquiry. We have the example of Sharpley Barret. Why are they not investigated? All those people who benefited from the Goldenberg scam ought to be investigated.

The other big thing that happened in this country, and thank God it did not go very far, is when a lawyer from Sharpley Barrett slapped a bogus suit against the media in this country. He was extorting money from the media to stop them from reporting the truth. That is something that must be corrected and some of the lawyers must be investigated. The man who slapped that bogus libel suit against our dailies was a man from Sharpley Barret called Oyatsi and--

Mr. Deputy Speaker: Your time is up! Mr. Sang!

Mr. Sang: Mr. Deputy Speaker, Sir, as I support this Motion for the Adjournment, I want to say that as we proceed home to our constituencies, there are a few begging questions which we must answer. One, the Minister for Lands and Settlement should move very fast and gazette land control

boards because what he is doing now is only piecemeal. Could he move very fast now and gazette all of them?

The second question which we must answer as we get to our constituencies is about the registration of new public schools. The Minister has placed an embargo on registration of public schools. We are aware that, following the introduction of free primary education, classes in primary schools are bursting and, very soon, this problem will be transferred to secondary schools. In my constituency, we are ready to register four secondary schools but, because of this and that reason, we cannot do it now.

Mr. Temporary Deputy Speaker, Sir, when we were told that the donor community was moving in to give us funds, we promised our people that there would be more job opportunities. It is now ridiculous that one of the conditions is that some civil servants will be retrenched. How are we going to explain that to the people of this country? What is the advantage of the donor funding if some people are going to be sent to the streets? Only recently, we sent judges to the streets. Very soon, civil servants will also be sent to the streets. It will be very dangerous to send the electorate to the streets because very soon they will come together and there will be no rest for this Government.

Finally, while we congratulate this Government for having done very little, I congratulate the Ministers who are serving in NARC for having been seconded from KANU. You will recall that in the recent surveys about efficiency and popularity---

The Minister for Livestock and Fisheries Development (Mr. Munyao): Thank you, Mr. Deputy Speaker, Sir.

I have only two points to make. I would like to wish all the Members of this ninth Parliament, followed by the people of Mbooni and the country at large, a merry Christmas and a happy New Year.

There are so many Kenyan children who have left school after completing either Form Four or Standard Eight, but their certificates are being held in various schools. These children are roaming all over the country looking for jobs. However, they cannot get jobs because they are being asked to present their final certificates.

(Applause)

Since we have managed to educate so many Kenyans and spent so much money to pay their school fees, I am appealing to the Minister of Education, Science and Technology to give a directive that those schools, which are holding on to the final certificates of students all over Kenya, should release them so that these Kenyans are free to join the job market like any other Kenyans.

Secondly, Mr. Deputy Speaker, Sir, farmers all over Kenya, particularly in Arid and Semi-Arid Lands (ASALs) have done very well in growing cotton. Every district in the ASAL areas has some disaster management funds. I am appealing to most of the districts to assist cotton farmers to buy chemicals using some of the disaster management funds, so that the farmers can take good care of their cotton. The price of cotton is very good. I am also appealing to Members of Parliament to pay very good prices for the goats, sheep and cows that they are going to buy to celebrate Christmas together with their people.

With these few words, I am wishing all farmers a happy New Year with better prospects.

Thank you.

Mr. Mwandawiro: Asante sana, Bw. Naibu Spika. Yangu yatakuwa machache. Mambo yaliyoelezwa na Prof. Maathai yanafaa kutiliwa maanani na watu wote walio na uwezo. Pia, nawaomba Mawaziri wayatilie mambo hayo maanani. Kuna pombe inayouzwa kwa magunia ambayo inaua vijana wetu. Hiyo pombe inawazuia watu kuendelea kuzaa. Pia inaleta matatizo kwa kina mama huko mashambani. Naomba tutafute utaratibu wa kuhakikisha kuwa, ingawa hatuwezi kupiga pombe hii marufuku kuuzwa, isiuzwe kuwekwa katika haya magunia madogo, bali iuzwe kwa chupa. Ikiuzwa kwa haya magunia madogo, pombe hii inawafikia vijana hata katika shule na kuwaua.

Tafadhali naomba tulitilie jambo hili maanani sana.

Vile vile, Bw. Naibu Spika, naomba kuzungumzia swala la mazingira. Ni muhimu sana tupande miti ili tuendeleze mazingira na misitu yetu. Wananchi wameanzisha nasari nyingi na kupanda miche mingi ya miti. Kwa hivyo, naiomba Wizara ya Mazingira, Mali Asili na Wanyama itafute utaratibu wa kununua miti kutoka kwa nasari za watu binafsi ili tuendeleze kuwapa moyo wa kuendelea kupanda miche, ili tuweze kufikia ile idadi ya miche milioni 40 kila mwaka ili tuweze kurudisha misitu yetu.

Jambo lingine, Bw. Naibu Spika, ni kwamba sasa tumefika mbali sana. Haidhuru, tunaona kuwa tuko huru zaidi katika maswala ya kuhusu haki za kibinadamu na demokrasia. Matatizo yako, lakini tuko bora zaidi kuliko tulivyokuwa hapo awali. Naomba kuwa ule Mswada unaoazimia kupiga ugaidi usikubaliwe kuletwa hapa.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Deputy Speaker, Sir, I would like to begin by informing Mr. Manoti that he is one of the luckiest hon. Members of the House because the road he has referred to, Keroka-Nyangusu, is already on tender for tarmacking. We should be proud, as a country, that we have had a high goodwill this year as a result of peaceful elections which we held last year.

I want to speak about the constitutional review process. Most hon. Members have spoken about it. We all swore and promised the people of Kenya that we would give them a new Constitution this year. Be that as it may, we need, as hon. Members of Parliament, to provide leadership in the constitutional review process. That is the reason why I am proposing that, in this inter-mediate period before we go back to the Bomas of Kenya, both sides of the House should have some kind of dialogue, so that we can agree on how we will proceed when we go to the Bomas of Kenya. Let us appreciate the fact that we are all in this boat together and we will swim across together or sink together. We should, therefore, not allow one person to try to put a nail on the boat.

Mr. Deputy Speaker, Sir, we fought so hard to make this process independent. We said that we wanted a constitutional review process that was not controlled by the Executive, the Legislature or the Judiciary. We wanted an independent process. You will remember that many people said that they wanted this process to be entrenched into the Constitution to shield it from the Executive interference. So, all hon. Members are delegates as of right, and are all equal at Bomas. I am delegate No.155 and I have a right to speak about the constitutional review process.

We should not blame people who are innocent. The Chairman of the Constitution of Kenya Review Commission (CKRC) is innocent. Prof. Ghai is innocent and all of us should try to protect him when he is being unfairly criticised with a view to trying to scuttle the process. So, I would like us to have a give-and-take principle because, as Prof. Kibwana has said, we all want to have a new Constitution in place.

With those remarks, I beg to support.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, mine is to support the Motion for the Adjournment. But I will not have very nice words for the Government. Residents of Eldoret have been very sad this year because, for the first time, the Eldoret International Airport was closed by the Government. Our people were rendered jobless and we lost a lot of money. That is not something to be proud of. In addition, the Government has up to now not paid the bills that were incurred by delegates during the Somali Peace Initiative. That makes me a very sad man, coming from Eldoret Town. I would like to urge the Government to start by retrenching the grandfathers it has employed; during its retrenchment exercise. We cannot retrench young people while employing people who are about 70 years old. The President promised us that he would not have his portrait on the currency of this country. The Minister for Finance had been doing very well until yesterday when he produced a KShs40 coin with a portrait of the President negating the President's promise. That is quite unfortunate. It is the first time, in the history of this country, that all public universities have been

closed. What a shame! The Government has said that it is promoting education yet our university students are at home. Let us not just talk of free primary education. We must also consider universities and secondary schools.

Mr. Deputy Speaker, Sir, let me talk about the cereal prices. We were promised Kshs1,400 for a 90-kilogramme bag of maize. Unfortunately, the man who was making a lot of noise was given the job and he reduced the price to Kshs1,010.

Prof. Mango: Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion. I would like to take this opportunity to thank the NARC Government for the free primary education programme.

While I thank them, I would like to add that we need this education programme from the foundation level to the university level, otherwise, it is like a house without a foundation. We need students to resume their studies at our universities. The current strike is costing the Government a lot of money and, therefore, we need to recall the lecturers. I appeal to the Government to recall these lecturers and agree on their terms of service.

During the campaign period, we promised Kenyans a new Constitution. We need to give the people of Kenya this Constitution. We also promised to create over 500,000 jobs. Unfortunately, they are not forthcoming. I appeal to the Ministry of Energy to go ahead on their rural electrification programme so that we can create jobs.

Mr. Deputy Speaker, Sir, finally, corruption in this country has to end. We have people being named everyday in corruption-related activities, and no action is being taken against them. *Wananchi* would like to see these people arrested so that they serve as an example to others. For example, the people of Busia District are owed Kshs133 million.

Hon. Members: *Tosha! Tosha!*

Prof. Mango: Stop telling me *tosha!*

Mr. Deputy Speaker: Order, Members! Address the Chair!

Prof. Mango: Mr. Deputy Speaker, Sir, the people of Busia District are owed Kshs133 million because of corruption. Somebody is drawing interest on that money, when people are suffering.

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

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I only have three points to make.

First, I would like to thank the Government for resuming the International Monetary Fund (IMF) funding programme to this country. Let us have a part of that programme trickle down to our people.

Secondly, the Ministry of Education, Science and Technology should re-negotiate with the university dons and give them an offer for their terms of service so that our universities can re-open.

Thirdly, this House must provide leadership. We must meet somewhere before we go for Bomas III talks so that when we go there, we will speak with one voice. There is no single person who can speak for us because the Select Committee is confused and the Constitution of Kenya Review Commission (CKRC) is also confused.

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

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mrs. Kilimo): Mr. Deputy Speaker, Sir, I wish to support the Adjournment Motion. I would like to call upon all hon. Members to make use of their time while in recess, to educate their constituents on some of the rules that we have passed here. It is sad that there are some hon. Members who were here last year, who passed the Children's Act and they have not implemented it on the ground.

This is the period for long holidays and it is sad to note that there are many girls who are being forced to undergo female genital mutilation (FGM). Some have gone through it successfully while others have died. We have an example of one girl who died last week in Bomet District. Many others have run away from their homes, yet hon. Members passed that FGM is a criminal activity. Could hon.

Members go and practise what was passed last year?

With those remarks, I beg to support the Motion.

Mr. Deputy Speaker: Hon. Members, I do regret that it was not possible to give as many hon. Members as possible time to speak. I, too, wanted to speak, but it was not possible.

(Question put and agreed to)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, the Chair takes this opportunity to wish you all a Merry Christmas and a Happy New Year.

(Applause)

The House rose at 8.00 p.m.