

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 21st January, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICES OF MOTIONS

AMENDMENT OF HELB ACT

Mr. Lekuton: Mr. Speaker, Sir, I beg to give notice of the following Motions:-
THAT, in view of the inequitable and unstructured distribution of loans managed by the Higher Education Loans Board (HELB) for students in the institutions of higher learning; aware that the funds distribution has tended to favour students from urban areas and highly populated regions of the country; cognisant of the need to provide all young persons with equal opportunity to acquire knowledge and specialised skills, this House grants leave to amend the Loans Board Act, Cap.213A of the Laws of Kenya, to provide for a decentralised Constituency Higher Education Loans Scheme to ensure equitable distribution of loans and funds at the constituency level to students in both regular and parallel programmes studying in public and private universities, at tertiary, undergraduate and post-graduate levels and for matters incidental thereto and connected therewith.

INTRODUCTION OF SPORTS BILL

THAT, in view of the significant contribution of sports to the employment of youths; aware of the critical importance of sports to the image of the nation; cognisant of the fact that there is no legislation regulating the orderly conduct of sports, this House grants leave to introduce a Bill for an Act of Parliament entitled "The Sports Bill" to promote, regulate and manage all sports activities in the country and for matters connected therewith and incidental thereto.

INTRODUCTION OF PSYCHOLOGICAL PRACTITIONERS BILL

THAT, this House grants leave to introduce a Bill for an Act of Parliament to make provisions for training, registration and licensing of psychological practitioners to regulate their practice and standards and to ensure their participation in matters relating to guidance,

counselling and to provide services to the community and for matters incidental thereto and connected therewith.

AMENDMENT OF CRIMINAL
PROCEDURE CODE

Mr. Imanyara: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, aware that the Constitution of Kenya allows for prosecution to be conducted by others other than the Attorney-General; further aware that numerous cases recommended for prosecution by Parliamentary Committees mainly in the Public Accounts Committee (PAC) and Public Investments Committee (PIC) have not been acted upon; further aware that the Powers and Privileges Act provides for penal consequences for offences committed under that Act; considering that parastatals and authorities such as the City Council of Nairobi and local authorities, including the Ministry of Labour, the National Social Security Fund (NSSF) and others have their own prosecutors, this House grants leave to introduce a Bill to amend the Criminal Procedure Code to provide for gazettelement of public prosecutors in the office of the Parliamentary Legal Counsel to facilitate prosecutions and suing out of recommendations of the Powers and Privileges Committee and the Parliamentary watchdog committees and for matters incidental thereto and connected therewith.

ESTABLISHMENT OF KENYA
POLICE SERVICE COMMISSION

Mr. Waititu: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, aware that the Commission of Inquiry into the Post-Election Violence in its report recommended that a comprehensive reform of the Kenya Police should be undertaken, which includes the creation of a Police Service Commission for the Kenya Police, this House grants leave to introduce a Bill to amend the Constitution to establish the Kenya Police Service Commission to provide for the establishment, organisation, Regulation and control of the Kenya Police Service and to provide for matters connected therewith.

ORAL ANSWERS TO QUESTIONS

Question No.335

RELOCATION OF KAMASAI
POLICE POST

Mr. Koech asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he could confirm that Kamasai Police Post in Mosop is built on private land; and,

(b) when he plans to appropriately relocate and build the police post.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) Kamasai is a patrol base built on a private land donated by one Philip Kipsang Maiyo in January, 1992. It was put up at the height of tribal clashes to check incursions by either of the neighbouring communities. The patrol base is not gazetted. There is no land earmarked for the same.

(b) The Officer Commanding the Police Division (OCPD) and the District Security Committee (DSC) have written to the Nandi County Council, requesting the piece of land to be set aside for construction of Kamasai Police Post, but the request is yet to be acted upon.

Mr. Koech: Mr. Speaker, Sir, while I thank the Assistant Minister for the answer, it is worth noting that this land has been in use by the police since 1992, that is for 16 years.

The said owner of the land is ready to sell the land, so that the police can use it. The problem is the compensation for the 16 years. The owner is requesting the Ministry to give a token of Kshs300,000, and using the Constituencies Development Fund (CDF), we can buy the land, so that the Ministry can build a police post. Could the Assistant Minister assist in the compensation and ensure that they build decent houses for the police once we buy the land?

Mr. Ojode: Mr. Speaker, Sir, indeed, we can help my colleague. However, we have to know what kind of compensation he wants. I indicated to him that he should use some of his Constituency Development Fund (CDF) money to start the project. He can then write to our Ministry and request for a certain amount of money, then we will consider doing something. However, we cannot consider his request when he has not written to us. How much money does he need, because I do not know? Let him tell us how much money he needs so that I can consider his request, if it is possible, in the next financial year.

Mr. Koech: Mr. Speaker, Sir, with all due respect to the Assistant Minister, I have already mentioned the amount we want. What he needs is a letter from me. I hope he will act as he has said when I formally write to him. This area is a hardship area. It is right in the Nandi Escarpment and the terrain is very bad. Could I request him to send a vehicle, so that the officers can be mobile and assist my people more effectively?

Mr. Ojode: Mr. Speaker, Sir, a few minutes ago, my Minister and I had to flag off some new vehicles which we bought for purposes of distribution. We had bought 407 vehicles. Out of this, 130 are for the Provincial Administration; 177 are for the police and 96 are for the Administration Police (AP). The only unfortunate situation is that we have not received the whole 407 vehicles. However, we will try and allocate these vehicles to needy areas. Therefore, he should not have a problem with that.

Question No.530

RESTORATION OF SECURITY IN
MIGORI CONSTITUENCY

Mr. Pesa asked the Minister for of State for Provincial Administration and Internal Security:-

- (a) whether he is aware that in the recent past, there has been rampant cattle-rustling, theft of property and loss of life in Migori Constituency;
- (b) whether he is further aware that during post-election disturbances, a number of police posts in Migori were closed, including the one at Ogwedhi;
- (c) what immediate action he will take to ensure that more police posts are established and security restored; and,

[**Mr. Pesa**]

- (d) what arrangements are in place to further provide patrol vehicles for ease of police

work.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that there have been rampant incidents of cattle-rustling, loss of life and theft of properties in Migori Constituency in the recent past. However, in the last six months, a total of Kshs128 head of cattle have been reported stolen. Out of which, 58 head of cattle were recovered. Police are still pursuing the remaining 76 head of cattle in the liaison with officers from the neighbouring districts of Kuria and Trans Mara. The only lives lost during the same period are those of two suspected raiders who were subjected to mob justice and killed by the residents.

(b) It is true that two police patrol bases were closed, including the one at Ogwedhi. The residents had become hostile to the few police officers in the patrol bases during the post-election period and the officers had to be recalled to their parent police stations to team up with their colleagues. The security situation has now improved. My Ministry is considering reinstating the patrol bases.

(c) The Government is committed towards ensuring that security in the area is beefed up. However, the District Development Committee (DDC), Migori, of which the hon. Member of Parliament is a Member, should identify and allocate land for construction of more police posts. Otherwise, as of now, both foot and vehicle patrols have been stepped up and crime is under control.

(d) Migori Police Station which covers Migori Constituency has adequate patrol vehicles at the moment. The vehicles are GK A 175F (Land Cruiser), GK A087F (Lorry) and GK 545E which is used by the OCPD, but is at the OCS'S disposal when need arises.

I do not think we should have any shortage since he has four vehicles at his disposal.

Mr. Pesa: Mr. Speaker, Sir, while I thank the Assistant Minister for his answer, I want to ask him, with a lot of due respect, to sift the information he is getting from the ground. The vehicle GK 175F that he is talking about is one which has passed through three different stations. It was formerly at Kuja and was taken, after an accident, to the Provincial Offices, Nyanza, and now it is at Migori.

This is a vehicle that we cannot rely on, especially in view of the fact that we have a lot of cattle-rustling and theft of motor cycles taking place, which is now a means of survival for the youth. I would like to kindly ask him to consider Migori this time when he is commissioning new vehicles for use by the police in various stations in this country. Could he assure this House that he will earmark Migori as a destination for one of the vehicles they will give out this year?

Mr. Ojode: Mr. Speaker, Sir, I thought the hon. Member would thank the Government for having allocated to him serviceable vehicles. In fact, since this vehicle was taken to Migori, the crime rate has gone down completely. Last month, we managed to arrest two chiefs and one councillor from Kuria. These are the people who were masterminding the theft of cattle in Migori.

Mr. Speaker, Sir, these three vehicles are serviceable. They are in good condition. In any case, if there is prove that this vehicle is not helping the hon. Member accomplish what he wants to do, I can allocate him another vehicle, but not necessarily a new one.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that those people, the Kurias, are masterminding cattle-rustling. Is it in order for an Assistant Minister to suggest that an entire community is responsible for cattle rustling in the entire country?

Mr. Ojode: Mr. Speaker, Sir, I did not say that "those are Kurias." I said that those who are masterminding cattle-rustling within Kuria have so far been arrested. We have arrested two chiefs and one councillor from Kuria.

Mr. Chachu: Thank you, Mr. Speaker, Sir. Many Kenyans, especially in northern Kenya, are losing their lives as a result of cattle-rustling. Many lives have been lost. Livestock, in thousands, are being lost. Does the Government use any intelligent information to prevent cattle rustlers from causing havoc in this country?

Mr. Ojode: Mr. Speaker, Sir, it is true that many lives have been lost. However, I have said in this House that the issue of cattle-rustling will not be there any more. I also said, in this House, that the cattle-rustling activity had gone a notch higher. It is a cartel. I want to assure hon. Members that within a week or so, you will see some action being taken. There are those who are behind cattle-rustling. We will arrest them. I would want to have the support of my colleagues, so that once these fellows are arrested, no one will come up saying that his or her community is being finished. We are not arresting a community. We are arresting the thieves.

Mr. Pesa: Mr. Speaker, Sir, with a lot of due respect to the Assistant Minister, some time ago, we got a lot of assurance from him that heads would roll in Migori. Up to now, I do not know what he is waiting for. The youths in Migori are really suffering. The only source of employment they have is buying motor cycles and using them for business. When I talk about insecurity--

Mr. Speaker: Order, Mr. Pesa! The rules of relevance apply. What is your question pertaining to the matter before the House now?

Mr. Pesa: Mr. Speaker, Sir, I want the Assistant Minister to look at the general insecurity in Migori, not only cattle-rustling, and assure this House that he means what he is talking about.

Mr. Ojode: Mr. Speaker Sir, I said that heads would roll. I transferred about 13 police officers who had over-stayed in Migori. I am assuring the hon. Member that the crime rate within Migori District has gone down. As I speak, I have also beefed up security within the environs of Migori, not just Migori. I have already posted five police officers to Awendo and eight officers to Nyatike. Nyatike falls under Migori District. What else does the hon. Member want me to do? I have told him that the issue of crime rate in Migori is a thing of the past.

Mr. Speaker: Order, Mr. Assistant Minister! The directions that the Chair just gave now, that the rules of relevance should apply, will apply to both sides. Mr. Ojode, the last question you were asked was very simple. Could you assure the House that you mean what you say. What is your answer? Yes or no?

Mr. Ojode: Mr. Speaker, Sir, the answer is yes!

Mr. Speaker: Next Question by Mr. K. Kilonzo!

Question No.564

ADJUSTMENT/LEGAL
DEFINITION OF "YOUTH"

Mr. K. Kilonzo not here? His Question is dropped!

(Question dropped)

Question No.571

UPGRADING OF RWAMBWA/TING'
WANG'I HEALTH CENTRES

Mr. Yinda asked the Minister for Public Health and Sanitation:-

- (a) whether he is aware that Rwambwa Health Centre is catering for patients from Budalangi, Funyula and Ugenya, and that Ting' Wang'i Health Centre is also catering for patients from Bondo; and,
- (b) what immediate action the Government is taking to upgrade the two facilities to sub-district hospitals.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Speaker, Sir, I beg to reply as follows.

(a) Yes, I am aware that Rwambwa Health Centre is near the boundaries of Budalangi, Funyula, and Ugenya. It caters for patients of these areas by virtue of its location.

Ting' Wang'i Health Centre is also near Bondo District. As such, some patients from Bondo District, near the boundary, seek health care at Ting' Wang'i.

(b) My Ministry is liaising with the Ministry of Medical Services to review possibilities of upgrading the two health centres into sub-district hospitals, based on the needs and available resources.

Mr. Yinda: Thank you, Mr. Speaker Sir. I want to thank the Assistant Minister for the response he has given. However, I would like him to reconsider, especially the last line of his answer of part "b" that some sub-district hospitals will be upgraded, subject to availability of funds. Already, from his earlier part of the answer, there is need for the two health centres to be upgraded because they are doing much more than they were meant to do. These two institutions are really overstretched.

Mr. Speaker, Sir, I request the Assistant Minister to confirm to this House that he will do everything within his power to ensure that they are upgraded. Before upgrading them, could the Ministry provide them with ambulances?

Dr. Gesami: Mr. Speaker, Sir, I want to inform the hon. Member that Rwambwa Health Centre was one of the three deserving health centres that were recommended for upgrading to sub-district hospitals. Since Ting' Wangi health centre nearer to Siaya District Hospital, which is only seven kilometres away, it was felt that some other two health centres, that is, Akala and Ukwala were more deserving for upgrading based on work-load, distance to the nearest Government of Kenya (GOK) hospital and administrative division.

However, Mr. Speaker, Sir, let me assure the hon. Member that we have an ambitious kind of plan to get every sub-district hospital and health centre an ambulance. So, he should not worry. When funds are available, we shall give every health centre an ambulance.

Mr. Njuguna: Mr. Speaker, Sir, I rise to ask the Assistant Minister a very simple question. Could he inform the House what basic criteria is used in upgrading these health centres to sub-district hospitals?

This is because I have realised that we have only one health centre in Lari Constituency which was opened in 1953. Up to now, it has taken almost 56 years. How long will it take to have Lari Health Centre upgraded to a sub-district hospital? What is the basic criteria?

Dr. Gesami: Mr. Speaker, Sir, the criteria is quite simple; we take into consideration the work load of the facility, the distance from the nearest GOK hospital and of course, the administrative division where it falls.

Mr. Speaker, Sir, so, maybe the hon. Member for Lari is probably near another major hospital of the Government.

Mr. Gabbow: Mr. Speaker, Sir, could the Assistant Minister inform the House what constitutes a sub-district hospital because in my constituency, the hospital that has been given this status does not even have a single nurse?

Dr. Gesami: Mr. Speaker, Sir, that is a question that belongs to the Ministry of Medical Services. Sub-district, district, provincial and national hospitals belong to the Ministry of Medical Services.

Mr. Yinda: Mr. Speaker, Sir, now that the Assistant Minister has confirmed that Rwambwa Health Centre has already been recommended for upgrading to a sub-district hospital, could he inform the House when the Government will make funds available for this?

Dr. Gesami: Mr. Speaker, Sir, again we will liaise with the Ministry of Medical Services to

take over the Rwambwa Health Centre to the level of a sub-district hospital. Once a District Development Committee (DDC) has recommended a health centre to become a sub-district hospital, then it ceases to be under the Ministry of Public Health and Sanitation. So, we liaise with our colleagues in the Ministry of Medical Services to take over that kind of consideration.

Mr. Speaker: Next Question by Mr. Ruteere!

Question No.419

RESUMPTION OF CONSTRUCTION WORK
ON RUIRI-ISIOLO ROAD

Mr. Ruteere asked the Minister for Roads:-

- (a) whether he is aware that the construction work on the Ruiiri/Isiolo Road which was being upgraded to bitumen standards has stalled;
- (b) what steps he will take to ensure the road construction project is revived; and,
- (c) when the work will restart.

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

(a) I am aware that the construction work on Ruiiri-Isiolo Road stalled. This was as result of termination of the contract awarded to Crescent Construction Company on the 21st February, 2008 due to the contractor's slow work progress in carrying out construction works.

(b) The Ministry has prepared tender documents for the balance of the work on the project including the stretch from Muriri to Muchii Mukuru Tea Factory. Fresh tenders were invited and a new contract was awarded to M/S Intex Construction Company on 19th November, 2008. The contract sum is Kshs2,996,212,482. The new contract is expected to be signed on the second week of February 2009.

(c) The works are expected to restart by March 2009 and are due for completion after the stipulated period.

Mr. Ruteere: Mr. Speaker, Sir, the time set to restart the works is worrying to me in that, the same Assistant Minister had promised me that Kasita Bridge works would start in August last year. To date, they have not started. How sure am I that this promise will now take place?

Mr. Speaker: Order, Assistant Minister! You need not answer. The Member is asking himself "how sure is he?" That means he is the only one who can answer that!

Mr. Ruteere: Mr. Speaker, Sir, I asked: "How sure is he?" and not "me".

(Laughter)

Mr. Speaker: Very well. Assistant Minister, you may now respond.

Mr. Kinyanjui: Mr. Speaker, Sir, I have clearly stated that we have signed a new contract with Intex Construction Company and have indicated that we will be expecting the works to commence on the second week of February 2009.

Unless otherwise, this is the schedule of programme and I am convinced that the new company, Intex, has the capacity and they will be able to do the work as scheduled.

Mr. Langat: Mr. Speaker, Sir, the Assistant Minister has said that the previous contract was nullified. Could he inform this House on the agreed amount with the previous contractor and whether there are any monies which had been paid to him?

Mr. Kinyanjui: Mr. Speaker, Sir, the initial contract for the road was awarded to Crescent Construction Company on 19th May, 2009 at a contract sum of Kshs1,449,831,592. At the point of terminating the contract---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I am just lost as to how you can award a contract twice in a year because he is talking of March 2009 and we are not yet there.

Mr. Speaker: Order! That is not a point of order. If you are lost, too bad! The Assistant Minister cannot be at fault for you getting lost.

Proceed, Assistant Minister!

Mr. Kinyanjui: Mr. Speaker, Sir, I was indicating that the contract awarded to Crescent Construction Company was awarded on 19th May, 2005 for a contract sum of Kshs1,449,831,592. At the time of termination of the contract, works had been done to the extent of 24 per cent and a total sum of Kshs367,413,688 was paid out.

Mr. Dor: Mr. Speaker, Sir, before going on recess in December last year, I asked this Assistant Minister a question about a dangerous road on Makupa Causeway. He said that it will be repaired from the end of December and end by mid January 2009. Up to today which is 21st January, 2009, no repairs have taken place and we have not seen any engineer there. Could he inform the House when the repair work will start?

Mr. Kinyanjui: Mr. Speaker, Sir, to the best of my understanding, that is an entirely different question. It does not relate to the Question at hand.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. Assistant Minister, I agree! Mr. Bahari!

Mr. Bahari: Mr. Speaker, Sir, could the Assistant Minister tell the House whether he keeps a register of blacklisted contractors and if so, whether that specific contractor has been entered into that register?

Mr. Kinyanjui: Mr. Speaker, Sir, the Ministry is in the process of preparing a legislation that will be brought to the House. That legislation will ensure that contractors are registered and that their works checked. Initially, the understanding of the word "blacklisting", had been misunderstood and, as a result of that, concerns from the industry and other players have resulted in a legislation that will be brought to this House later in the year, to ensure that contractors who do not conform are taken care of.

Our biggest challenge has been that, at times, one contractor would have a contract with the Ministry of Roads, Ministry of Water and Irrigation and other Ministries and, therefore, there has been no proper documentation of where one contractor fails. That is because he could fail in one Ministry and get jobs in other Ministries. So, we are in the process of making sure that the information is shared by all those who are concerned.

Thank you, Mr. Speaker, Sir.

Mr. Lekuton: Mr. Speaker, Sir, the Government continues to lose a lot of money due to poor contractors. Why is the Government reluctant to criminalise delayed contracts and people who do not honour the commitments that they are given by this Government? The Government of this country and the people are being fleeced every single day! Why can you not criminalise those issues?

Mr. Kinyanjui: Mr. Speaker, Sir, I do not understand what the word "criminalise" would mean here. I think that when every contract is being drafted, there is a clear clause that talks about default. Default has to do with time; that if you are supposed to complete the project by a certain time and you do not do that, clear penalties are given in the contract that involve severe penalties by way of monies being paid to the Government when that is not done.

Mr. Speaker: Last question, Mr. Ruteere?

Mr. Ruteere: Mr. Speaker, Sir, how will the Assistant Minister ascertain that the resident engineer whom they are going to appoint will make sure that the road will be done up to the required standards? That is because we have seen resident engineers being compromised by contractors. An example is the one who is doing the road project from Meru to Mikinduri. The culverts are substandard and the drainage is not being done according to the specifications. Even a layman can see

that the work is not going on well. How will you make sure that the resident engineers live up to the expectations of the Ministry?

Mr. Kinyanjui: Mr. Speaker, Sir, whenever information is brought to our attention that the resident engineers have been compromised or, indeed, they are not going as per the terms of the contract, we have always taken action. I am confident that the resident engineers to be appointed for that particular road, being actually the second time we are awarding a tender for the same road, will, indeed, take into consideration the views of the hon. Member and, indeed, ensure that the work is done.

Thank you, Mr. Speaker, Sir.

Question No.595

MEASURES TO AVERT ACCIDENTS
ON GITANGA-THIKA ROAD

Mr. Waititu asked the Minister for Roads:-

(a) what steps he is taking to avert accidents at the Githioro Corner on Gitanga-Thika Road, in view of the frequent fatal accidents, including one on 24th November, 2008 which claimed 11 lives and another, (about two years ago), that claimed the lives of 40 students; and,

(b) when he will erect road bumps and barriers at the black spot.

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

(a) I am aware of the accidents that have occurred at Githioro Corner on the Gitanga-Thika Road. To reverse that trend, my Ministry is in the process of installing road signs and distinct road markings to guide motorists. While my Ministry will do everything possible to rid the area of accidents, it is up to individual motorists to take extra care for their own safety.

(b) The Githioro area is currently being evaluated, alongside other black spots in the country, and remedial measures which will include erection of barriers in strategic places will be taken.

The drivers involved in the two fatal accidents cited were new in the area and, therefore, were unfamiliar with the risky conditions. Most of the accidents in the area occur at night and, hence, the need for motorists to be vigilant while using that section of the road. The Ndakaini-Gatanga Road is now under contract. All the works, including road signs and road markings for improvement of safety standards, will commence in mid-February, 2009.

Thank you, Mr. Speaker, Sir.

Mr. Waititu: Mr. Speaker, Sir, the same spot has had very serious accidents. For example, in November, we lost 11 lives of grown up mothers from Embakasi, who were in charge of their families. In fact, five years ago, on the same spot, there was another very serious accident where 40 lives were lost. The Ministry has not done anything to make sure that, that spot can be identified at night. What clear policy does the Ministry have to deal with black spots?

Mr. Kinyanjui: Mr. Speaker, Sir, it is sad that we continue to lose lives of many Kenyans in road accidents and, indeed, we regret that. But I wish to state that the roads that I have indicated are under contract and that road markings and signs are part of the contract. The works are due to start in mid-February, 2009.

However, Mr. Speaker, Sir, we wish to warn motorists and, indeed, we will erect signs to that effect, that the road is slippery and dark in certain corners and, therefore, they should take the necessary caution while approaching those sections.

Thank you, Mr. Speaker, Sir.

Dr. Eseli: Mr. Speaker, Sir, road markings and signs should be part of road construction. The

Assistant Minister has just implied that in that particular road, road markings and signs are part of the contract. That should go without saying. Is the Assistant Minister trying to imply, therefore, that the reason why Kenyan roads are not marked or signed is because those are different contracts?

Mr. Kinyanjui: Mr. Speaker, Sir, it is, indeed, true that when we give contracts to do roads, road markings and signs are part of the contract. But you are aware that there are certain roads that have been there for 20 years and the markings take about two, three or four years to be done afresh. So, I think the Ministry will ensure that road signs are put where they are supposed to be. All the new contracts will actually include the necessary road markings.

Thank you, Mr. Speaker, Sir.

Mr. Waititu: Mr. Speaker, Sir, I have seen cases where bumps have been put to slow down vehicles. I expect that in a case where lives have been lost on the same spot, bumps could have been put. I am asking the Assistant Minister to be clear enough, because lives have been lost--

The Minister for Environment and Mineral Resources (Mr. Michuki): On a point of order, Mr. Speaker, Sir. Although this Question has been on the Floor for some time, is it in order for the Questioner to give the name of the wrong road? That is because there is no road called Gitanga to Thika! There could be Gatanga, but not Gitanga! Is he in order?

(Applause)

Mr. Speaker: Mr. Waititu, clarify if the name you have cited in your Question is correct!

Mr. Waititu: Actually, Mr. Speaker, Sir, initially, I meant Gatanga. Maybe, there was some misspelling in typing. If there is a small mistake--- I do not come from the area. I can be excused for that!

Mr. Speaker: What is the correct name of the road?

Mr. Waititu: Mr. Speaker, Sir, the correct name is Gatanga.

Mr. Speaker: That is fair enough. Mr. Assistant Minister, will you, then, respond?

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to answer a Question which he does not understand?

Mr. Speaker: Now, that is a question!

Mr. Chanzu: Mr. Speaker, Sir, I am asking him whether he is in order. He has been answering a Question which he did not understand. He is being corrected by his colleagues! He did not know the Question he was answering!

Mr. Speaker: Mr. Assistant Minister, could you respond to that?

Mr. Kinyanjui: Mr. Speaker, Sir, I think I have clearly indicated that it is the Ndakaini-Gatanga Road. So, if I did not understand, I have the capacity also to explain the same.

Mr. Speaker: Mr. Assistant Minister, can you respond to the question as to why you have not put bumps on that section of the road?

Mr. Kinyanjui: Mr. Speaker, Sir, it has been the Ministry's policy to discourage the use of bumps. We have been trying to have smooth flow of roads, but as soon as you do so, the first thing is, of course, many accidents setting in. We have seen it in many places in Malindi, Nakuru and other places. So, we are trying to discourage the use of bumps because, ultimately, they bring congestion.

The best thing we are doing, which we want to encourage, is proper use of roads, so that we can continue having free flow of traffic. In situations where we require a foot bridge, and we can get it, that is the direction

we wish to go. So, in black spots where there are high populations, we would like to go the direction of building foot bridges to avoid a conflict.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Question, Mr. Charles Nyamai!

Question No.430

WRITING OFF OF AFC LOANS
TO FARMERS IN KITUI/
MUTOMO DISTRICTS

Mr. Nyamai asked the Minister for Agriculture:-

(a) whether he could indicate the amount of money that has been lent by the Agricultural Finance Corporation (AFC) to farmers in Kitui and Mutomo Districts since its inception and state how much has been written off; and,

(b) what steps the Ministry is taking to assist the farmers in Kitui District, who are unable to service their AFC loans because the loans were taken to purchase dairy cattle, which died as a result of Rift Valley Fever and severe drought.

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

(a) The AFC has lent more than Kshs63.8 million to farmers in Kitui and Mutomo Districts since 1963. Out of this amount, Kshs22.1 million has been written off following approval by Parliament through Sessional Paper No.1 of 2002.

(b) My Ministry, through the AFC, will treat each individual case on its own merit when reported, using the following options: Negotiation and granting of more time for repayment of arrears, loan rescheduling, and re-financing.

Thank you, Mr. Speaker, Sir.

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given. However, I would want him to clarify whether he is aware that this write off was never effected on the ground. As it is now, farmers are still being forced to pay what was indicated as having been written off.

Mr. Ndambuki: Mr. Speaker, Sir, I am hearing this for the first time, but I know that the write off for this amount was approved. It is supposed to have been written off. If the hon. Member has evidence to that effect, I would like him to give it to us and then we will see what we can do.

Dr. Munyaka: Mr. Speaker, Sir, I want to ask the Assistant Minister to talk about the situation of the AFC. We know that the AFC suffers from "headquarters syndrome." When a farmer applies for a loan, he is referred to the AFC headquarters. What is he doing to increase AFC's efficiency by mandating the officers in the field to process loans within their branches?

Mr. Ndambuki: Mr. Speaker, Sir, in the hon. Member's case, we have a branch at Machakos, which has the authority to process and give loans. They do not need to come to the AFC headquarters to get the money.

Mr. Speaker: Last question, Mr. Nyamai!

Mr. Nyamai: Mr. Speaker, Sir, whereas I am happy to note that the Minister has indicated that they will be ready to re-schedule the loans, could he particularly give my people the assurance that his officers will be humane as they deal with the situation? When I asked this question, the situation was not as bad as it is now on the ground.

Mr. Ndambuki: Mr. Speaker, Sir, I cannot just give a blanket assurance. However, we will deal with the matter, case by case.

Mr. Speaker: Next Question, Mr. Ochieng!

Question No.580

WRITING OFF OF DEBTS OWED BY
SUGAR-CANE FARMERS/COMPANIES

Mr. Ochieng asked the Minister for Agriculture:-

- (a) whether he could table details of debts owed by sugar-cane farmers and sugar-cane companies to the Government; and,
- (b) when the Government will write off these debts.

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

(a) I do hereby table details of debts owed by sugar cane farmers and sugar cane companies to the Government.

(b) Consultations are going on amongst the various stakeholders within the Government with a view to determining how the debts will be dealt with.

Mr. Ochieng: Mr. Speaker, Sir, I find it very difficult to interrogate the Assistant Minister further because, whatever he has tabled has not been availed to me so far. I wonder whether at this juncture I can continue.

Mr. Speaker: Mr. Ochieng, it is not the Assistant Minister's fault. According to the way the Question is framed, the Assistant Minister has dealt with it adequately. You asked him to table details, and he has tabled the details. So, there is nothing prejudicial, as I see it from the Chair. If, perhaps, you want to continue another day, you could do so.

Mr. Ochieng: Mr. Speaker, Sir, I need to look at these details to enable me have proper supplementary questions on this matter. So, I would rather have the Question deferred.

Mr. Speaker: That is fair enough. Is there anybody else who is interested and is ready with supplementary questions?

Mr. Lekuton: Mr. Speaker, Sir, I would like the Assistant Minister to tell us the standard criteria applied by the Government in writing off debts owed by farmers. Is there a clearly defined criteria?

Mr. Ndambuki: Mr. Speaker, Sir, this differs from year to year. There is nothing permanent that is written. What happens is that in times of hardship, in terms of climate and so on, for instance, with regard to livestock, the Government comes up with a policy, which is determined and passed by Parliament, and not the Ministry.

Mr. Baiya: Mr. Speaker, Sir, it appears from the explanation given by the Assistant Minister that there is no definite policy determining when they will do a write off or not.

Could he indicate, for instance, whether they can consider writing off loans for coffee farmers in this country? Coffee farmers were seriously affected by the fall of coffee prices on the world market. The situation is now improving and it would, really, boost production if they can enjoy a debt write off.

Mr. Ndambuki: Mr. Speaker, Sir, the Government has written off a lot of debts for coffee farmers. We are not going back to write off other debts when there are so many problems in the country.

Dr. Eseli: Mr. Speaker, Sir, I am rather worried about the criteria that the Assistant Minister just gave. He did not include presidential directives for loans to farmers to be written off, as one of the criteria used in writing off AFC loans. I am rather worried for sugar cane farmers in Western Kenya, whom the President promised that the Government would write off their debts. The Assistant Minister has not included that as one of the criteria for writing off AFC debts owed by farmers.

Mr. Speaker: Very well! Mr. Assistant Minister, there is no question to respond to. The hon. Member has just made a statement. No question has been asked, as I have heard him. This Question is deferred to Thursday, next week, to allow the hon. Member for Nyakach, Mr. Ochieng, to ask two supplementary questions in relation to the list that has been tabled.

Dr. Eseli, with your level of education, I am sure you know the difference between a statement and a question.

(Question deferred)

Next Question, Mr. Abdirahman Hassan!

Question No.601

PAYMENT OF RETIREMENT BENEFITS
TO MR. M. ABDIKARIM

Mr. Abdirahman asked the Minister for Education:-

- (a) when Mr. Mohammed Abdikarim, a DEB employee at Wajir District, who was retired on 15th September, 2006, will be paid his benefits;
- (b) whether he could consider paying the support staff in boarding primary schools directly through schools, and in their respective stations; and,
- (c) when the Ministry last reviewed the salary scale for such cadre of staff.

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

(a) Mr. Mohammed Abdikarim retired on 31st September, 2006, and will be paid his retirement benefits by the end of March, 2009.

(b) The Government gives grants to local boarding primary schools in ASAL areas for boarding expenses for the children and salaries for support staff. The support staff are employees of the school management committees or Board of Governors (BOGs). The Ministry only supplements their efforts in paying salaries.

(c) The salary scale of such cadre is determined by the School Management Committees (SMCs) and the Boards of Governors (BOGs).

Mr. Abdirahman: Mr. Speaker, Sir, I want to thank the Assistant Minister for saying that Mr. Mohammed will be paid his dues some time in March. But my major question is on part "c" where he says the salary scale for such cadre of staff is determined by the SMCs and BOGs. I have a copy of a letter from the Ministry of Education, authorising heads of schools to only pay Kshs3,000.

I also have a reference made to DPM Circular Ref.No.DPM1614A Vol.VI referred to by the District Education Officer of the district which I come from. I wonder where they got the authority as the Ministry to reduce salaries for people who were earning Kshs6,224 to Kshs3,000 in June 2003.

Mr. Mwatela: Mr. Speaker, Sir, I beg your indulgence to confirm that information, then I can come with an adequate answer.

Mr. Abdirahman: Mr. Speaker, Sir, can I table the document?

Mr. Speaker: Mr. Abdirahman, could you table the documents that you have referred to so that the Assistant Minister can have an opportunity to look at them?

(Mr. Abdirahman laid the documents on the table)

The Question is deferred to Wednesday, at 2.30 p.m.!

(Question deferred)

Question No.600

FORMULATION OF ENVIRONMENTAL
PROTECTION POLICY

Mr. Bett asked the Minister for Environment and Mineral Resources when he will formulate a suitable environmental protection policy for the country, in view of the rapidly deteriorating global environmental conditions.

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Speaker, Sir, I beg to reply.

I am aware of the rapidly deteriorating global environmental conditions. Consequently, my Ministry started to formulate a suitable environmental protection policy for the country in 1998, which culminated in the presentation of Sessional Paper No.6 of 1999 on the Environment and Development to the Cabinet. The Sessional Paper was used to prepare the Environment Management and Co-ordination Bill, which was enacted by Parliament in December, 1999 to become the Environment Management and Co-ordination Act (EMCA) in 1999. The same was assented to in January, 2000.

Due to various emerging environmental issues, my Ministry is currently taking measures to revise the policy, and at the same time strengthen the implementation of various provisions of EMCA 1999, and institutions that were established by the Act.

Mr. Bett: Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer, although he is a bit evasive. The weather conditions, the climate in the country and everywhere in the world, are quickly becoming unfavourable for human and plant survival. I think the urgency of revising the policy cannot be overemphasised.

The Assistant Minister is saying that they are taking action to strengthen the implementation of the various provisions of EMCA. Could he be specific on what measures they are taking to get the Act implemented? From 1999 to now is a long time, yet the Act has never been implemented!

Mr. Kajembe: Mr. Speaker, Sir, the Act has been enforced since 1999. It is an Act of Parliament and I believe that it is utilised the way it was enacted. If it is the feeling of the hon. Member that, that law is not adequate, it is for him to come to my Ministry and we discuss a few issues. In my answer, I have said it very clearly that we are revising it, because 1999 to 2009 is a long time. We know that climate change is a problem in the world today.

Today the focus in the world is the environment, and we are there to ensure that everything is done to protect the earth. In Kenya, you can see that we are taking adequate measures in relation to the Mau Forest, so as to restore it to its original position. The Ministry and the Prime Minister are working tirelessly to see that, that is happening. Again, it is the same with the Nairobi River and rivers discharging into it. We are taking action! We are there to do business.

Dr. Otichilo: Mr. Speaker, Sir, I would like the Assistant Minister to confirm or deny the fact that there has been a process of formulating a new environmental policy for the last one and a half years. However, we understand that, that process has been deferred by the new Permanent Secretary. Could he confirm or deny that?

Mr. Kajembe: Mr. Speaker, Sir, I said loudly that the EMCA of 1999 was done on the strength of a policy in Sessional Paper No.6. Since that time up to date, there has been no other policy the Ministry has undertaken. However, we agree that it has taken time and I agree with Mr. Bett that there is need to revise it. Let us revise it from now.

Mr. Bett: Mr. Speaker, Sir, I think the Assistant Minister is avoiding both my question and Dr. Otichilo's. Could he be specific: Has there been any attempt to revise the policy? If there is such an attempt, when will that revision of the policy be completed?

Mr. Kajembe: Mr. Speaker, Sir, that is the same question that was asked but it has been twisted; I know that I cannot be twisted. I have said that we have a policy in place. I am saying that we

have an Act of Parliament in place and when we talk of revising it, as a Ministry, we are prepared to do that. When I am asked when the new policy will be completely, the Ministry will come up with a programme.

Mr. Speaker: Hon. Members, pursuant to a request by the Member for Saboti, Question No.439 is deferred to Wednesday next week.

Question No.439

NUMBER OF POLICE OFFICERS
UNDER INTERDICTION

(Question deferred)

That then brings us to the end of Question Time. Yes, Mr. Linturi!

POINTS OF ORDER

MEASURES TO ADDRESS CORRUPTION/
IMPUNITY IN GOVERNMENT

Mr. Linturi: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs, regarding the culture of impunity in Government, where corruption has taken an alarming proportion.

The Minister should specifically address the specific measures that the Coalition Government is taking to address the rising culture of corruption; she should specifically state how many corruption cases involving civil servants and politicians are pending in court, the nature of the cases and who the suspects are.

Mr. Speaker: Minister for Justice, National Cohesion and Constitutional Affairs, a Ministerial Statement has been sought.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, may I suggest Thursday next week.

Mr. Speaker: Very well! Thursday, next week.
Mr. Mwathi!

DELIVERY OF CHEQUE
TO MERCY WANJIRU

Mr. Mwathi: Mr. Speaker, Sir, yesterday, you ruled that the Minister for Forestry and Wildlife today confirms whether a cheque issued to one Mercy Wanjiru, was delivered in either Kiambu East or Kiambu West districts. He was supposed to confirm that today. Am I in order to ask that?

Mr. Speaker: Yes, you are, because that matter pertains to orderly conduct of business in this House.

Deputy Leader of Government Business, yesterday, your Minister undertook in the House, that he will be available to give an answer this afternoon, and he is not here.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, may I apologise on behalf of the Minister and seek your indulgence that he makes the explanation tomorrow.

Mr. Speaker: Very well! He had better have a good explanation.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, we will communicate.

Mr. Speaker: The matter will then come up tomorrow. That Question will be on the Order Paper.

Mr. Ruteere!

**NOTICE OF MOTION FOR
ADJOURNMENT UNDER
STANDING ORDER NO.20**

NATIONWIDE TEACHERS STRIKE

Mr. Ruteere: Mr. Speaker, Sir, I rise on a point of order under Standing Order No.20 to seek leave of this House to move a Motion for Adjournment to discuss the current teachers' strike that has paralysed learning in primary schools, some secondary schools and some post-primary institutions. As we all know, schools re-opened a few weeks ago but there is no learning that is taking place. Therefore, I am seeking the adjournment of this House to discuss this Motion.

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

Mr. Speaker: Order, hon. Members! I am satisfied that hon. Ruteere has complied with the provisions of Standing Order No.20, and in particular paragraph 2, in as much as he gave sufficient notice to the Chair and it is apparent that he has the necessary support from the House. This matter, notwithstanding the Minister having made a fairly lengthy Ministerial Statement yesterday, has continued to attract a lot of public interest. It, therefore, qualifies to be a matter of definite urgent national interest. I grant adjournment for this matter to come up at 5.00 p.m. today.

MOTION

APPROVAL OF SESSIONAL PAPER NO.1 OF
2009 ON GOK LOAN GUARANTEE TO NCPB

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Section 5(2)---

POINT OF ORDER

SESSIONAL PAPER NO.1 OF 2009 IS
INCONSISTENT WITH GUARANTEE (LOANS) ACT

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. The Minister laid before this House Sessional Paper No.1 of 2009. Paragraph 5 of the Sessional Paper says that the current contingent liability for the Government in respect of guarantees is standing at Kshs40.9 billion. It further says that the limit is Kshs80 billion.

Mr. Speaker, Sir, Cap. 461(3)(b) partly says:-

"In the case of covenants expressed in other currencies, the equivalent of the sum £350 million calculated at the prevailing exchange rate---"

Mr. Speaker, Sir, I find that the Sessional Paper is inconsistent with this section. Is the Minister in order to bring a Sessional Paper that is inconsistent with this section?

Mr. Speaker: Mr. Minister, do you have any response to that?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, the fixing of the ceiling is done by this House.

Since the Treasury has been using this kind of borrowing, and this is not the first time, it has always stated the limit. However, one would grant that there would be an issue if whatever limit it is, is being exceeded. The point of mentioning the ceiling within the preamble of the guarantee which is being sought, is to ensure that we are far below the upper limit.

Mr. Speaker, Sir, with that, could I have your authority to continue with the Motion, which is:-

THAT, pursuant to the provisions of Section 5(2) of the Guarantee (Loan) Act (Cap 461, Laws of Kenya), this House approves Sessional Paper No.1 of 2009 laid on the Table on 20th January, 2009, on Kenya Government Guarantee of a loan of US\$100 million equivalent to Kshs7.9 billion through the United States of America Department of Agriculture to National Cereals and Produce Board.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Minister!

Mr. K. Kilonzo: Mr. Speaker, Sir, the hon. Member rose on a pertinent point of order and you gave the Minister an opportunity to respond, so that you can rule. But the Minister just proceeded without your ruling. Would I be in order to seek your guidance on that matter?

Mr. Imanyara: On a point of order, Mr. Speaker, Sir, I, too, have taken the liberty to look at the Guarantee (Loan) Act, pursuant to the Sessional Paper laid on the Table of the House by the Minister yesterday. Indeed, the point raised by my friend here is valid because what this House has allowed the Minister or Treasury to do is to set the upper limit. It is set at 350 million pounds. If you convert that, it goes up to Kshs7 billion, which is far in excess of the amount that the Minister is seeking. Therefore, on the face of this document, the Sessional Paper that was laid on the Table of the House yesterday, the Minister's Sessional Paper, is clearly illegal in the sense that it exceeds the limits that this House has set in terms of Section 3 of Cap.461, Laws of Kenya a copy of which I have and which have been obtained from the library of this House. I can give a copy of this document to you.

*(Mr. Imanyara laid the document
on the Table)*

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

Mr. Speaker: We have had sufficient points of order on this particular matter.

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

Mr. Speaker: Order, Dr. Khalwale! Let the Chair deal with the two points of order that have been raised up to where we are. After I have addressed myself to those two points of order, then I will be able to take a further point of order, Dr. Khalwale. The Chair has actually been taken by complete surprise. There was no indication to the Chair that there were issues to be taken on this Motion. So, I need to acquaint myself with the provisions of the law as you have referred to.

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

Mr. Speaker: Order, hon. Members! You would have to give the Chair a few minutes!

*(The Clerk passed the document
to the Speaker)*

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

Mr. Speaker: What is it, Mr. Michuki? You want to make a response?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, we have some hon. Members who have been in this House for a very long time and they seem to think that this law was changed although right now, we have no time to find that evidence. But it was amended to raise the ceiling to what I have quoted.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF DEBATE ON APPROVAL OF GOK LOAN GUARANTEE TO NCPB

Mr. Speaker: Order, hon. Members! Hon. Members, I have listened to hon. Ogindo as well as hon. Imanyara. It is apparent that the matters they have raised go to the root of this Motion. They are matters so substantial and tangible and of immense national interest in as much as this House is being called upon by this Sessional Paper to authorise the guaranteeing of a loan which is in excess of equivalent of Kshs7 billion.

As my attention has been drawn to the provisions of the Guarantee (Loan) Act, Chapter 461 of the Laws of Kenya, it would appear that the Act, by the sections cited by the hon. Members, set certain ceilings on the guarantee that may be allowed and the loan amount that may be borrowed by the Government. The parameters are set out in the Act. Much as I respect the possibility that this ceiling may have been varied by being amended upwards, I have no authority before the House now which persuades me to that extent. So, for those reasons, I will adjourn the matter until tomorrow afternoon at 2.30 p.m., so that the Chair can acquaint itself with any amendment that there may have been to the law and further, so that the Chair can also engage itself in some mathematics to calculate and know whether or not this Motion breaks the ceiling. It is so ordered. This matter rests at that point!

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

Mr. Speaker: What is it, Mr. Michuki?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, I am one of those people who respect your judgements very much. But if you look into this matter, I am sure you will want to also acquaint yourself on the basis of which a guarantee of Kshs16 billion was given to the Ports.

Mr. Speaker: Order, Mr. Minister! Hon. Members, you can rest assured and, indeed, I give you my undertaking to consider all the relevant aspects pertaining to this matter. I will bring my professional expertise into play and look at all precedents that there may have been and rule appropriately, including the guarantee for the Port loan. Two wrongs, as the general principle of law, do not make a right.

(Applause)

Dr. Khalwale: On point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Dr. Khalwale!

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I am requesting that you also give further direction.

As of now the Government of Kenya, currently, has no structures of good management of resources from good gestures by the public. The structures of accounting and monitoring of those resources are just not in place. I say this as a fact.

Mr. Speaker, Sir, I say this because on 14th July, 2004, His Excellency the President declared another national disaster and the money that was collected as famine relief - we have it on record in the books of Public Accounts Report by the Controller and Auditor-General, that because of lack of proper accounting system, Kshs17 million from that money could not be accounted for. I am requesting that you give further direction because we must have a system of knowing which Ministry, department, agency or individual has made a collection.

We should also know how much of those collections have actually been made from that particular individual. Whenever collections are made, we should have an indication in the accounting system to show that it moved from that agency to the Office of the President. That accounting system should show that there is issuance of acknowledgement of the receipt of those donations.

We should have a provision of clear instructions to leading agencies. Last time, the leading agency was the Kenya Red Cross and the World Food Programme. If under such reputable lead agencies, the Government lost Kshs17 million, how can we expect National Cereals and Produce Board, which does not have the kind of systems that Kenya Red Cross Society and the WFP have, to be able to check the kind of connivance, cheating and theft that is perpetuated by this Government?

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Imanyara: Mr. Speaker, Sir, we are raising these issues because we do not want to guarantee Kshs100 million in order for it to be stolen by the brokers who are stealing it from the maize. We are concerned that the rule of law be followed to the letter. The reason why we have the Attorney-General who sits in the Cabinet and who has a security of tenure is to advise the Cabinet so that when they bring Sessional Papers to the House, they would have sought legal advice from the Attorney-General's office and they are clear. Could the Minister assure you that before bringing this Sessional Paper, he had cleared it with the Attorney-General?

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

Mr. Speaker: If Mr. Imanyara agrees that you inform him, then I will allow you.

Mr. Imanyara: I agree, Mr. Speaker, Sir.

Dr. Eseli: Mr. Speaker, Sir, I fear that we are now turning to debating what you have just told us not to.

An hon. Member: What is your information?

Mr. Imanyara: My concern was to get an assurance that the Minister sought advice of the Attorney-General on this issue because he is a constitutional office holder. We pay him so that he can advise the Ministers when they come to seek guarantees in the House in accordance with the law that Sessional Papers do comply with the law. As the Chair makes this ruling, perhaps, the Minister for Finance could indicate to you that the Attorney-General had cleared this Sessional Paper.

Secondly, part of the reason, perhaps, why Mr. Michuki has not been able to give much attention to this matter, as he does, is because he is only the Acting Minister. When will the President consider making him the substantive Minister so that he can give his full attention to the matters that we raise?

Mr. Speaker: I think that should rest the matter. I have given this matter more than sufficient time. Let us hear the Minister respond on certain aspects.

The Minister for Environment and Mineral Resources (Mr. Michuki): On a point of order,

Mr. Speaker, Sir. Is Mr. Imanyara in order to say that my knowledge of finances depends on my substantive appointment? Could he prove that I do not possess that knowledge?

I cannot say for certain but I believe we will check on this law and it will be proved that it was amended.

Mr. Speaker: Order, Mr. Minister! It is was not quite necessary for you to re-emphasize that last part that the law was amended because I have already made a finding on that aspect of the matter.

In the ruling that I will make tomorrow, I will take care to incorporate to the extent that it is applicable, whether or not there is an appropriate accounting system in place that will ensure proper utilisation of money donated and/or borrowed by this country.

I shall, further, delve into the aspect as to whether or not the Attorney-General has rendered his advice to the relevant Government department. I want to believe that this is a matter that will factually verify and address that matter.

Next Order!

(Debate on the Motion deferred)

BILL

Second Reading

THE MERCHANT SHIPPING BILL

*(The Minister for Transport
on 20.1.2009)*

*(Resumption of Debate interrupted
on 20.1.2009)*

Mr. Speaker: Mr. Midiwo, you have a balance of five and a half minutes.

Mr. Midiwo: Mr. Speaker, Sir, I was told that I had a balance of ten minutes yesterday but I will take five or two.

(Loud consultations)

Mr. Speaker, Sir, could you save me from the loud consultations?

Mr. Speaker: Order, hon. Members! This business is important and many of you may, perhaps, resort to giving excuses that this law was passed when you were not present. This is your opportunity to contribute to the making of this law and you must respect that. Law is debated and passed in this House and not in coffee places.

Proceed, Mr. Midiwo!

Mr. Midiwo: Thank you, Mr. Speaker, Sir, for saving me from the rowdy House!

This Bill will save this country from a lot things. It will create order in the shipping industry. It shall enable us to correct a lot of things which have gone wrong along the Kenyan part of the Indian Ocean.

Mr. Speaker, Sir, the Bill, defines the capacities of merchant ship. These ship shall no longer be using boats to go into the high seas without penalty, be they local or foreign. I want the Minister to go a step further.

Mr. Speaker, Sir, I want to reiterate that the coast of Mombasa and Lamu is over-encroached

by greedy people. We want the Minister to work with the Ministry of Lands and Ministry of Tourism to bring down hotels and residential houses which surround the waters of the Indian Ocean. As a people, we can benefit a great deal if we invest properly in our natural resources and I think the Indian Ocean is one of them.

Mr. Speaker, Sir, I know many countries where people value water. I hasten to say that there is no country which has developed without making proper use of water. We want the Ministry of Transport to take seriously abundance of water in our country as an edge to transport.

Mr. Speaker, Sir, right now, there are people encroaching on the water itself. I would be very happy to see the day when the Minister for Lands issues an order declaring even some of our beach hotels environmentally unsafe.

Mr. Speaker, Sir, ---

Mr. Speaker: Mr. Midiwo, you still have 20 minutes if you want to utilise the whole of them! Please, proceed!

Mr. Midiwo: Mr. Speaker, Sir, I will not go that far. I was told five and a half minutes, ten minutes and now 20 minutes---

Mr. Speaker: I have ascertained that you have 20 minutes more!

Mr. Midiwo: Mr. Speaker, Sir, I had made substantial contribution yesterday. I would, therefore, wish to say that right now, we have no laws that can save us from the so-called pirates. These people use small tag boats to get to the high seas and our own waters and we are not protecting them. If any of them were to be arrested, you take them to court, they can only be charged with misdemeanours. This means that after two years, they will be out of jail.

Mr. Speaker, Sir, I want to tell the Minister that we will support him and we want this Bill to be passed even today so that it can be made into law even by next week. This way, we can protect and be safe as a country. Thank you very much.

With those few remarks, I beg to support.

Mr. Mwadeghu: Bw. Spika, ninaomba kutoa maoni yangu kuhusu Mswada huu ambao umeletwa na Waziri. Yangu ni machache.

Kwanza, ninamwomba Waziri aangalie kampuni za meli ambazo zimeandikishwa humu nchini kwa maana nyingi zao zinasafirisha mizigo. Ninamwomba Waziri aangalie kampuni za meli katika nchi jirani ya Tanzania. Hamna kampuni ya meli inayoruhusiwa kuwa na kampuni nyingine ndogo ndogo za kusafirisha mizigo bila kuwahusisha wenyeji. Ukiangalia katika nchi yetu ya Kenya, utaona kwamba kampuni nyingi za meli zinasafirisha mizigo ndani na nje ya nchi. Je, wananchi wameachwa wapi? Hamna lolote wananchi wanafaidika kutoka kwa kampuni hizi ambazo zinasafirisha mizigo ndani ya nchi.

Bw. Spika, Mswada huu haujafanuliwa wazi wazi. Haibainiki kama Waziri aliuangalia kwa undani. Kama Mswada huu unaweza kurekebisha, kampuni hizi za meli kubwa kubwa ambazo zina makao yao nje ya nchi hii na mengine humu nchini hazitaruhusiwa kusafirisha mizigo nje ya nchi. Ninamwomba Waziri aangalie jambo hilo.

Jambo la pili, Bw. Spika, ni kuwa kuna kampuni ambazo zinashughulikia meli hapa nchini. Kwa Kizungu, tunaziita *shipping agents*. Ukiangalia, utaona kwamba zinapewa riba fulani na kampuni za meli. Pia, kampuni hizi uamua kiasi cha pesa ambazo wanalipa kampuni za humu nchini. Ikiwa wataamua kulipa theluthi thelathini, hiyo ndio kodi nchi yetu itapata. Kwa hivyo, inatunyima kodi kwa sababu wakiamua hawatalipa, itakuwa hivyo. Kwa Kizungu, tunaiita *transfer pricing*. Ninamwomba Bw. Waziri aangalie jambo hili kwa ukamilifu.

Bw. Spika, tumeambiwa kuwa bandari ya Lamu itakuwepo. Hela zinatafutwa ama zipo? Je, watu wa Lamu wamehusishwa na jambo hili? Ni jambo la kufadhaisha moyo kuona vile ilivyofanywa Kilindini. Watu wa Changamwe, Wajomvu na Wadigo walinyimwa haki zao. Je, tunataka kuchukua msimamo huo huo na watu wa Lamu? Je, Pwani itakuwa "inalaliwa" mpaka lini? Ninamwomba Waziri

aangalie jambo hili ili ndugu zetu wa Lamu wahusishwe kikamilifu. Kama itabidi Serikali kuchukua ardhi ya watu fulani, basi, walipwe riadha na iwe ya haki na sawa.

Bw. Spika, jambo lingine ambalo ningependa kuchangia ni kuhusu bandari huru ambayo inatarajiwa kuwepo baadaye. Bandari hii isije ikavamiwa na makabaila au waporaji ambao wanangojea tu wakati Waziri atakapotangaza, wao watakuwa tayari kuwanyima wenzao haki zao. Ninamwomba Waziri ahakikishe kwamba Mswada huu umeangaliwa kikamilifu.

Bw. Spika, jambo la nne ni kuhusu mabaharia. Kama ujuavyo, vijana wetu wengi wameomba kazi na wameingia katika shughuli za ubaharia. Wengi wao wanatupwa majini kama wameingia kwa meli bila ruhusa. Ninamwomba Waziri, vile vile, aangalie kwa ukamilifu ili vijana hawa watendewe haki. Na kama ni ajira, wapewe ajira ya haki. Mara nyingi, meli hizi zinatia nanga katika bandari ya Mombasa na zinatafuta watu wa kufanya kazi kutoka nje na vijana wetu wako hapo na wanaomba ajira.

Bw. Spika, jambo la mwisho ni kuhusu umilikaji wa ardhi na maji yetu. Hivi sasa tunaona meli nyingi zinaingia na kufanya vile zitakavyo katika sehemu ya nchi yetu. Ninamwomba Waziri aangalie kuwa nchi yetu inalindwa kutoka ufuo wa baharini Kilindini hadi Lamu. Ni meli ngapi zinaingia hapo kuvua samaki? Tuna njia gani ya kuweza kuhakikisha kuwa heshima ya nchi inahifadhiwa na kuwa meli yoyote inayoingia humu nchini haipewi kibali cha kuvua samaki inavyotaka, kubeba mali wanavyotaka na kuuza wanavyotaka ilhali watu wa Kenya wanapata taabu?

Bw. Spika, huo ndio mchango wangu kuhusu Mswada huu. Ni matumaini yangu kuwa Waziri ataweka maanani maoni yangu hasa nikiangalia kuwa kampuni nyingi ambazo ziko hapa hivi sasa zinamilikiwa na mafedhuli wa nchi za nje. Tukiangalia watu wanaosafirisha mizigo humu nchini, watu wa Kenya hawajahusishwa kumiliki ama kuwa na hisa katika kampuni hizi za kusafirisha mizigo. Kampuni hizi zimeandikishwa humu nchini na zimekubaliwa kusafirisha mizigo. Ninaomba wakati huu tusikubali kamwe kampuni za meli ambazo zimeandikishwa nje ya nchi hii kuhusika katika usafirishaji wa mizigo humu nchini.

Tujiepushe na janga ambalo tumeliona kwa Wataliano kule Malindi ambapo hata vioski vya kawaida vimekuwa ni vyao. Mkenya akienda kutafuta kioski huko Italia ama Ulaya hatakipata. Lakini humu nchini tumeruhusu mtu yeyote kufanya atakavyo. Ninamwomba Waziri azingatie mambo haya na kuhakikisha kwamba Mswada huu umerekebishwa.

Bw. Spika, yangu yamekamiliwa. Ninaunga mkono Mswada huu.

Mr. Wambugu: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion. First, I would like to congratulate the Minister for Transport for bringing this very important piece of legislation to the House. It is sad that a country like Kenya has taken a long time to come up with this kind of document. We even wonder how the maritime industry has been operating in this country.

Mr. Speaker, Sir, I believe that this Bill needs a lot of support from everybody. The Departmental Committee on Energy, Communications and Public Works needs to be commended for the good work it has also done with regard to its input to this Bill. There are a lot of benefits that the Government and Kenyans are going to get as a result of enacting this law, for instance, job creation. We have a lot of wealth along our coastline which we have not exploited. It is because there has been no law to govern that. There are things like crew training and licensing. Though Kenyans have all the facilities required for training, they have not been able to get licences for maritime work, engineering, navigation, piloting and so on. It is simply because we did not have in place a proper law that was going to govern that.

This law is also going to take care of setting up the minimum wages for our crew aboard the ships and even the seafarers. Our people had been taken for granted for a very long time by the foreigners who have taken over this industry. I do not think there is any Kenyan who has been involved in this work. With this law, we will engage Kenyans and even encourage them to get involved

in the marine industry.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, we have very many ships that have been coming to our Port of Mombasa and also visiting other small ports in Lamu. However, it is surprising that we do not even know whether some of these ships are seaworthy. That is why we have been having many incidences along our coastline. Through this law, we will be able to train our own engineers who will be in a position to do inspection on board to check whether the ships that come to our ports are seaworthy. We, therefore, require a proper training school. We could upgrade Bandari College to a full time school or university so that it can train our people for all these jobs.

There is the issue of stowaways. We always read it in the newspapers. Unfortunately, there has been no law in Kenya to take care of that. Most of these stowaways board ships that are of foreign registration. Most times when we have had these incidences, they are either referred to the country of registration or where the ship is operating. Here in Kenya, we did not have anything that could guide us. Through this law now, we will be able to handle some of those things.

Recently, we have had cases of pirating along our coastline. Still, we have not managed to handle the situation. That is why the Somalis took advantage of hijacking ships that were destined to our port. As a result of this law, we shall be in a position to handle that problem.

Mr. Temporary Deputy Speaker, Sir, issues have cropped up about Lake Victoria. Every time we hear that boats have capsized there. We always do not know the reason for this and even fail to locate them. Why? It is because, first and foremost, those boats do not have any loading instructions or the people inside do not know how to operate them. Because of this Bill, we now need to come up with rules and laws that will govern the design of the boats in order to determine loading procedures. We also need to keep records.

This is applicable in other industries, for instance, the aviation industry. This will minimise accidents or incidences that are as a result of overloading or poor equipment that is not supposed to be in usage.

When our boats or ships capsize in Lake Victoria, most of the time, we are unable to locate them. I hope the Minister has included a provision that will require the vessel operators to have proper equipment on board so that they can communicate with the other crew on ground with regard to their position. They must also have proper equipment for search and rescue in case there is an accident or emergency.

Mr. Temporary Deputy Speaker, Sir, most of our ships, especially within Lake Victoria and other small lakes have been undertaking voyages even without reference to the kind of weather within the lakes. It is high time we established meteorological departments along the shores of Lake Victoria. They will advise vessel operators about the weather especially if they are operating between Kisumu and Entebbe and other areas.

With regard to the issue of design, most of our engineers, even those who have done marine engineering, have not practised their education or work. This is because here in Kenya, we have not had any institution that could take up such people in order to refine their skills. Most of the ships in this country are owned by foreigners. Our people have been subjected to very serious conditions by the foreigners. As a result of this law, we will get things moving in the proper direction.

Mr. Temporary Deputy Speaker, Sir, we have in place the Kenya Maritime Authority (KMA). For a long time, it has been operating without proper guidelines. They have only been operating with

reference to foreign laws. Through this legislation, I know that they are going to be empowered. They will be given all the tools they require to do their work. One of the issues that has been raised in this House is that the KMA has not been able to do its work properly. That will come to an end. We need to pass this Bill as soon as possible so that we implement some of these things we are talking about.

There is the issue of our coastline being invaded by foreigners who put up hotels there. It is good that we challenge the KMA to come up with a proper definition of the coastline. This is because Kenyans who are supposed to enjoy our coastline, for example, by going to swim, are forced to go through other people's hotels or businesses. That is why you do not find many Kenyans going down the coastline to enjoy their holidays.

I beg to support.

Mr. Yinda: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. I would like to request this House to pass this Bill as quickly as possible. This Bill is long overdue. We all know that our country has about 550 kilometres of sea frontage. Kenya is one of the largest maritime nations, but we have nothing to show for it because of lack of proper laws. It is appropriate that the Minister has brought this Bill before the House so that we can play our role as a maritime nation.

As much as Kenya is a maritime nation in the region, at the moment, Tanzania is considered a lot much higher when it comes to maritime activities. Kenya has been in the lead in this region with regard to maritime activities.

Mr. Temporary Deputy Speaker, Sir, as we stand now, we have Bandari College. The courses that are offered in Bandari College are relegated almost to a third place, because they are not recognised by the International Maritime Organisation (IMO), because we have not passed this Bill. If this Bill is passed, this country will go a long way in playing its rightful role as a maritime nation. The Bill is very important, and so the lack of it has drawn back this nation, especially the control of shipping activities in the port of Mombasa.

When I was in shipping, I was running shipping agencies. The shipping agencies were run by local companies. As I speak now, there is no one shipping agency in Kenya that is run by local companies. All shipping companies are run by international companies, especially by the ship owners. My colleagues have mentioned that when you have a ship owner who brings ships to Kenya, and the agencies are also run by the same person, surely, there is no way that this country can make money. There is no way that Kenyans can make sure that some of the money that the shipping companies make remains in this country. The reason is very simple. The same ship owners will declare what they want to the taxman, and so there is no way of telling how much money the shipping companies are supposed to pay taxes.

Mr. Temporary Deputy Speaker, Sir, regarding pollution control, I would like to request the Minister that, although this issue is not included in the Bill that we are debating, it be considered at the Third Reading Stage, so that we can incorporate pollution control in it. As we stand now, if any foreign shipping company pollutes our Coast, the law only authorises the Kenya Maritime Authority to impose a fine of no more than Kshs10,000 on the foreign ship owners.

We all know that we are now receiving many big ships; tankers are also coming to Mombasa Port with up to 60,000 tonnes of crude or refined products. Should anything happen to the ships, and they pollute our ports, the cost of cleaning the mess could run into millions of dollars, yet we can only recover Kshs10,000. I would like that to be included in this Bill, so that we get covered properly.

Mr. Temporary Deputy Speaker, Sir, I have already talked about crew training. With this Bill we are going to be able to use Bandari College for offering degree courses in Maritime studies, so that our crew can take their rightful place in maritime world. The issue of piracy has been mentioned. At the moment, we have no policy of dealing with piracy, but with this Bill in place, we will be able to handle it very well.

Regarding search and rescue, at the moment, in this country I do not think that we can deal with emergencies that occur at sea. If we have a ship in distress or sinking, I do not think that there are mechanisms in place to deal with such issues. Co-ordination is a problem, but with this Bill, we will be able to deal with proper co-ordination and know who is in charge of what.

What we should be looking for in this country is having in place Coast Guards. At the moment, the Kenya Navy deals with all the problems at sea, especially people who steal our resources like fishing within the 200-mile territorial waters. At the moment, there are many Koreans fishing in our waters, but we have no way of controlling that. Probably, when we have Coast Guards, and with this Bill in place, we will be able to control our resources at sea much better than we are doing at the moment.

There is also the question of registration of ships. This should not only be looked at as a matter of convenience. If we can register ships and they fly our flag, we will benefit a lot. If our policies are correct, most of the crew in those ships will be Kenyans. Therefore, we will be able to employ many young people, and continue towards the realisation of the Vision 2030. We will also be able to create job opportunities for young people, who are qualified, but cannot get jobs because we do not have the facilities to offer them jobs.

I want to encourage the Minister to look into ways by which Kenya cannot only offer seafarers courses, but can also offer courses like marine engineering.

Mr. Temporary Deputy Speaker, Sir, I would also like to request that we co-ordinate our immigration, customs, fisheries and the Kenya Navy affairs, so that we can put all the vessels together for proper management under one command. This will not only save money, but will also provide controlled management of activities at sea.

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

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to congratulate the Minister for bringing this very important Bill which is long overdue. This is a Bill that should have been brought in this House years back. I am happy that the hon. Minister has finally brought it.

Mr. Temporary Deputy Speaker, Sir, I am convinced beyond doubt that if this Bill is passed and enacted into law, this country is going to create a lot of jobs for our youth. We have a lot of resources particularly maritime ones but unfortunately we have not made use of them. Most of our marine resources have been left to foreigners and actually for no use. I believe this Bill if enacted into law, is going to bring a lot of changes and create jobs.

Mr. Temporary Deputy Speaker, Sir, we are doing nothing on the 200 kilometre nautical economic zone which we have. This is a vast area of marine that we are not making use of. We have foreign companies for Koreans and Japanese who are doing a lot of fishing in these high seas and we have no control over them. They are fishing and taking our resources away. With this Bill, we shall be able to license and register these ships and be able to control fees and determine what it is that they are taking from our marine environment. So, this to me is going to be a very important area that we need to develop to create a lot of jobs for our youth.

The marine industry is very important in the world and small countries, as weak as they may appear, for example, Liberia, have made their fortune from shipping. A small country like Netherlands is among the most powerful countries in the world but its economy is based on shipping. So, we need to develop this resource in order to create jobs for our youth.

Mr. Temporary Deputy Speaker, Sir, in the area of tourism, there is increasing interest by tourists to use ships that sail along various ports in the world. If this Bill becomes an Act, we will have an increased number of tourists coming to this country using passenger ships. This is going to boost our tourism industry and will create more jobs. So, I believe it is very important that we pass this Bill so that we can start reaping these benefits.

On the issue of environmental management and conservation, particularly on pollution, it is an aspect that needs to be taken care of. Although it is not well covered in this Bill, but I think as we encourage more ships to come to our ports, we will need to ensure that the issue of protection of our marine environment is ensured by putting in place rules that will ensure that any shipping lines that may cause pollution particularly through oil spillage are made to pay.

Mr. Temporary Deputy Speaker, Sir, another area where I see a lot of jobs created is in our inland waters. Take for example Lake Victoria. I happen to come from Kakamega and when I was a kid, we had many shipping lines on Lake Victoria which were moving between Kisumu, Musoma, Mwanza, Jinja and so on. They used to make transport on Lake Victoria very convenient. Most of the goods were transported using Lake Victoria.

Today, we do not have any ships plying on Lake Victoria. It is no wonder we have all these vehicles which are destroying our roads because all our goods are now being transported by road. However, for example, in East Africa, if we developed a marine system of shipping transportation on Lake Victoria, we would save most of our roads from destruction. Most of the goods that go to Tanzania, Uganda and the Great Lakes would go through Lake Victoria and, therefore, we will save our roads but for now we do not have those facilities.

I believe this Bill will make this possible and make Kenyans get into the business of shipping. Most Kenyans are wealthy enough to get into the shipping industry but because there is no law, most Kenyans cannot get into this industry. So, with this law, I believe Kenyans will invest in this area which is very lucrative and still virgin.

Mr. Temporary Deputy Speaker, Sir, this law will also allow us to use the best practices that are being practised by various countries in the world. Currently, Kenya has signed a number of maritime conventions and because of lack of this law, we are not able to implement them. So, I believe with the enactment of this law, we will be able to implement those conventions that we have acceded to or ratified. So, it is important that this Bill is supported.

This Bill also gives a lot of authority and power to the Kenya Marine Authority. It will be able to do a lot of work particularly in overseeing what is going on in our marine businesses in terms of registering the number of ships coming, the number of passengers, seafarers and all these. So, we will have all this information.

Mr. Temporary Deputy Speaker, Sir, lastly, security and safety on our marine waters is not guaranteed because we do not have the law to take care of it. This Bill has actually articulated the issue of safety on all our marine waters very well. So, pirates, as all Kenyans now know, seem to have found out that they can make millions easily and particularly in our Indian Ocean waters where we have lots of them. So, with this law, this country will be able to deal ruthlessly with pirates. As of now, pirates have a field day because we do not have a real law that we can use to pin them down and punish them for their bad behaviour.

So, I wish to support this Bill and I hope that the rest of the Members will do so.

The Assistant Minister for Transport (Mr. Mwau): Mr. Temporary Deputy Speaker, Sir, the Merchant Shipping Bill is not only meant to deal with marine resources. It is a Bill that is intended to safeguard our water economy. Around the world, and in support of the World Trade Organisation (WTO), the trade that relates to those functions emanates from water commerce. Water commerce spreads all over the world and ship are the main transportation mode used to transport bulk cargo, for example, petroleum products, bulk grain *et cetera*.

It has taken us quite a long time before we came up with the Merchant Shipping Bill but as the previous speaker has said, if you look at countries like Liberia, Monaco and Netherlands, you will find that registration of ship is a multi-million dollar industry. Many people do not know, but ships require to be domiciled somewhere. They require recognition. So, by enacting this particular Bill into law, we shall create a procedure for registration of ships, naming them and allowing them to use our national

flag. Once you allow a ship to use your national flag, it becomes your resource of income and the ship will also promote our tourism in any part of the world that it will go. That is because it will be carrying our national flag.

Mr. Temporary Deputy Speaker, Sir, the Merchant Shipping Bill is providing for licensing of ships and vessels. There is a difference between registration and licensing. A vessel can be registered in a foreign country, but it is licensed to operate within our waters. In the past, we have had many other vessels which have been making money by using our waters. For example, we have the Japanese fishing ships which are not only vessels, but are factories. They fish in our waters, process the fish in our waters, can the fish in our waters and they export the final product from the ship to other countries.

So, what I am trying to say is that it has been wrong for us to allow other people to come and trade from our waters. There would be qualifications on how to own a vessel. The Bill provides the manner in which people will own vessels which are registered in Kenya, or which will carry Kenyan registration. That is because ownership of vessels is not just a simple matter. It is a process that must be properly guarded. That is because when a ship is registered in Kenya, it carries our country's identity. So, it is important for us to pass this particular Bill, so that our identity remains intact and our integrity is preserved.

Mr. Temporary Deputy Speaker, Sir, the Merchant Shipping Bill will also regulate the tonnage that a ship can carry. Tonnage carried is very important because, for instance, most of the times that we have imported bulk cargo like maize, we have found out that when the maize arrives in Mombasa, it is condemned as unfit for human consumption. All that is because the people who operate the ship do not observe the International Maritime Organization standards that relate to the carriage of bulk food products like maize. That is because it is not supposed to shift. So, once the vessel carries bulk cargo which is for human consumption and it shifts, then the chances of it being contaminated by the time it gets to Mombasa are extremely high. So, the Director-General, who is established under this Bill, will be able to control the tonnage.

Mr. Temporary Deputy Speaker, Sir, the Merchant Shipping Bill will also deal with transfer and transmission of vessels. Once a vessel has been registered in Kenya, it requires a certain process for it to be transferred to a different ownership. So, in that circumstance, the Merchant Shipping Bill has provided a mechanism upon which a vessel will change hands. Also, it is risky to have a ship registered in Kenya and we do not observe the mortgage of the vessel.

So, what would happen is that a person would get money from a country--- Or he would mortgage the vessel in Kenya and if we do not enact laws that will protect the mortgage, then that fellow can just disappear in the high seas and go to another domicile! So, in this particular case, the Merchant Shipping Bill has actually provided the mechanism upon which the mortgages and the marine liens will be protected. That way, the country will not lose any money in whatever nature.

Mr. Temporary Deputy Speaker, Sir, the next thing that the Merchant Shipping Bill provides for is the following:-

All of us know that, commonly, we have a problem with matters that relate to storeaways. Storeaways are those people who hide in the ships without authority and they are discovered in the high seas. So, the Merchant Shipping Bill is providing the manner in which the seafarers will be engaged, their qualifications, their terms of reference, wages, safety, health and welfare. This particular Bill will also provide for a situation in which, in case a seafarer dies in the high seas, the manner in which the captain or the person in charge of the ship will protect the property of the seafarer who is deceased.

Secondly, Mr. Temporary Deputy Speaker, Sir, it is important for us, in order to employ enough people from our country, we require proper training for the seafarers, so that they are marketable in other parts of the world. So, the Merchant Shipping Bill provides the qualifications and

training that will be required in order for one to be qualified to be engaged as a seafarer.

Mr. Temporary Deputy Speaker, Sir, our waters go almost up to 200 nautical miles. It is our duty to protect those waters and make money out of them. Before, we did not have the mechanisms for the safety of vessels, safety of lives in seas and safety of cargo in the high seas. So, the Merchant Shipping Bill provides the manner in which investigations will be carried out in case of collusion and safety of life at sea.

Mr. Temporary Deputy Speaker, Sir, dangerous cargo has been a common practice for many foreign shipping companies. They come to our high seas and offload toxic cargo. Before, we did not have a serious law to deal with toxic cargo. So, the Merchant Shipping Bill provides the manner in which the vessels will carry dangerous cargo and how that dangerous cargo will be disposed of in case it is detected.

Also, in many occasions, we find that there are wrecks. The wreck can actually be a ship that sank a long time ago, current or present. In normal circumstances, you will find that there are those people who are finders of those wrecks. The current Merchant Shipping Bill provides for the retriever of wrecks. The purpose and duties of the retriever of wrecks is to ensure that those wrecks which are found in our waters, whether they are swept into our country or sink in our waters, are dealt with and are disposed of.

Mr. Temporary Deputy Speaker, Sir, there are those people who look for salvages. We know that within our waters, there are many salvages of those dhows which capsized many years ago. So, we need a law that will govern the ownership of salvages. So, the Merchant Shipping Bill provides the manner in which the salvages will be dealt with.

Mr. Temporary Deputy Speaker, Sir, we all know the consequences and effects of pirates today. Pirates can actually suffocate business of a nation! Without proper laws, Kenya will not be able to deal with pirates.

Mr. Temporary Deputy Speaker, Sir, recently, some pirates were arrested. However, dealing with them was a problem because we do not have proper law in place. This is one of the reasons I urge the hon. Members present to ensure that we pass this particular Bill. If we do not deal with the issue of piracy with seriousness, we will be in a lot of trouble. So, this particular Bill provides for the manner in which pirates will be dealt with.

Finally, the Director-General will be the overall authority. It is a very powerful office. He will be the person responsible to ensure compliance with the merchant shipping laws, which have already been enacted in a way such that it is in total compliance with the International Maritime Organisation (IMO) laws and regulations.

With those few words, I support the Bill and hope that other hon. Members will do likewise.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Bill.

This Bill is important because Kenya is a major player in international trade in this part of the world. For a country that is very well situated to offer air, rail and road transport as well as communication to the surrounding countries, it is surprising that we do not have this kind of law. We desperately need this law. So, I would like to start by thanking my colleague, the Minister and his team, and all those who have been involved in preparing this Bill, which will be of great importance to the development of industry in this country. I recall that last year, when we had problem, Southern Sudan, Eastern Congo and all the countries in this region suffered a great deal.

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

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Mr. Minister, could you proceed and finish your remarks?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr.

Temporary Deputy Speaker, Sir, I am supporting this very important Bill, because I think Kenyans need to understand its importance and why we so desperately need it. I will be very brief. There is no question in my mind. Just as we have developed air transport and other sub-sectors of transport sector, which enabled us to become a regional hub, we need this Bill. The job opportunities that---

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

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Mr. Nyagah, could you proceed and finish your contribution?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, please, allow me to do so. I will take a maximum of five minutes, because I fully understand the importance of this Bill. We need to pass it. I fully support it. So, I will summarise my contribution in point form.

One, this sector will allow the financial sector of this country to develop. It is a new field. Banks in Kenya know how to finance agriculture and other sectors. This is a new field. Acting as regional institutions, our banks will benefit our economy as we develop expertise. Like in Liberia and islands like Mauritius, this Bill will be very good for this country.

Once passed into law, this Bill will encourage local investors. For the first time, investors in this country will have an environment in which they can invest in a new area, just like when telecommunication came about.

(Mr. Mbadi stood up in his place)

Mr. Temporary Deputy Speaker, Sir, it appears as if my "brother" is determined.

The Temporary Deputy Speaker (Prof. Kaloki): What is it, Mr. Mbadi?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, given that we have had a lot of debate on this Bill, and given that we are going to interrupt the normal Business of the House to discuss another very important matter, would it be in order for me to ask that we conclude this debate, so that we can move to the next stage?

The Temporary Deputy Speaker (Prof. Kaloki): I will allow it if there is nobody else willing to contribute.

Mr. Nyagah, have you finished?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Very well! I now call upon the Minister to respond.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir---

(Mr. Chanzu stood up in his place)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, Mr. Chanzu!

Could you proceed, Mr. Minister!

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, having noted all the points that have been raised by hon. Members, relating to the Merchant Shipping Bill, I wish to confirm that we have taken note of all the suggestions and points that have been made.

I would also like to confirm that once this Bill is passed into law, there will be legal provisions to enable me give regulations that will ensure greater control of any aspects that may be of serious concerns, which controls will improve the maritime environment.

I beg to move that this Bill be carried forward to the next stage.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Mr. Mwakwere, it is already

5.00 p.m. So, because of time constraints, I would like to take this opportunity to call upon a Minister to move a Motion for Adjournment to discuss a national crisis that is taking place.

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. Just as a matter of procedure, you may have noticed that when you were on your feet, Mr. John Harun Mwau who is an Assistant Minister, was on his feet moving around. So, I think he needs to understand the rules of the House.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you. He has noted that observation. Let us proceed!

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.20

NATIONWIDE TEACHERS' STRIKE

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, in keeping with the rules of the House, a Minister needs to move that the House do adjourn.

Therefore, I move that the House do now adjourn to debate the national issue of the teachers' strike.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I thank the House for agreeing to adjourn so that we can debate the issue that is affecting the nation today. We know that everybody in this country is affected, because when people go home, children ask them: "Are we going to school tomorrow? What has happened with the teachers' strike? Has it ended?" Similarly, teachers are anxiously waiting for the resolutions of the matter that led them to strike.

Mr. Temporary Deputy Speaker, Sir, the Kenya National Union of Teachers (KNUT) is a recognised trade union. It has been representing teachers' interests since inception, and has successfully made inroads. Many teachers have benefitted in very many ways. Some of the achievements of the KNUT, include the establishment of the Teachers Service Commission (TSC) as the sole employer of teachers, introduction of house allowance for teachers; maternity leave with pay for women teachers and the introduction of a scheme of service for non-graduate teachers and technical teachers.

The recent strikes have wreaked havoc in the country. The strike that took longest was the one of 1997, which was fighting for the 150 to 200 per cent salary increase, and it was phased out to be paid in five years. Unfortunately, the Government did not honour the agreement it entered into with the Kenya National Union of Teachers (KNUT) in 1997. So, after honouring the first phase in 1997, the subsequent phases were dishonoured. This led to the strikes of 1998 and 2002. The strike of 2002 was on the eve of the general election, and those who wanted to join the Government assured the teachers that once they joined the Government, they would not at any other time go on strike, because their welfare would be looked into.

It is surprising, and annoying that at this hour, teachers are on a strike, having supported the Government and the politicians in this House. They are being brutalised by the police and tear-gassed when their own children and students are looking at them, yet they are supposed to go back to those students, some of them with injuries. It is disheartening that we are discouraging the culture of violence, yet in our own streets, that is exactly what we are doing, encouraging the culture of violence.

Mr. Temporary Deputy Speaker, Sir, but what are we talking about? The teachers are not asking for much! They are not asking for the equivalent of a sitting allowance per day of one hon. Member. They are asking for Kshs3,000 every month.

An hon. Member: Only?

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, Kshs3,000 is the 35 per cent they are

asking for. It is that Kshs3,000 that is supposed to be spread over three years. Even the ordinary people we employ as house girls and shamba boys earn more than the teachers are earning even after training. They go for two years training, and, after qualifying--- With all that they go through in teacher training colleges, when they come out, they are put under some kind of probation, awaiting to be employed. Those teachers need to pay school fees for their children. They need food and clothing, shelter and comfort like anybody else. What is Kshs13,000 for the lowest paid teacher? It is a shame that this country cannot think about teachers in a proper way.

We are talking of the next financial year. We are not saying that they should earn that money in the current financial year; it is for July, 2009.

An hon. Member: The next financial year!

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, it is the next financial year. I am very correct in what I am saying. We are in the 2008/2009 Financial Year, and the 2009/2010 Financial Year is when they are supposed to be awarded their salary increment, and that is where the bone of contention is. Why is it so difficult for the Ministry of Education to be given the money in the next Budget to pay teachers? If there will be Supplementary Estimates this year for what was not estimated, why can we not estimate teachers' salaries to be included in the Budget that will come? I do not see if we are serious about the future of our children. Yesterday, I listened to the President of the USA, Mr. Obama. He said that whatever they are doing, they are doing it for the future of their children.

An hon. Member: Tell them!

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, what are we doing for the future of our children?

Yesterday, I heard that the Treasury is so adamant that it cannot give the money, yet if a crisis arises, they will come here to look for money! Is this crisis not enough for the Minister for Finance to come and look for that money from this Parliament? What other crisis are we waiting for when all the children are at home? Let us not be cheated that secondary schools are running. They are not! Teachers in schools are in the staffrooms and nobody can ask them anything.

(Applause)

What might happen tomorrow or the day after is that you will see students chasing away the teachers, because they are not being taught. Again, if all the primary schools are not running, are those children not our concern? Are we not supposed to be concerned about the situation where I took a Standard I kid to school and three weeks later he or she is back home, and does not understand what is happening? She is playing and she does not know whether school runs for three weeks and then people go home!

Mr. Temporary Deputy Speaker, Sir, I feel that this Government should look for a way of paying the teachers, if not in one phase, then in, at least, two phases.

Hon. Members: One phase!

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, the teachers should be involved in negotiations. The conciliator should not be there when the TSC is taking the case to court. These two measures do not go together! If there is a conciliator, he is the one supposed to handle matters, and not a court and a conciliator at the same time. The Trade Disputes Act does not provide for that. So, let there be negotiations with the KNUT, so that our children can go back to school. I would like to ask Dr. Khalwale to second this Motion.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, the case for teachers in this country in connection with salaries is as old as I can remember. In 2002, the current President, in a meeting of teachers in Nyeri Town promised them that they had negotiated phases of salary increment. If he was elected, he was going to implement them in 100 days. We remember the other 100 days we were

promised. So, all the teachers joined the then NARC Party and voted it to power. But the teachers realised that the forest may be different, but the monkey was still the same.

(Applause)

They used to negotiate with KANU before. Today, it is still KANU. The Head of State has been in KANU for as long as I can remember. The Vice-President and Minister for Home Affairs has been in KANU for as long as I can remember.

The Minister of State for Defence (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to introduce irrelevant things about who was been in KANU, including the President, yet he and his father were life members of KANU?

(Laughter)

Mr. C. Kilonzo: My friend, for your information---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Mr. C. Kilonzo, could you proceed with your contribution to the debate?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, for the information of the Minister, I have only joined one party and that was the party which brought me to Parliament the first time.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Could you proceed with the Motion?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, we have had the opportunity to meet with some of the officials of the Kenya National Union of Teachers (KNUT). What is most annoying is that the Government, this time round, took off from the negotiating table. The KNUT said very clearly that they are ready for negotiation any time, day and night.

If you look at the demands from KNUT, they have given in virtually to everything but one item. They are even willing to negotiate on that one item. But when they were busy waiting to negotiate with the Minister, he took off and went to the Industrial Court. If the Prime Minister himself refused to go to court, how can you expect the teachers to go to court? There will be no justice for these teachers in the Industrial Court, because that Industrial Court, in as far as the teachers are concerned, will still act for the Government.

I want the Minister to go back to the negotiating table. These fellows are willing to negotiate with you, but they do not want to do it in court. They are willing to meet you and negotiate. In fact, when I met them, they were surprised that the Government took off. Even those phases that they are talking about, they have agreed on the amount.

The question is: How do you tell somebody that you have agreed on an increment of Kshs3,000 and then you spread it over three years? That is very difficult. But if you sat with them, I am sure that you would have come up with a solution which is acceptable.

It is very clear that most of these Ministers and the majority of Members of Parliament do not take their kids to public schools. That is why, maybe, the Government does not really see the importance of negotiating. When you pay a teacher Kshs10,000; the same person who taught you and you became a Professor and Minister--- Have some mercy! Do not say that there is no money, because it is there. What we need is proper management and accountability by the Government. Do you know how many people have gone abroad under the pretext of going for the Obama Inauguration ceremony yesterday? On average, it is ten persons per Ministry. They are only going to sit in hotels and watch television, which Mr. Kalembe Ndile was very glad to donate, even to one of the Ministries.

It is about the management of our finances. That is why we need an alternative Government. If we say that there is no money, we will tell the Government and Minister: "Step aside and give us the

Government. We will manage it for you and things will be better." But running away from negotiation is an act of cowardice. How do you run away from responsibility? I saw a female teacher being beaten up in Mombasa. She was kicked and thrown into a Land Rover on orders of the Government. The KNUT officials in my own constituency were picked and locked up. Is this the Government that these people voted for?

With those remarks, I beg to support.

(Question proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I rise in support of the Motion for Adjournment, in that it seeks to highlight the crisis that we are facing in our schools.

Mr. Temporary Deputy Speaker, Sir, I urge colleagues that as we debate this Motion, let our arguments and points be tempered with reasonableness. Since we are national leaders, we should be promoting dialogue and giving a solution on how to end the crisis, and not adding fuel to the already raging fire. The Teachers' crisis should not be just used as another opportunity to score political mileage, but serious direction should come from this National Assembly - the Assembly of the leaders of this country - on how to solve this crisis.

I want to say that the Government appreciates teachers and the role that they play in the development of an enlightened citizenry and also our human resources. We are all products of teachers and for that, we appreciate and laud them. We cannot do without them. That is why I believe that my colleague, the Minister for Education, called them to the negotiating table. They negotiated and were able to agree on the level of increment. There is only one detail where the teachers and Minister failed to agree; that is, the mode of implementation. The Government is proposing a phased out increment and the teachers want lumpsum.

Mr. Temporary Deputy Speaker, Sir, I would urge for dialogue and more dialogue between the teachers and the Ministry, as has been urged by those who have spoken before me. The teachers are a reasonable union and they are enlightened. When we, in Government, sit with them, we ought to be able to show them the constraints that we are facing so that they appreciate and we agree on a middle ground, on how to implement their scheme.

Let us not tell the teachers that, in fact, we can maybe, be able to meet the increment lumpsum if we are not able. Let us not forget that we are coming from the post-election violence which gave us a great burden of resettlement and also hampered the growth of our economy.

Let us not forget about global recession and also the fact that as both Government and Parliament, we have failed to curb the runaway corruption, where the money is disappearing to. In that kind of situation--- Note that I am ascribing failure to those of us who are in the Executive and all of us, as an institution called Parliament. With those two factors, it becomes very difficult to be able to meet these demands.

Mr. Temporary Deputy Speaker, Sir, I will remind you, with the permission of the Chair, of a fact that you may not consider pleasant. We refused to pay taxes and all postponed the day we shall do it. The Government gets revenue to pay salaries or increase them from taxes. If we, as national leaders, have postponed the day we will pay full taxes like all other Kenyans, do we have the moral authority to tell the Government to pay teachers in one instalment? Search ourselves! We must curb our spending and tighten our belts. We are now laughing at the Kenyan team that has gone to the United States of America uninvited, to celebrate Obama's victory. What about us, as an institution?

We are also making unnecessary trips, and I am a Member of Parliament and Government. Both institutions are making unnecessary trips. We have to sit down and seriously give this country

direction, so that we are able to save resources that can go to the needed areas. Let us not be too quick to point blame on the Government, when we are part of the problem ourselves.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rarely like to interrupt the honourable "Her Excellency, the future President", but she says that we are all to blame for the corruption that is eating up the Executive and that Parliament is also part of that. While I like her admission that the Government she serves is corrupt--- They are misusing the oil and maize, and now they are refusing to pay the teachers. Parliament is not party to that. We ask that the hon. Member should apologise to Parliament. We are not party to the corrupt practices of the Executive.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, that is an argument and I do not think that I am required to reply to under the Standing Orders.

May I now say that there is a very great likelihood that in the maize scandal, Parliament is going to feature prominently, when the evidence is revealed. There is a real likelihood and it will be a shocker. That is why I am saying that Parliament, as an institution, has also not been able to help the Executive to curb corruption. We are part of the problem.

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

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, Mr. C. Kilonzo! Hon. Minister, could you conclude your remarks?

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I hope I am not being gagged by the very Members who claim that they are gagged!

Mr. Temporary Deputy Speaker, Sir, the only other point that I would like to make, as I sit down, is that we, as a Government and Government agencies, must act with restraint when citizens, whether teachers or anybody else, is demonstrating. They are exercising their freedom to assemble and to express themselves. Unless they flout the law, we should let those demonstrations go on. We should co-ordinate our acts - and that is where we must admit failure - so that we do not always respond with heavy hands.

May I conclude by urging dialogue, dialogue and more dialogue! I urge my colleagues to come with solutions. That is why they are called the National Assembly. It is the assembly of the national leaders of Kenya. Let us show leadership!

With those few remarks, I beg to support.

The Assistant Minister for Lands (Mr. Bifwoli): Thank you, Mr. Temporary Deputy Speaker, Sir. I have to thank you very much for recognizing the fact that I am a teacher. I am not only a teacher, but was once in the Kenya National Union of Teachers (KNUT).

What surprises me is that from the days of my youth, that is in 1969, for teachers to be employed, they had to go on strike. It is historical that for anything to be given to teachers, they must fight for it. When shall we, as a Government, negotiate and talk to the teachers without them going on strike?

Mr. Temporary Deputy Speaker, Sir, some of us have even taken the trouble to discuss with the Minister outside and said: "We are ready to mediate". I am in the Government and I am a teacher. I know the game. I know the whole way. But the Government seems to have a fixed mind in a way that it is not ready. I know what we did for the retired President Moi to give us money. I know what we did to remove Moi's Government. I know what they will do with us. That is why I am pleading with the Government, on the side where I am that, if we do not do it--- We have a saying that if you inherit your brother's wife and you do not know the disease that killed your brother, that same disease

will kill you. That is why I am pleading with my brothers. They are the ones who killed Moi's Government. That disease is on the way. The disease is just the teachers.

Mr. Temporary Deputy Speaker, Sir, I wish the Minister listened and discussed with the teachers. Some of us have talked to the teachers. The teachers are not as adamant as they are being portrayed. They have said that they can even be paid in two phases. They have told me in confidence that they are willing to sign an agreement to pay them 35 per cent and 65 per cent. Those are two years. The Minister is saying that he wants to pay them in three phases. History has it that one day, we signed with the Government to pay us for three years. They paid us for ten years those days. Surely, after that experience, once beaten, twice shy. You see that we are dealing with people who are today good men but tomorrow, they are different human beings. So, as a teacher, I sympathise with my colleagues. What annoyed the teachers, and I want to say it here on the Floor of the House, is that the teachers negotiated with the Government under the Teachers Service Remuneration Committee (TSRC). The Kenya Union of Post Primary Education (KUPPET) was not there at that time. The same Government started negotiating with KNUT during the day and KUPPET at night. Surely, how do you expect teachers to trust us? During the day, you are talking to Wakoli. You agree with Wakoli whom to pay and then you say you are also paying Bifwoli because Bifwoli and Wakoli are the same. Is it possible?

Mr. Temporary Deputy Speaker, Sir, the way forward is that the Minister should not run away. The truth is that teachers are willing to negotiate. We do not need to use the police. Even some of us demonstrate. The other day, the Front Bench--- We are products of street demonstrations. Ranging from the top, we were all in the streets. That is how we became popular and came here. Now, it is not going to be fair for us to go on beating the teachers just because they are expressing their anger in the streets. They have to be seen that they have refused to work. Let us leave them alone. Let them demonstrate peacefully. They are not beating anybody. Why are the police beating the teachers? That is why some of us are wondering.

Mr. Temporary Deputy Speaker, Sir, I agree that I am in this Government. But, surely, why do you beat my colleagues? Why beat him? Why? What sin has he done? He is only carrying a piece of chalk. The worst the teacher has is a pen. The pen cannot hurt a human being. It has made you what you are. It has made me what I am. A pen is what made you what you are. You use a plate to make him upset and he is the one who put the English in you and me. You cannot only teach him manners by beating him.

Mr. Temporary Deputy Speaker, Sir, I am so passionate and feel aggrieved because my brothers are asking for negotiations. I urge that we pass this Motion and ask the Government to pay the teachers in two phases. That is what they are demanding. The Minister is telling us here that teachers want to be paid in one phase. I am telling you that the teachers have told me in confidence that they want to be paid in two phases. That is okay. Mr. Minister, you are saying that the teachers want to be paid in one phase and you want them to be paid in three phases. Wakoli, as the man in the Government and a former teacher is saying: "Let us pay them in two phases. What is that?"

With those few remarks, I beg to support.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion for Adjournment on the teachers strike.

Mr. Temporary Deputy Speaker, Sir, I totally support the demands by the teachers because they play a very important role. We have all said that and we will keep on repeating it. All of us are here because of what teachers did to us. We cannot ignore that. I think the problem we are having is that--- I have a lot of respect for the Ministry of Education, particularly now that the Minister is a Professor. The Assistant Minister is a Professor and the Permanent Secretary is also a Professor. The Education Secretary is also a Professor.

I think there is wisdom in them as well. Somebody said they are all bad, but I am saying that

there is wisdom in them. In fact, that is what they should use. When it comes to harmonization, why do we go and start adding one plus one, two plus two and three plus three? We know the education of those teachers. We know those who went to universities with us. We know those who ended up in Form VI. We know those who ended up in Form IV and we know the comparable pay. When it takes too much time to calculate one plus one, I think somebody becomes suspicious, particularly when you are a professor. I think it is regrettable that we are fighting over that matter. We are mixing up issues. We have Ministers who scramble to be given positions of Ministers. When there is a problem, they withdrew and said they did not know what was happening. Sometimes, I wonder why I should be a Minister if I am going to say: "I did not know what was happening in my Ministry and parastatal." We are not discussing the welfare of Members of Parliament today. We are discussing the welfare of teachers. The issue of Members of Parliament--- Some of the Ministers who are talking about this thing now---

When the Cocker Report came here, those Ministers were here and the salaries of Members of Parliament were passed. We are not discussing the welfare of MPs. If a Minister wants to bring a Motion to discuss the welfare of MPs, let them bring it. But, today, we are discussing the welfare of teachers. We are saying that if payments were made on Goldenberg and Anglo Leasing related corruption crimes where we did not even know the person who was being paid, the money was there. When you were paying for the sale of Grand Regency, the money was there to pay. When you were paying the Artur brothers, there was money to pay.

When it comes to paying teachers, there is no money to pay. I think there is a lot of hypocrisy. This is the reason why teachers are apprehensive. I would not even go for two instalments. I would go for one because the condition was that they would be given some percentage and then they would be given the rest when the economy improves. Just imagine if the President gave one of my colleagues here a letter of appointment when he was appointing Ministers and told him: "I am appointing you a Minister today but you will be a Minister next year depending on whether the economy will improve." Will you take that letter of appointment? I think we should deal with this matter now. We have had Supplementary Estimates here. When we need to raise money to pay for emergencies, why can we not do it now?

Let me turn to the issue of the Kenya Pipeline Corporation. We are saying that the former Managing Director who took off with money disappeared to America and he cannot be found. Somebody is saying that we can now find the one who went with Kshs7 billion. If we are unable to find the one who went with the money first, how will we find this other one and he has been gone for about five years?

Mr. Temporary Deputy Speaker, Sir, the other thing that was very disappointing is that on the day when the teachers staged their strike, they were teargassed. The teachers in Vihiga were beaten. They were calling me every time and telling me that they had been booked in Vihiga Police Station. I tried to talk to the OCPD but the teachers were already in court. They stayed in court until in the evening around 6.00 p.m. for people to come and bail them out. I had to send money for some of them to be bonded. This is very pathetic because we have not changed the Constitution.

I think the freedom of association and freedom of expression are still enshrined in the Constitution. If the teachers were not rioting or damaging anything, why should they be denied the right to demonstrate? I think the Government has made excessive use of police. I did not understand why the police had to come in on this issue. We have got education officers in every district and sub-location. I do not know what they do. I do not know why they could not talk to the teachers.

The Minister tried to say yesterday that he is only waiting for the Treasury to give him money to pay. If that is the job that we are supposed to be doing just to wait for the Treasury to give us money--- I know Ministries are supposed to negotiate for their allocation. We have got supplies officers and people in the Treasury who represent Ministries. If I was just to sit as a Minister and wait

for the Treasury to give me money, then there is nothing I am waiting for the Ministry. When you are a Minister, you have to be in charge of your Ministry. You have to go and ask for money if you care about the welfare of the people who work under you.

With those few remarks, I support this Motion of adjournment so that the teachers are paid in one instalment this year.

The Minister of State for Defence (Mr. Haji): Bw. Naibu Spika wa Muda, ninakushukuru kwa kunipa nafasi ya kuweza kuzungumza juu ya jambo hili ambalo ni muhimu sana. Mtu yeyote ambaye ana fikira timamu atakubaliana nami ya kwamba walimu wana haki ya kuuliza nyongeza ya mshahara kwa sababu kila mfanyakazi pamoja nasi, ingawa mara nyingi tunapigwa, hatuwezi kukataa kuongezwa pesa.

Serikali haikukataa kuwapatia walimu nyongeza. Walijadiliana na wakakubaliana. Shida iliyoko ni kwamba Serikali inasema: "Kwa wakati huu, hatuna pesa za kutosha. Tumekubaliana na nyinyi. Tuko tayari kuwapatia nyongeza hiyo lakini tutafanya mipango ya kuwalipa kwa muda."

Bw. Naibu Spika wa Muda, sisi ni viongozi katika nchi hii na tumepewa mamlaka ya kuangalia nchi nzima kwa jumla. Ni vizuri tufikirie sana jambo hili kwa sababu walimu ndio wafanyakazi pekee ambao wako zaidi ya 250,000. Kama watalipwa nyongeza hiyo mara moja, wakati tunajua ya kwamba hata Bajeti yetu ambayo tunasema tutapata kwa sababu ya shida zilizotoka kwa sababu ya uchaguzi, huenda tusipate pesa hizo.

Tunasoma kwa gazeti na kuona kwa televisheni vile watu wengi wanateseka kwa sababu ya njaa. Wakati mwingine unaona kuwa ni dhambi kubwa sana kula chakula. Ni lazima walimu watafakari sana kwa sababu haina faida yoyote kwao na kwa nchi pia kudhalilisha watoto ambao hawana dhambi na wanataka kusoma. Wanaweza kuendelea kufunza na pia watafute haki yao vile inavyopaswa. Adhuhuri ya leo, Kaimu Waziri wa Fedha aliomba Bunge hili lipatie Serikali hii ruhusa ya kukopa Kshs7 bilioni. Makosa mawili hayafanyi moja kuwa sawa. Makosa ni makosa. Kama kweli kuna tuhuma ya kwamba mahindi yanatumiwa kwa njia mbaya, yameibwa na hii ni fikira ya watu wengi sana, ninajua ya kwamba Serikali inafanya uchunguzi. Tunatarajia ya kwamba wale ambao wanahusika watatajwa hapa na hatua kali itachukuliwa. Hakuna msamaha ambao utatolewa kama vile mara nyingine ambapo watu wanafanya makosa kama hayo na wanapewa msamaha.

Pia, ni makosa ikiwa tutainyima Serikali kibali cha kuomba pesa za kununua chakula na kulisha watu wetu ambao wana njaa wakati huu. Tukikataa hiyo, tunafanya makosa kwa binadamu. Mtu mmoja akifa leo kwa sababu Bunge hili limetukataza kuomba pesa, nafikiri ni vizuri mtu akiiba pesa ashtakiwe na tumfuate tukiwa pamoja.

Ni vizuri tuangalie hadhi na heshima ya Bunge hili. Bunge hili ni Jumba la wazee ambalo linatakiwa kutatua matatizo ya nchi hii. Kama kuna watoto wako wawili wanapigana kama vile Wizara ya Elimu na walimu, ni vibaya Wabunge kuenda kufanya mkutano wa wanahabari na walimu wakipeleka mambo yao dhahiri mbele ya umma. Itakuwa vibaya na ni kuvunja heshima ya Bunge hili. Kama mtu yeyote anataka kupinga ama kukubali kitu chochote, nidhamu ni kwamba tuje katika Bunge hili na tuzungumze yale ambayo tunataka kuzungumza.

Kwa hayo machache, ninapinga Hoja hii. Asante sana.

Dr. Khalwale: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on this most important Motion.

I support this Motion. I support that the Government must do everything in its power to resolve this strike. We want our children back in schools.

Mr. Temporary Deputy Speaker, Sir, when I look at the Minister---

Dr. Munyaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. Considering that there are many hon. Members who would like to contribute to this very important subject and there is very little time left, am I in order to suggest that each hon. Member contributes for three minutes?

Hon. Members: Five minutes!

The Temporary Deputy Speaker (Prof. Kaloki): It will be five minutes for each Member!

Dr. Khalwale, please, proceed!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I have a lot of respect for age. In fact, I was born when my father was 55 years old. When I look at the age of the Minister, which I respect, I look at the age of the Permanent Secretary and the age of the Education Secretary, Prof. Godia, I realise that they do not realise that the world has moved.

(Laughter)

Mr. Temporary Speaker, Sir, the world has moved! This country no longer belongs to those of us who are over the age of 45 years. It belongs to those who are below the age of 45 because these are the Kenyans who currently have children in primary schools. These are the people you do not care about because your children long finished university.

Mr. Temporary Deputy Speaker, Sir, the parents of these children are those young parents. The parents of those children are the poor Kenyans who cannot afford the academies and private schools that the Minister takes his grandchildren to.

Mr. Temporary Deputy Speaker, Sir, we are denying children from poor families a basic fundamental right of every child under the globe; that is the opportunity of education, being that which provides the social equaliser. So that a son of a rich man can choose to become the President of United States of America (USA) and a son of a humble man from Kogelo, because he was equalised by the opportunity of education in the USA, has today become the President. With all due respect because you are my teacher, do not do that to our children.

Mr. Temporary Deputy Speaker, Sir, the economy of Kenya is one of the giants of Africa. The budget of South Africa is Kshs3.5 trillion, Nigeria, Kshs900 billion and Kenya, Kshs600 billion. We pretend that we cannot afford to pay our teachers. We can! The reason why we cannot afford it is because this Government is sleeping. You do not want to be in charge of the corruption that steals money from public coffers under your watch.

Mr. Temporary Deputy Speaker, Sir, yes, the perpetrators of Goldenberg are in the Government today. The perpetrators of Anglo-Leasing are in the Government. The perpetrators of the sale of the Grand Regency Hotel are in Government. The perpetrators of the theft of oil from the Kenya Pipeline Company are in the Government. The perpetrators of theft of money from the National Social Security Fund (NSSF) are in the Government. The perpetrators of the stealing of maize from the National Cereal and Produce Board (NCPB) are in Parliament and in the Cabinet! I am waiting for that time when the Public Accounts Committee (PAC) is going to table its Report in this House. You are going to shake because we are not going to spare anybody! We do not want any Kenyan to die as a result of hunger and corruption.

Mr. Temporary Deputy Speaker, Sir, teachers are not asking for too much. They are saying they have dropped all their demands, including the time for implementation. They are now saying; "implement it on 1st July, 2009". They want to be paid the Kshs3,000 they are asking for at once. That is too little to ask for.

Secondly, Mr. Temporary Deputy Speaker, Sir, since secondary school teachers in Job Groups "K" to "R" have already accepted that phased-out implementation, they are the ones who are getting the giant increments. Let them phase out that but the those in Job Groups "F" to "J", because *ni kidogo*, we should pay them at once!

(Applause)

Mr. Temporary Deputy Speaker, Sir, I met a Permanent Secretary in a supermarket doing

something I do not do myself because I do not have the money. He was buying dog food. His budget for dog food was actually Kshs4,200. So if you can spend more money on your dog food than what you pay teachers, we are not fair.

I beg to support.

The Minister of State for National Heritage (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I want to say emphatically that I support this Motion. It is very important that we take care of the teachers of this country. This is because the education sector is one of the most important sectors in the development of this country. Only equal to that is the Ministry of Agriculture which helps to feed the people of this country.

Mr. Temporary Deputy Speaker, Sir, I want to say also emphatically that I know teachers in this country have been short-changed all along. The teachers have been discriminated against and taken for granted. I think it is time the Ministry took the teachers request for improved salaries for better life much more seriously.

(Applause)

Mr. Temporary Deputy Speaker, Sir, as the other speakers have said, it is true that they are only asking for two phases. Even July is too far away. A hungry stomach cannot wait until July. They probably will faint and fall down. I think they should be given some token immediately so that they know that we are serious.

Secondly, it is true that the teachers have a very fundamental constitutional right to stand up and fight for their rights. The freedom of assembly and demonstration is entrenched in the Constitution. These are educated people. They have no stones to throw. Why do you teargas them? Why do you not let them tell the public what is happening today? It is a pity that the Minister, who is one of my greatest friends in this country, is saying that we have no money. If you went to your mother when you came from primary school and you were seven or eight years old and she told you, "I have no food", what would you say?

(Laughter)

You cannot believe it. You would think that the old mother is just being cheeky and she wants you to live hungry and die. That is probably what the teachers are saying because they do not believe that the Government has no money.

Mr. Temporary Deputy Speaker, Sir, if you listen to wananchi on the many FM radio stations in this country, you will be surprised. They say, "why do you not pay teachers? Why did you steal Kshs7.6 billion from the oil sector? Why did you steal so much maize and our people are now hungry and dying"? Most of that money has actually been stolen from the Government coffers or from the strategic reserves!

(Applause)

The Government should tell us why they cannot get that little money or borrow immediately from outside, if they have friends, to pay teachers. We cannot go on having teachers striking because most pupils are suffering especially in marginalised areas. We have been told many times that some of the pastoralist areas and minority areas are marginalised. This is because we do not have private schools. The people around Nairobi and other places with private schools do not care whether teachers stay out of school for three years. We want the teachers back in the classrooms because we are the ones who are going to suffer more. The parents are going to have a serious problem.

Mr. Temporary Deputy Speaker, Sir, it is so important to bring the teachers back to classrooms. We should pay them some token money immediately. It does not matter how much it is. How can they wait even if they have agreed to be paid in two phases beginning July? In my view, they should be given a little money so that they go back to their classrooms happy with the hope that they will get more. It should not be like the other time when they waited for five years and the whole thing was not straightened well.

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

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, we must support this Motion because what the teachers are asking for is not a privilege. It is a right. They deserve this payment, not in two instalments, but in one instalment. Why do I say that? It is because they have given us more than enough notice. They have been involved in negotiations with the Government. They have asked that this payment be made in July, 2009. So, they are telling the Government; "You have between now and July, 2009, to bring a Supplementary Budget before the House and get the money." It is possible. In other economies, for example, the USA and the UK, similar packages are being brought to the national parliaments for them to pass and enact legislation to create money in order to get those economies moving. Why can we not do the same?

It is a shame that the Acting Minister for Finance is not in this House. The Minister for Education candidly agrees that he would like to pay teachers, but he does not have the money. Why is he not talking to the Acting Minister for Finance? Why are we not asking the Acting Minister for Finance to bring a Supplementary Budget to ensure that our teachers are paid in one instalment? We, in this House, want a message to go out today that this House has passed unanimously---

(Applause)

Let not this matter be taken lightly by the Ministers to say that they support this Motion simply because they know there will be no vote. Let us go out and tell Kenyans that the House agreed. The Minister for Education says that he will pay teachers if you provide the money. The money is there. Let this Government bring a Supplementary Budget here tomorrow. Let them prepare a similar package as it is being done by President Obama in the USA, the Chancellor of the Exchequer in Britain and the Prime Minister in Britain. We will then provide the money. After all, that is the money that is being stolen day in, day out.

Mr. Temporary Deputy Speaker, Sir, just two weeks ago, the Government lost over Kshs7 billion. Where did that money come from? We are talking too much and doing too little. This is simply because teachers of this country are teaching ordinary Kenyans. The children of the ordinary Kenyan citizens are not the children in private schools and academies or other private institutions in the country.

The Government can drag its feet when it comes to paying them because they are paying ordinary citizens of this country. We want a message to go out and go out powerfully that when this Parliament says; "Pay teachers in one instalment", we really mean business. If the teachers are not paid, we are going to ensure that no legislation passes in this House starting tomorrow.

(Applause)

Let the Acting Minister for Finance know that we are not going to give him a single penny to guarantee this money he wants from the USA, unless there is a commitment that he is going to bring a Supplementary Budget together with that Sessional Paper to pay teachers. It is possible to pay teachers. It is not unreasonable for teachers to demand this payment after sitting down with Ministry of Education officials. This Government has waited until the last minute. The teachers gave a strike

notice in accordance with the law, but the Government went to sleep.

Mr. Michuki went to sleep instead of telling the Treasury to prepare to provide an alternative method of paying teachers because they can easily tell the Commissioner of Police to go out and arrest teachers. I thought those days ended in Nyayo House. I spent many weeks in Nyayo House and I know what it means to be subjected to the brutality of the police because you are fighting for rights. Teachers have not broken any law. They are not criminals. The real criminals are in this Government and they are stealing money day in, day out, yet they are not being arrested. We are being told that we will be given names, but none has been mentioned.

(Applause)

Nobody has been prosecuted, but when the teachers demand what is rightly theirs, they are told to wait or else the police will be deployed to attack them.

Mr. Temporary Deputy Speaker, Sir, time has come for us to say enough is enough. Let us pay teachers in one instalment.

(Applause)

Mr. Ngugi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this very important Motion. This is because teachers are the light of the society. They are reasonable people and we have entrusted our children to them. If we cannot support their demand, then we will not only be failing the teachers, but also our kids.

This Government has not been forward-planning.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): On a point of order, Mr. Temporary Deputy Speaker, Sir. We cannot hear him! We need to listen to his contribution!

(Mr. Ngugi moved to another microphone)

(Applause)

Mr. Ngugi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this very important Motion. I support it because teachers are very important people. They are the light of society and we have entrusted our kids to them. Teachers are very reasonable people. If you sit down with teachers, you will realise that they can analyse things. They know the way the Government is running its affairs. They know what we, leaders, are being paid *vis-a-vis* what they are being paid. So, it is not unreasonable for them to ask for Kshs3,000 which after calculations work out to a total of Kshs17.6 billion.

Mr. Temporary Deputy Speaker, Sir, if I was in charge of planning of this country, I would give the Minister for Education that money tomorrow. It is so disheartening to learn that teachers' salaries are being harmonised with the rest of the civil servants. This shows how teachers have really been shortchanged. We cannot sit here and shortchange Kenyans who are supposed to produce the Obamas of tomorrow for this country.

We are only saying that there is no money because it has been stolen. We are saying so because we have allowed corruption to go on unabated in this country. We lost Kshs7.6 billion in a recent fuel scandal! What about the other scandals that we do not know? If we happen to learn of them, we shall have lost twice or thrice the amount the teachers are asking for. Let us be reasonable

and pay our teachers. Let us stop corruption. Let us plan ahead.

It is shameful to hear that police are being sent out to beat our teachers. What have they destroyed? The teachers are only expressing their democratic right! That is neither fair nor right at all. We have no moral authority to be leaders if we cannot see what is right and wrong. This is a very serious crisis. Our children are not in school now. I expected to hear the voice of the Prime Minister, the President and the Cabinet with regard to this matter because it is a national crisis. I understand economics and finance. The opportunity cost is just too much.

I support that we pay teachers in one instalment, starting July, 2009.

The Minister for Public Health and Sanitation (Mrs. Mugo): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. We all appreciate the work of teachers.

Mr. Temporary Deputy Speaker, Sir, we all passed through a teacher. Teachers are as important as mothers. Those are the two most important people that one cannot do without. From the onset, I do support this Motion. I also condemn whole-heartedly, all the corruption through which money is being lost by this Government.

It is our responsibility to follow up that money and return it back to the Government; we should lay on the Table all the names involved and those people made to pay for it. For those who have run off to India and elsewhere, it is not very difficult to bring them back so as to pay back that money. They should also tell us who it is they are working with, because I am sure they did not just get that money. I also appreciate that, even with all that theft and the high prices of food due to what happened due to our irresponsibility after the last elections, we have to spend a lot of money to feed the people.

Mr. Temporary Deputy Speaker, Sir, we all agree that we should pay the teachers now and we can do it; but we must also be responsible. We should ask the Minister for Finance to bring to this House--- We should also agree that all of us should pay taxes on our allowances, so that the money can be used to pay the teachers. We are also part of the Government. We cannot just say: "Pay the teachers" without giving something. My suggestion is that we should agree here that we are all ready to pay our taxes, so that the Minister can use that money to pay the teachers. The Government should also follow those who have been involved in corruption and get back the money they have stolen. We should not just become a talking shop! We are leaders; so, we should lead from the front by agreeing that we will pay taxes and then use the money to pay the teachers.

With those few remarks, I support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, because of time, and the Minister must get adequate time to respond, that is 10 minutes, I urge you to contribute for only two minutes.

Mrs. Kones: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this chance. I was a teacher and I am still a teacher. I support the Motion that teachers should be given their pay increment. We all know that teachers play a very important role in modelling our children. Apart from that, they play a very important role in the community. Teachers, like civic leaders, play a very important role. For example, at this time when children are joining Form I, teachers and civic leaders are the ones who are conducting Harambees to assist children to join secondary schools.

Teachers are members of the Kenya National Union of Teachers (KNUT). So, they did not just wake up one morning and demand a pay increment. They channelled their wish through the KNUT, which is an important body that has given service to the teachers since its inception. The KNUT is the only legal body which can voice the grievances of teachers. Police beatings are not allowed---

The Temporary Deputy Speaker (Prof. Kaloki): Your time is up!

Mrs. Kones: As I end, I support the pay increment for our teachers, because they do a noble

job.

Mr. Koech: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion. Thank you again for giving me a chance because on behalf of my Committee, of which none of the members has caught your eye, I would like to make the following contribution.

Mr. Temporary Deputy Speaker, Sir, as the rest of the Members have mentioned, teachers are very important people in our society. Teachers have been asking for support. They have gone to the Ministry. The Minister has gone to various places and the last resort or stop for teachers is this House. I would like to call upon all the Members of this House both the Cabinet and the Back-bench to fully support the calls of teachers.

Mr. Temporary Deputy Speaker, Sir, as the Chairman of the Departmental Committee on Education, Research and Technology, we went round the country last year to look into the causes of strikes in our schools. From the contributions from my colleagues, we would like the Minister to ensure that this payment is done in one single phase. We know that he has given six years. He went somewhere and reduced them to three. Could he go to the same place and ensure that the payment is made in one phase?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I think we are all agreed that teachers must be paid, should be paid and paid in time. The dispute is not the fact that teachers must be paid; the dispute is how. When you talk of immediately, you mean immediately means Kshs16 billion once and no more. Immediately means Kshs16 billion this year, Kshs16 billion next year and Kshs16 billion forever.

Mr. Temporary Deputy Speaker, Sir, we as the leaders and all the people who have created any mess or bad behaviour belong to this House. Whether they are in Government or not, we are all here. We have to look at the figures. From the Ministry of State for Public Service, I increased the teachers salary today by 35 per cent. The next day, I have the military who are next on line.

The third day, I have the disciplined forces next on line. The fourth day, I have all the civil servants next on line. The fifth day, the Members of Parliament will say that in the next Parliament, we should have higher pay. Compare the figures. We can pay the teachers and stop the development funds that we need to enable the teachers to be more effective. It is making the teachers more effective; that is important to our children. It is not an issue of age and other inequalities.

The entire sum of the Constituencies Development Fund (CDF) is Kshs10 billion. The entire pay for all Members of Parliament is Kshs3 billion.

Mrs. Shabesh: Mr. Temporary Deputy Speaker, Sir, I say that teachers must be paid because we have had corruption in this country. Year in, year out, billions are being lost. If we use these billions to pay teachers, we will have sealed a loophole for corruption. This country has never collapsed because of billions being stolen. So, it cannot collapse because of billions being paid to teachers. So, please pay teachers. Be a responsible Government through the people who elected you and not to a group of people sitting at a table sharing out the wealth of this country.

(Applause)

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand here on behalf of teachers, particularly teachers teaching in Rangwe Constituency.

Mr. Temporary Deputy Speaker, Sir, when I was young, my teachers were a lot more productive. I was able to join a national school from the villages. Today, there are very few students from my constituency who join national schools. That has got to do with the morale of teachers and their payment.

Mr. Temporary Deputy Speaker, Sir, I think that with good priorities in our Budget, we can

finance the teachers' salaries. If only we can---

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

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Order, hon. Ogindo! Your time is up!

Proceed, Dr. Shaban!

The Minister for Special Programmes (Dr. Shaban): Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa fursa hii kuzungumzia juu ya swala hili ambalo ni la muhimu kwa Wakenya wote.

Bw. Naibu Spika wa Muda, ni kweli kwamba waalimu wanahitaji kuongezewa mishahara. Lakini kabla ya kuongezewa mishahara, lazima tuulizane: "Ni vipi wataongezewa hiyo mishahara?" Kweli kabisa ingewezekana, walimu wangelipwa mara moja kama Bajeti yetu ya mwaka huu ingeweza kuturuhusu. Lakini ukweli ni kwamba tusikae hapa Bungeni tukitaka kuwapaka walimu mafuta kwa mgongo wa chupa.

Kuna umuhimu wa kusema yale ambayo ni ya ukweli na tusifanye siasa katika jambo hilo. Ukweli ni kwamba, ndio, walimu ni watu wetu. Wanatulelea watoto wetu, wanatungalilia watoto wetu na ni watu ambao wanashikilia uti wa mgongo wa nchi hii.

Lakini juu ya hapo, ni lazima tujiulize mambo machache. Waziri wetu wa Elimu amesema kwamba ataweza kuwalipa kwa kugawanya malipo hayo mara tatu. Kuna Wabunge wengine wamesema kwamba hata wakipatiwa mara mbili, itafaa. Kwa hivyo, tunapozidi kupiga debe, tukumbuke ya kwamba: Je, tunalolisema linawezekana ama tunalizungumza tu kwa kupiga *pararira* kuwafurahisha wananchi?

Asante sana, Bw. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Order, hon. Members! The clock is ticking now. I call upon the Minister to respond!

The Minister for Education (Prof. Ongeru): Thank you, Mr. Temporary Deputy Speaker, Sir.

First of all, let me thank hon. Members for their wonderful contributions. I want to assure them that, right from the outset, it has been the intention of the Government to pay the teachers as it would have been done.

(Applause)

That is because in accordance with the law - and I think it is important because these are the laws that we make in this House - if you look at the Teachers Service Commission Act, Chapter 212---

(Loud consultations)

Let me remind you--- I think it is important to lay the basis upon which this debate is being predicated. Section 14 mandates the Minister for Education to appoint a Commission under the Teachers Service Remuneration Commission (TSRC) auspices--

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

The Minister for Education (Prof. Ongeru): Let me finish, please!

The Temporary Deputy Speaker (Prof. Kaloki): What is your point of order, Dr. Khalwale?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, yesterday, the Chair gave the Minister 30 minutes. He told us exactly--- He ran us through the legalities and we heard him. All that we are

requesting is for him to respond on whether he is going to pay the teachers or not! If you do not want to pay teachers, tell us so that we can devise another means of making sure that you pay the teachers!

(Applause)

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, debate is debate. I think the hon. Member should be patient. He has given his contribution. Therefore, he should listen to me as well. That is the essence of debate in Parliament. It is not rushing to a conclusion. We must lay the basis upon which this debate is being predicated.

Without any further ado, I appointed the TSRC. The rules of appointment are very clear. They have gone, met and discussed. There is an allusion made by Messrs. K. Kilonzo, Mbiuki and the other hon. Members who have spoken to the effect that we have run away from responsibility. That is the basis upon which I am laying this debate.

None of us run away from any responsibility whatsoever. I have substantively followed the rule of law as printed under this statement. What does it say? It says that once I appoint this committee, the committee will deliberate and either agree or disagree. In this case, they disagreed twice. Having disagreed twice, as the Minister in charge, I have only two avenues in order to advance the dialogue.

Why am I saying so? A lot of hon. Members have called for dialogue. I have no quarrel with that position. Dialogue must be the way out. Therefore, in the absence of any conclusion, which they did not arrive at, I have only two avenues: First of all, to call them back, which I did twice. They did not agree. The second one is they declare their strike. It is their right to declare a strike. Nobody has any quarrel with that strike.

By law, I am required that I call them and advise both parties - the teachers and the TSC - on the next course of action. That one, I diligently did. I called them on Wednesday and told them that if we do not agree on these three contentious issues, then the next exit for law for that dialogue to proceed is through the Ministry of Labour. That is provided for under Section 15(3)(b). I have, indeed, submitted the three areas of contention to the Ministry of Labour.

The Ministry of Labour, in accordance with the law, has established a conciliation committee. That is where the teachers should now bring up these issues, which have found their way to Parliament. We can choose to politicise this matter and lose the direction under which it should be discussed. Conciliation is still dialogue.

Even then, I did not rest there. On Friday, I called the teachers to come and see whether we could narrow the gap. I waited in my office from 2.00 p.m. to 11.00 p.m. I did not give up. They came back to me. They said: "We are now ready. We will come back to you on Sunday." I went to my office on Sunday, from 1.00 p.m. to 5.30 p.m. They never turned up.

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

The Minister for Education (Prof. Ongeru): Let me finish, Mr. Temporary Deputy Speaker, Sir.

So, the question which arises is this---

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, he should finish in two minutes!

The Minister for Education (Prof. Ongeru): No! Why are you giving me time? Why is this dictatorship coming in?

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order!

Proceed, Mr. Minister!

The Minister for Education (Prof. Ongeru): You had better be able to listen to the debate, just as much as I patiently listened to you.

Mr. Temporary Deputy Speaker, Sir, the position of the Government is this: We have never

been in doubt, and we have never said "no" to paying teachers. What we are saying, which I said yesterday, is that Kshs17.3 billion is the agreed global figure. Now, I would like Members of Parliament to help me get that Kshs17 billion in one round. I have never said "no". What I have, and I think it is only fair for them to know it, is that I can only spend such money as is budgeted for me by this Parliament. The Chairman of the Public Accounts Committee, Dr. Khalwale, will question any expenditure outside what is available in the Budget, or money which is wrongfully spent. There is a Budget Committee of this House. If it tells me tomorrow that they are varying the amount of money due to the Ministry of Education, I will have no business withholding even a penny from anybody, including the teachers.

Let us deal with this issue without political machinations and rhetoric. It is important that, whereas I am very emphatic to the teachers and Dr. Khalwale, whom I dutifully taught, and he can argue in this House--- Therefore, let us separate reality from what is possible.

Mr. Temporary Deputy Speaker, Sir, one thing that I am not prepared to do in this House is to promise teachers today that I will pay them at one go, and then when I go back to my office, I have no resources with which I can effect the payment. That way, I will become a liar in this hon. House. Therefore, instead of hon. Members spending time arguing, they should be finding ways and means through Budget provisions and allocations that can be appropriated to teachers.

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. This adjournment Motion was meant to ensure that our teachers go back to class. We are coming to its end, yet the Minister has not said what he is going to do today to ensure that tomorrow, our teachers are in class. Could he do that?

The Minister for Education (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, Mr. Koech should be patient enough to listen. Already, there is a conciliation committee that has been constituted, and I appeal to teachers to attend that committee where dialogue is going on. They will present their views there. They should stop the strike and go back to the classroom until this matter is put to rest. That is the way forward! But you cannot have a way forward by demanding instant payment, yet you know the machinery for effecting payment will take another six or seven months to put in place.

So, my advice, and the way forward, is for the teachers to go and attend the conciliation meeting, which is convened by the Minister for Labour in accordance with the labour law of 2007. They should go there, because if you say that it is a matter for the Ministry of Education--- They wrote to me and I told them that I had exhausted my machinery. Therefore, the matter should go to another level. This letter is here and you can look at it.

(Prof. Onger laid the letter on the Table)

Mr. Temporary Deputy Speaker, Sir, I beg to say that this Motion can only be answered by saying that teachers should go back to the negotiating table. There is already machinery that has been put in place for them to express their views. Therefore, they have no business being out there on a strike. Let them go back to the table!

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 22nd January, 2009, at 2.30 p.m.

The House rose at 6.30 p.m.