

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th July, 2005

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya Accountants and Secretaries National Examinations Board for the year ended 30th June, 2004, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads
and Public Works (Eng. Toro) on
behalf of the Minister for Education,
Science and Technology)*

Annual Report and Accounts of the Nyayo Tea Zones Development Corporation for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads
and Public Works (Eng. Toro) on
behalf of the Minister for Agriculture)*

Annual Report and Accounts of the Kenya Trypanosomiasis Research Institute for the year ended 30th June, 2001, and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Trypanosomiasis Research Institute for the year ended 30th June, 2002 and the Certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Roads
and Public Works (Eng. Toro) on behalf
of the Minister for Livestock
and Fisheries Development)*

Annual Report and Accounts of the Kenya Roads Board for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Roads and Public Works (Eng. Toro)*

*on behalf of the Minister for
Roads and Public Works)*

Annual Report and Accounts of Telkom Kenya Limited for the year ended 30th June, 2001, and the Certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Communications Commission of Kenya for the year ended 30th June, 2003, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads
and Public Works (Eng. Toro) on
behalf of the Minister for
Information and Communications)*

Annual Report and Accounts of the State Corporations Appeal Tribunal for the year ended 30th June, 2004, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Roads and Public Works (Eng. Toro)
on behalf of the Minister of State,
Office of the President)*

QUESTIONS BY PRIVATE NOTICE

WITHHOLDING OF HIV/AIDS
FUNDING BY WORLD BANK

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

(a) Is the Minister aware that the World Bank intends to withhold funding for HIV/AIDS projects worth Kshs8 billion due to misappropriation of the funds earlier released to the National AIDS Control Council (NACC)?

(b) What urgent action is he taking to pre-empt the catastrophe that would jeopardize the lives of people living with HIV/AIDS and those at risk of infection?

Mr. Speaker, Sir, the Question was deferred because the House wanted the Minister to lay on the Table a document showing the Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs) and Faith Based Organisations (FBOs) which have benefited from these funds. The House also wanted to know the reasons why the NGOs are particularly given the money.

Mr. Speaker: Order! I suppose the Minister will do that!

The Minister of State, Office of the President (Mr. Karume): Mr. Speaker, Sir, before I reply, if you allow me, I would like to comment on yesterday's meeting which was called by the Vice-President and Minister for Home Affairs. I went there at 10.00 a.m. and stayed there until 11.30 a.m. I went away because there was nobody. So, I went to that meeting.

Mr. Speaker: Mr. Minister, that is not relevant to the Question Dr. Khalwale has asked!

(Laughter)

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

(a) I am not aware that the World Bank intends to withhold funding for HIV/AIDS projects worth Kshs8 billion due to misappropriation of funds earlier released to the NACC.

(b) The war against HIV/AIDS is expected to be sustained with a new response programme expected to commence in the 2005/2006 financial year. This project known as "Total War on AIDS" is expected to receive significant funding from the World Bank. Negotiations with the World Bank started from 4th July, 2005 and will continue until 15th July, 2005. Besides the Bank, other development partners and stakeholders have also shown interest and will continue providing financial and technical support in the war against HIV/AIDS in the country.

Mr. Speaker, Sir, so far, there is no catastrophe since the Office of the President does not envisage any hindrance which will stop the World Bank from releasing the funds. The negotiation process is progressing well.

To keep the war against HIV/AIDS on the right path, the Office of the President, through the NACC, has prepared the Kenya National HIV/AIDS Strategic Plan 2005/2006 to 2009/2010 which stipulates the various actions the country will undertake to combat HIV/AIDS.

The strategic plan, due for launch before the end of June, 2005, is expected to bring together all the stakeholders; that is the Government, development partners, parliamentarians, civil society, CBOs, FBOs amongst others to a concerted effort to fight HIV/AIDS.

Mr. Sambu: Mr. Speaker, Sir, I would like to thank the Minister for the long answer. I would like to ask the simple question we had asked last time when you sought our request to defer the Question. We want to know the criteria used to disburse the HIV/AIDS funds to various constituencies. You will find one constituency with three CBOs getting Kshs350,000 while another constituency with a higher population and 20 CBOs gets the same amount.

Could the Minister tell us the criteria used in determining the amount of funds a constituency receives?

Mr. Karume: Mr. Speaker, Sir, I am ready to lay on the Table the documents which contains the information "Mr. John" has requested for.

(Laughter)

The factors which determine the disbursement of HIV/AIDS funds to a constituency are: The Constituency AIDS Control Committee's (CACC) approval, CBO bank accounts and confirmation form.

*(Mr. Karume laid the documents
on the Table)*

Dr. Manduku: Thank you, Mr. Speaker, Sir. The Minister, in the beginning of his answer, has said that he is not aware that the World Bank, including the Global Fund, is withholding its financial support to the NACC. If you send any proposal to NACC, they will tell you that they do not have funds and that it will not be funded.

The NACC has stopped supporting the CBOs. Why has the World Bank stopped funding the NACC? When we visited Uganda the other day, we found that, that country gets a lot of money from many agencies. Why can we not get money from those agencies to fight HIV/AIDS?

Mr. Karume: Mr. Speaker, Sir, I have said that I am not aware of that because no HIV/AIDS money has been withheld by the World Bank. As I have said, the World Bank officials are here in Nairobi, and my officers are meeting with them everyday. The Bank officials are working out the figures. We will get Kshs2.4 billion. Those officials are very happy. There is no problem.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. I am very disappointed that the Minister is not aware that the World Bank is withholding HIV/AIDS money. Since I am not a Christian, I appeal to our ancestors to ensure that those who are "eating" the money meant for the HIV/AIDS victims also suffer like the victims.

Capt. Nakitare: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to curse the people he thinks have "eaten" the HIV/AIDS money in this House? How can people eat money?

Mr. Speaker: Order, hon. Members! For the avoidance of doubt, this is not a cursing House! I am not prepared to preside over a cursing ceremony. Could we keep all the curses out of this House? Dr. Khalwale, ask your question!

Dr. Khalwale: Thank you, Mr. Speaker, Sir. I believe two years ago, the then Director of the NACC was jailed because she had awarded herself and other members of her committee hefty salaries. Could the Minister lay on the Table the current salaries of the Director of the NACC so that we can know that, that error was corrected?

Mr. Karume: Mr. Speaker, Sir, I will table document in this House to show Members that we have changed a lot of things. I would like him to know that I am a better christian than him.

(Laughter)

Mr. Speaker: Very well. Next Question by the hon. Member for Kanduyi!

INSECURITY IN KANDUYI CONSTITUENCY

(Mr. Wamunyinyi) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that two people, including an Administration Police Officer, were murdered and others seriously injured in Kibabii Location, Kanduyi on 25th May, 2005 by heavily armed assailants?

(b) How many people have been apprehended in connection with the incident?

(c) What action is the Minister taking to ensure that such incidents of insecurity do not recur?

Mr. Speaker: Is the hon. Member for Kanduyi not here? Question dropped!

(Question dropped)

SHORTAGE OF STAFF IN GARBA-TULLA SUB-DISTRICT HOSPITAL

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

(a) Is the Minister aware that Garba-Tulla Sub-district Hospital is facing an acute shortage of staff following the withdrawal of nurses by the Ministry?

(b) What is she doing to address that crisis?

(c) When will the Minister construct a theatre to enable the hospital provide better services to the residents of the area?

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

(a) I am aware not aware of any staff that have been withdrawn from Garba-Tulla Sub-district Hospital.

(b) My Ministry has deployed three more nurses and one registered clinical officer to the hospital.

(c) In the current financial year, my Ministry will supply basic equipment to Garba-Tulla Sub-district Hospital and carry out renovations on the existing buildings. The Ministry has factored in the proposal for the construction of a theatre in the next Financial Year, 2006/2007.

(Loud consultations)

Mr. Speaker: Order! Order, Mr. Assistant Minister! The hon. Member for Kitutu-Chache, you do not do those things in the House. Can we give this House some dignity.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, all that is expected to cost the Government about Kshs80 million. The Government is committed to developing facilities in the rural area and recently, we constructed a drugs store in the same hospital.

Mr. Bahari: Mr. Speaker, Sir, I appreciate the Assistant Minister's undertaking that he will provide equipment to the hospital. But I think he has been given wrong information that no staff has been withdrawn. I came from Garba-Tulla yesterday. As I was leaving, I saw some staff being transported there. That is a confirmation that they were not there before. But could he tell this House what is the cost of a theatre that he is not able to fund from the basket that he has been given by Treasury?

Mr. Konchella: Mr. Speaker, Sir, while the hon. Member came from Isiolo yesterday, I talked to the Medical Officer of Health (MOH) before I entered this House. He assured me that it was only one nurse who was transferred to another hospital within the district. That hospital had one nurse who could not work alone. In fact, we have actually doubled the staff in that particular hospital.

Mr. Speaker, Sir, with regard to the equipment, I said that it will cost about Kshs8 million. We are going to factor in that budget in the next financial year. But should there be anything that is needed immediately for the operation of the hospital, let the MOH let us know, so that we can take action.

Mr. Ojaamong: Mr. Speaker, Sir, there is a growing tendency by clinical officers and nurses who are posted to various hospitals not to report to those stations. What action is the Ministry taking against staff who are posted to particular hospitals and fail to report? Could the Ministry consider blacklisting them, so that they cannot get employment anywhere else in Kenya?

Mr. Konchella: Mr. Speaker, Sir, I am not aware of any staff who have refused to report to stations where they are posted. First and foremost, before we post them, they have to sign a guarantee that they will be there for a minimum of three years. But if one has good reasons, he or she can be considered on merit.

Mr. Ngoyoni: Mr. Speaker, Sir, needless to say, under-staffing is a growing problem in all Government health facilities. In view of that, could the Ministry consider giving District Management Boards the authority to recruit medical personnel as per the demand of a particular institution, instead of recruiting retirees while we have so many graduates from medical training schools who are roaming in the streets?

Mr. Konchella: Mr. Speaker, Sir, the criteria for recruitment is based on a number of factors. Some of them have to do with experience and competence. So, some of the retirees may not be necessarily competent because they are not versed with modern technology. So, we encourage those who are qualified to apply for the available jobs and they will be considered.

Mr. Bahari: Mr. Speaker, Sir, Isiolo is a very vast district. The distance from the District Headquarters to the furthest point in my constituency is 250 kilometres. The sub-district hospital is half-way.

Could the Assistant Minister consider sending an MOH to Garba-Tulla Sub-district Hospital because it is entitled to having one?

Mr. Konchella: Mr. Speaker, Sir, looking at the population of the area and the work-load, the health centre can be catered by a clinical officer. But should---

Mr. Bahari: On a point of order, Mr. Speaker, Sir. The life of a citizen is very important. Is the Assistant Minister in order to keep on talking about population, when we are talking about the citizens of this Republic? Whether it is one person or 10 people, it does not matter! What we are saying is that they are not getting the right services. Is he in order to disregard the people?

Mr. Speaker: Order! He may answer but, that is a point of argument! You better re-visit the Standing Orders again. But, Mr. Assistant Minister, what are you doing about it?

Mr. Konchella: Mr. Speaker, Sir, there is a criteria for posting doctors. We do not want doctors to idle around waiting for patients. But a clinical officer is able to handle the situation. If there are any referrals, a vehicle is there to take patients for specialised treatment to the nearest facility, where there is a doctor.

ORAL ANSWERS TO QUESTIONS

Question No.428

PAYMENT OF BENEFITS TO MR. WALTER KIBUNJA

Mr. Speaker: Very well. Question by the hon. Member for Kiharu Constituency is deferred to next week at his request.

(Question deferred)

Question No.444

REPAIR OF MOI SOUTH LAKE ROAD

Mrs. Kihara asked the Minister for Roads and Public Works:-

- (a) whether he is aware that a section of Moi South Lake Road in Naivasha is seriously dilapidated; and,
- (b) whether he could

inform the House when that road will be repaired.

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

- (a) I am aware that a section of Moi South Lake Road in Naivasha is seriously dilapidated.
- (b) The road is programmed for repairs from this month, this year.

Mrs. Kihara: Mr. Speaker, Sir, I know the Assistant Minister is aware now. But in the last financial year, the Ministry allocated Nakuru some Kshs50 million to repair roads. But that money was returned to Treasury because they were not able to utilise it. Could the Assistant Minister tell us whether that money has been sent to Nakuru now?

Eng. Toro: Mr. Speaker, Sir, the Kshs50 million that was sent last month could not be utilised before the end of the last financial year. We are now in the process of sending an Authority to Incur Expenditure (AIE) to the Provincial Works Officer, Rift Valley, so that, that money could be utilised. We expect that he will receive that money before the end of this month.

Capt. Nakitare: Mr. Speaker, Sir, that road serves farmers who bring in foreign exchange and tourists who go to Lake Naivasha. It also serves fishermen who transport fish from the lake. The

Government spent a lot of money repairing that road 10 years ago and yet, it is in a dilapidated condition. Could he ensure that the contractor will use standard materials to make that road last longer, so that it can be used by the people of Naivasha?

Eng. Toro: Mr. Speaker, Sir, the Minister and I have visited that road and we were to start the work in the last financial year. The condition of Mai-Mahiu-Narok Road was so pathetic that our resealing unit was deployed there first and those who have been able to travel to Narok via Mai-Mahiu-Narok Road know that we have done a lot of work on that road. So, the resealing unit has finished the work there and it is the one we are going to use on Moi South Lake Road. We are not going to engage a contractor. We are going to use our resealing unit because we do not have a lot of money. By using our resealing unit, we will be able to do far much better than hiring a contractor.

Mrs. Kihara: Mr. Speaker, Sir, this is an important "artery" as far as foreign exchange earnings are concerned in this country and since the District Roads Committee (DRC) money is not enough to maintain it, could the Assistant Minister upgrade this road so that it is under his mandate?

Eng. Toro: Mr. Speaker, Sir, we do not have to necessarily upgrade this road because it is already important and we know it. That is why we have started by allocating Kshs50 million for its repair. We are not letting the DRC to do repairs on this road. The road is about 22.5 kilometres and if we do proper repairs, the final cost will be about Kshs103 million. So, we are starting off with about half the amount of this money this financial year.

Question No.390

ELECTRIFICATION OF MARKETS/
SCHOOLS IN TIGANIA EAST

Mr. Munya asked the Minister for Energy:-

(a) whether he is aware that Karachii and Michii-Mikuru markets in Tigania East Constituency have no power supply despite the line supplying Michii-Mikuru Tea Factory passing through these markets; and,

(b) when the Ministry will supply electricity to these markets and the nearby Nyambene and St. Angela's Nguthiru Secondary Schools?

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

(a) Yes, I am aware that Karachii and Michii-Mikuru markets in Tigania East Constituency have no power supply and the lines supplying Michii-Mikuru Tea Factory pass through these markets.

(b) Karachii and Michii-Mikuru markets and Nyambene and St. Angela's Nguthiru Secondary Schools are not contained in the revised priority list of projects submitted to the Ministry by Meru North DDC for funding consideration within the next two years. The Ministry of Energy, therefore, cannot commit itself to implement the same because implementation of projects under the Rural Electrification Programme is based on their priority ranking by the respective DDCs and on the availability of funds. However, considering that the power is in the vicinity of these market centres and institutions, I would like to request the hon. Member to advise the affected residents and institutions to liaise directly with Kenya Power and Lighting Company (KPLC) for connection under the company's new customer creation programme which is cheaper and quicker.

Mr. Munya: Mr. Speaker, Sir, since the Assistant Minister usually has a lot of discretion in allocation of these funds and there are some projects that have been supplied with electricity without necessarily going through the moribund DDCs, could he use that discretion to supply electricity to these markets?

Mr. Kiunjuri: Mr. Speaker, Sir, it is true we had allocated money to Mikinduri Health Centre which already has power and in that respect, we shall be able to give money to Karachii Market and Nyambene Secondary School to the tune of Kshs2.5 million while Michii-Mikuru Market and St. Angela's Nguthiru Secondary School will get Kshs1.5 million respectively.

Mr. Sambu: Mr. Speaker, Sir, since many high tension lines pass over the markets and public institutions, could the Assistant Minister---

*(Mr. Shaaban stood between
Mr. Sambu and the Chair)*

Mr. Speaker: Order! Mr. Shabaan, you know the rules. Why are you being defiant of the rules? There must not be an hon. Member standing between the hon. Member on the Floor and the Chair! Proceed!

Mr. Sambu: Mr. Speaker, Sir, the major impediment in supplying electricity to utilities is the cost of the transformers. Could the Assistant Minister talk to the suppliers of transformers to reduce their prices considerably particularly for the 50 and 100 KVA transformers so that are able to use the CDF funds to buy and install transformers near public utilities so that people can pay for the lines going to their houses or utilities?

Mr. Kiunjuri: Mr. Speaker, Sir, you know that hon. Shabaan was promoted to the Shadow Cabinet today. We will consider allowing the CDF to participate equally with the KPLC. In addition, we are encouraging members of the public to pay directly under the Customer Creation Programme and also the Transformer Maximisation Programme so that at least if 20 of them apply, we shall connect them. Otherwise, we have cases whereby we have transformers but nobody is utilising them.

Mr. Munya: Mr. Speaker, Sir, I would like to thank the youthful and respectful Assistant Minister for that very good answer he has given. Could he, in the same good gesture, tell me how soon he is going to implement this project?

Mr. Kiunjuri: Mr. Speaker, Sir, we are going to implement before mid-next year.

Mr. Speaker: Next Question by Mr. Mbai!

Question No.397

SUPERVISION OF ADULT
EDUCATION TEACHERS

Mr. Mbai asked the Minister for Gender, Sports, Culture and Social Services:-

(a) whether he is aware that some adult education teachers do not report to their places of work; and,

(b) what steps he is taking to make sure that these teachers are properly supervised.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that some of the adult education teachers, especially part-time teachers do not report to their places of work at times due to delayed monthly honorarium.

(b) The Minister has deployed some of the full-time teachers to work as inspectors and supervise the adult education teachers in Masinga. Those who do not report at their work places are treated as deserters and appropriate disciplinary action will be taken against them. Also, the Ministry is creating partnership with communities in the provision of adult literacy and has specially

organised supervisory committees with Faith-Based Organisations (CBOs).

Mr. Mbai: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer. However, I want to bring to her attention the fact that I have been going round my constituency and these people are nowhere to be seen. The Government is spending a lot of money to pay these people but they are not working.

If you go to the villages, no villager will ever tell you whether they have seen them. Could the Assistant Minister tell us when these people teach? Do they teach at night when people have gone to sleep or on Sundays when people have gone to church?

Mrs. Chelaite: Mr. Speaker, Sir, I remember that some months ago, we informed this House that most of these part-time teachers are paid a small amount of money of about Kshs500 per month. These teachers have deserted their duties because they have been discouraged. As a Ministry, we could not pay them more money because the Government had not given us enough money to pay them. So, it is, really, not their fault. We had requested the Treasury to give us more money this year and I am glad to report that the amount of money that is usually given to us has been increased. We are, therefore, from this month, going to pay each teacher Kshs2,000. So, we hope that they will do a good job.

Mr. Kipchumba: Mr. Speaker, Sir, I am sure we are all aware that in some parts of this country, there are some old men who attend primary school, and that is causing a lot of problems in those schools. The Kshs2,000 that the Assistant Minister has said they are going to pay the teachers is even below the recommended minimum wage. We even pay our housemaids better. Therefore, I would like to request her to consider raising that figure to, at least, Kshs5,000, so that they can attract adequate personnel throughout the country.

Mrs. Chelaite: Mr. Speaker, Sir, that is a very good suggestion. However, considering the amount of money that has been allocated to us, we are not able to pay the teachers the amount the hon. Member has suggested. We have restructured the Adult Education Department. We do not engage the teachers the whole day. They only teach for two hours. So, I appreciate that the Kshs2,000 we intend to pay them is little. However, the amount is only for the two hours they teach per day, and not for the whole day.

Mr. Mwanzia: Mr. Speaker, Sir, I would like to thank the hon. Member for the answer she has given. However, if you look at the two parts of the Question, you will see that the key words are, "places of work" and "properly supervised". We know that primary school teachers go to certain designated places to teach, pastors go to preach in designated churches and hon. Members of Parliament come to this House to legislate. Could the Assistant Minister tell us whether she was sincere when she said that she was aware that adult education teachers do not report to their places of work? Could she further tell the House whether there are designated places for adult education teachers to go and teach, so that she can supervise them? Could she designate some places where adult learners can go and be taught, so that she can supervise the teachers properly?

Mrs. Chelaite: Mr. Speaker, Sir, we have designated places where adult education classes take place. We have some centres where these classes take place. We use existing school classrooms. We have also requested church leaders to allow us to use their facilities. They have allowed us to use their church halls as our centres. So, it is not true that we do not have designated places where adult education classes take place. There are such places and we always supervise the teachers. In fact, from the beginning of this financial year, we will increase our supervision capacity.

Dr. Godana: Mr. Speaker, Sir, the Assistant Minister is not serious. She admitted that adult teachers were not teaching because they were discouraged by the not just paltry, but near criminal supposed pay of Kshs500 shillings per month. She has now said that with effect from the end of this month, those teachers will be paid Kshs2,000. Given that the teachers had stopped teaching, what

new steps is she taking to ensure that before each of them receives the Kshs2,000 at the end of this month, the communities where they are supposed to teach know this? For instance, could she undertake to announce that on a particular day, nationally, all adult education teachers will report at their centres of teaching in the presence of their respective District Officers (DOs) and chiefs, so that the community knows who has been earning money over them and yet was not delivering services?

Mrs. Chelaite: Mr. Speaker, Sir, as I said, we have done some restructuring in all the provinces. We are going to recruit over 1,000 teachers, starting this month. I would like to clarify that it is not all the existing teachers who have deserted duty. Some of them are very loyal and have continued teaching. We are going to promote that lot and recruit more teachers and inspectors. In the current financial year, we have been given Kshs52 million. Last year, we were given Kshs27 million only. So, I would like to assure hon. Members that they will see good response from this year.

Mr. Mwandawiro: Jambo la nidhamu, Bw. Spika. Kwa kweli, hili ni swala muhimu sana. Ni aibu kwamba miaka 40 baada ya nchi hii kujinyakulia Uhuru, kuna watu ambao hawajui kusoma na kuandika. Inaonekana kwamba Wizara hii haina sera kamili ya kumaliza tatizo la kutojua kusoma na kuandika. Je, ni nidhamu kuomba kwamba Wizara hii itayarisha sera ya kupambana na kutojua kusoma na kuandika? Kama Wizara haina sera kama hiyo, ni heri Waziri Msaidizi aseme hivyo ili tumsaidie.

Mrs. Chelaite: Bw. Spika, Wizara itafanya juhudi zote kuona kwamba kila mtu katika nchi hii amejuua kusoma na kuandika.

Mr. Mbai: Mr. Speaker, Sir, could the Assistant Minister consider gazetting designated areas where the teachers will be meeting their pupils?

Mrs. Chelaite: Mr. Speaker, Sir, the point has been taken.

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

Question No.459

INCREASE IN DISABLED PERSONS'
POPULATION IN URBAN CENTRES

Mr. Angwenyi asked the Minister for Gender, Sports, Culture and Social Services:-

(a) whether he is aware that there has been tremendous increase in the population of physically disabled persons in the streets of Nairobi and other major towns in the country;

(b) whether he could inform the House how many national fund-raising functions for the physically disabled persons were carried out in the 1980s and 1990s and how much was raised on each occasion;

(c) how these funds were invested and how they benefit the physically disabled persons; and,

(d) who is managing these funds and in which investments.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): Mr. Speaker, Sir, I have the written reply to this Question. However, I would like to ask the hon. Member to agree that the Question be deferred so that it can be referred to the Office of the President under which this matter falls. Secondly, the answer that I have is not satisfactory. So, I request that the Question be referred to the Office of the President for a better answer.

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

Mr. Angwenyi: Mr. Speaker, Sir, this Question was filed in March, 2005. That is four

months ago. This Question was deferred last week, and so this Ministry must have had the Question four months ago. Why did they not direct it to the correct Ministry? In any case, I agree with her. The answer they have given me is sub-standard. So, I will agree to be given a proper answer by the correct Ministry.

Mr. Speaker: Very well! I order that the Question be re-directed to the Office of the President.

(Question deferred)

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. When is the Question going to be answered?

Mr. Speaker: Order! Order! I have re-directed the Question and it is up to the Clerk of the National Assembly to put it on the Order Paper. The Question by Prof. Mango is deferred.

Question No.523

FUNDING OF BUSIA SUGAR
COMPANY BY INVESTORS

(Question deferred)

Next Question by hon. Kimeto!

Question No.061

RETIREMENT BENEFITS FOR
MR. KIBET KOSKE

Mr. Speaker: Is Mr. Kimeto here? Question dropped!

(Question dropped)

Next Question by hon. Choge!

Question No.322

REFUND OF SACCO SHARES
TO MR. NOAH SANG

Mr. Choge asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that Mr. Agaga Noah Sang filed notice of cessation as a member of Reli Co-operative Savings and Credit Society Ltd. with effect from 1st April, 2001; and,

(b) when he will pay Mr. Sang his full refund of shares.

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth):
Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) Refund of shares is not paid or done by the Ministry.

Mr. Choge: Mr. Speaker, Sir, the Ministry of Co-operative Development and Marketing and this Assistant Minister are the guarantors of every function carried out by the SACCOs. What step will the Assistant Minister take to ensure that these SACCOs remit dues when members cease being members?

Mr. Kenneth: To start with, we are not guarantors of the SACCOs; we only register them. But we have realized that there is a problem with the SACCOs and that is why we are bringing to this House the SACCO Bill, in which the depositors' funds will be insured or taken care of by a deposit protection fund that will actually be part of the intended Act. As of now, we have taken to court the employers who have actually deducted but not remitted the remittances to the respective SACCOs. Amongst the employers we have taken to court in the last two weeks is the Kenya Railways Corporation who are supposed to remit remittances to the Reli SACCO.

Mr. Speaker: Very well, last question, Mr. Choge! Are you happy with the response?

Mr. Choge: Mr. Speaker, Sir, what steps will the Assistant Minister take to ensure that when such refunds are made at a belated hour, some form of interest is paid?

Mr. Kenneth: All members' contributions accrue interest; so, if they are belated, they accrue interest and that interest will be paid at the time they will be given the refund of their shares.

Mr. Speaker: Very well, next Order!

(Mr. Cheboi stood up in his place)

Mr. Speaker: Order! Order! I do not recall you ever notifying the Chair of any point of order, Mr. Cheboi!

(Laughter)

Well, first of all, are you a Minister?

(Loud consultations)

Mr. Cheboi: Yes, Mr. Speaker, Sir; that is what I want to speak about!

(Applause)

Mr. Speaker: Order! Order! Order, hon. Members! The Chair will not be drawn into sectarian politics! All I will act upon is a list provided to the House by the Leader of the Official Opposition.

(Applause)

Order, Mr. Cheboi, you will sit down now! I am not in charge of KANU!

(Laughter)

Next Order!

PROCEDURAL MOTION
EXTENSION OF HOUSE SITTINGS

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-THAT, notwithstanding the provisions of Standing Order 17(1) and (2), this House orders that the sittings of the House on Thursdays be extended from 6.30 p.m. to 7.30 p.m. with effect from Thursday, 7th July, 2005.

Mr. Speaker, Sir, this is a Procedural Motion, and I come before the House to ask for this extension because we still have a lot of business to transact before the end of the year. We intend to go on recess from 4th August, 2005, and that leaves us with only 18 days. Then when we return on 4th October, 2005, we will have 39 days. So, we have a total of 57 days only to transact our business.

Mr. Speaker, Sir, we are lawmakers and we have not made any laws at all to date. We would like to utilize the 57 days that are left to, at least, pass certain laws. There are certain Bills which are extremely important. For example, the country is waiting to be given a new Constitution and we intend to give this country a new Constitution. There are certain Bills which impact considerably on the development and economy of this country. Right now, we are debating the Public Procurement and Disposal Bill and soon, we will want to debate the Privatization Bill. We also have the Banking (Amendment) Bill and the Forests Bill. The HIV/AIDS scourge has been discussed here many times and this is an area in which I would like us to pass a Bill before we conclude this Session on 8th December, 2005. We have the Finance Bill as well, and those are eight Bills in total. In addition to that, from Tuesday, next week, we will be dealing with Votes and we have at least 12 Votes that we must conclude by 27th October, 2005, as per the Constitution. We need extra time in order to complete our work.

I want to plead with the House to treat the Questions the way they have treated them this afternoon; that we should never go beyond 3.30 p.m. so that we can really concentrate on the Business of the House. In addition to those eight Bills that I have mentioned above, there are other Bills the President did not assent to but which I believe we can deal with, such as the Banking Bill, the Wildlife Conservation Bill and the National Social Hospital Insurance Fund Bill.

It is very important that we have this extra time. I also want to plead with the House that, even during Question Time, yes, sometimes it is good to inject some humour during that time and sometimes to throw a few jokes here and there. But because of the limited time we have, I want to plead with my colleagues to desist from this so that we can produce the work that *wananchi* expect from us. Right now, they are watching us very seriously. Therefore, let us try to do a little more than we need to do. I am pleading that we should redeem ourselves in the eyes of the electorate. We have nearly 78 Members on the Government Benches plus Members from the Opposition Side who work very hard to see to it that we transact business in this House. If we have a few from that side and half from the Government side, the question of lack of quorum will be history. Let us try and do what we are here to do. I want to request that we finish the debate on the Public Procurement and Disposal Bill this afternoon, so that we can embark on the other Bill.

During the recess, between 4th August, 2005 and 4th October, 2005, we will have over 60 working days. May I ask Departmental Committees, particularly their chairmen, to spend at least 20 days working, so that they can make our work easier. I want also to plead with my colleagues, the Ministers, that they work, indeed, with the Departmental Committees, so that when we return on 4th October, 2005 we will hurry up things.

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

The Assistant Minister for Finance (Mr. Obwocha): Mr. Speaker, Sir, I believe the Vice-President and Leader of Government Business has said a lot. On Thursdays, from 6.30 p.m. to 7.00

p.m., we normally have time for Members' Statements, which are very rare in this House. The request to extend the business of the House to 7.30 p.m. is not asking too much.

We have 17 Bills outstanding in the summary of the House Business. I would request that my colleagues put some little more time into what we are doing.

At one time a pig and a chicken wanted to start a fish, chicken and chips business. The pig asked the chicken what they could do. The pig started by saying it would contribute sausages to that business. The chicken then told the pig that it would contribute eggs. The pig looked at the chicken and said: "Yours is a mere contribution. Mine is total commitment". This is because the sausages from the pig were a total commitment. It would have been slaughtered to get that business going. But the chicken was merely giving the eggs. So, I would like to urge my colleagues to show commitment to these Bills. Let us not be blamed. When the Cockar Report came out, we were ranked one of the Parliaments that passes the fewest Bills in East Africa.

Mr. Speaker, Sir, with those few remarks, I beg to second the Motion.

(Question proposed)

Dr. Godana: Thank you very much, Mr. Speaker, Sir. This is a Procedural Motion.

*(Prolonged applause as Mr. H.M. Mohammed
walked into the Chamber)*

Mr. Speaker: Order! What is going on?

(Laughter)

Dr. Godana: Mr. Speaker, Sir, some colleagues are making themselves the laughing stock of the House.

This is a Procedural Motion and, ordinarily, on the Opposition side, we have always supported such Motions when they make good sense. I submit that this Government is not serious in seeking this extension. It is a fact that over the last two-and-a-half years, this House has been dogged by lack of quorum, particularly after 5.00 p.m. I want to remind the Leader of Government Business that the responsibility of ensuring that there is quorum in the House, primarily in our Parliamentary system, lies with the Government. It is the Business of the Government to ensure that Parliament is given adequate business to run, and that there is always quorum. In fact, for his benefit, it is the singular privilege of the Opposition to harass the Government by showing that there is no quorum everytime; to show that this Government has no business to conduct.

When, therefore, we seek to extend the Sitting by one hour, ostensibly because we want to be serious and show total commitment---

An hon. Member: It is by 30 minutes!

Dr. Godana: It is by one hour!

Mr. Speaker: Order! There will not be a private discussion between the two of you! Please, address the Chair!

Dr. Godana: Thank you very much, Mr. Speaker, Sir. When we seek to extend the Sitting by one hour, ostensibly because this Government wants to tell Kenyans and the international community that it is serious about passing Bills, and is even prepared to extend the Sittings of the House into the night---

Mr. Speaker, Sir, only yesterday, the Vice-President and Leader of Government Business

was whipping Ministers and Assistant Ministers for not being in this House. Now, they are appealing to us on the Opposition side to be present. Surely, they cannot be serious!

Mr. Speaker, Sir, the failure of this House to pass adequate, or what is considered to be a reasonable number of Bills, is not a failure of Parliament. It is a failure of the Government. In fact, if the Government wants to pass a Bill within two or three days, it can, invariably, do it. But if it is not serious about bringing Bills before the House, and it has been playing monkey games with donors, it should not now try to hide behind shortage of time. If we are serious, we can conduct all parliamentary business without inviting public ridicule, as we will if we extend sitting time. This is because I am sure that on the very first Thursday, we will definitely end up with two or three hon. Members seated here at the end of the Sitting.

Mr. Speaker, Sir, with those few remarks, I oppose the Motion.

Mr. Speaker: Well, I think I will have one or two more hon. Members.

Let us hear the Assistant Minister for Roads and Public Works, come to the Opposition Chief Whip and then put the question.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Speaker, Sir, I stand to support the Procedural Motion. I beg to differ with the Deputy Leader of the Official Opposition, who says that the duty of passing Bills lies with the Government. The media and everybody else are criticizing the institution of Parliament and not the Government.

Mr. Speaker: Order! For the record, the Government, by the rules of the House, is in charge of the Business of the House, except on Wednesdays morning. That is the law!

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Speaker, Sir, I agree with you. What I am saying is: Once the Government has tabled the Bills in Parliament and they are read the First Time, they become the property of the House. When they are the property of the House, it is the duty of hon. Members to pass them. The Government can only be criticized if it has not been able to bring Bills before this House. There are 12 Bills awaiting passage by hon. Members. Therefore, hon. Members have a duty to collectively pass them in this House. When this does not happen blame is on all hon. Members and not the Cabinet. Hon. Members are being criticized everywhere for being lazy.

Mr. Speaker: Order! The debate is on whether or not to extend the sitting time. So, can you address that issue?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Speaker, Sir, extending the Sittings of the House by one hour on Thursdays will enable hon. Members to collectively pass these Bills. The hon. Members on the Opposition side cannot withdraw and say that they are leaving the passing of the Bills to the Government side only. I would like them to support the extension of sitting time, because at the end of the day we will, collectively, be honoured for passing many Bills in this House.

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

Mr. Speaker: Let us have the last one on this. We are not going to spend any more time on this issue!

Mr. Muturi, please, proceed!

Mr. Muturi: Mr. Speaker, Sir, I sympathise with the Leader of Government Business in this matter. I am one of the few hon. Members who sit here up to 6.30 p.m. I know that if we are serious about passing Bills, we really must go to the statements given by none other than His Excellency the President, whenever he opens this House. That is because he gives his Government's legislative agenda.

Mr. Speaker, Sir, after that agenda is given, it is never followed through. No Bills have been brought to this House in good time. Even when they are brought, as we have seen in the recent past,

they have been defective. That has even necessitated His Excellency the President to return some of them back to this House. Indeed, we, as Members of Parliament, would be happy to participate in the passing of Bills. But I wonder how the extension of Sitting time by one hour on Thursdays is going to help us. We know for sure that when we sit here after 6.00 p.m., Ministers are supposed to take notes on what hon. Members are saying about those Bills. But they are, themselves, not here!

(Applause)

Mr. Speaker, Sir, we are being asked to extend sitting time from 6.30 p.m. to 7.30 p.m., so that we, as Members of Parliament, will be brought Bills here where we shall be talking to ourselves. We do not know the Government's intention in bringing some of those Bills to the House.

(Applause)

Mr. Speaker, Sir, I want to plead with the Leader of Government Business to withdraw this Motion. If we pass this Motion, beginning tomorrow, we are going to be ridiculed because the Ministers will not be here. Another thing is that this Motion is coming at the tail-end, when we have only one month before we proceed for recess.

I am sure the behaviour we have seen is an indication of--- Extending time will only mean that we shall be having one or two hon. Members and Mr. Speaker.

With those few remarks, I beg to oppose.

(Question put and agreed to)

Mr. Speaker: Order, hon. Members! There are several things that have been raised during the course of debate on this Motion. First, is the effective use of the time available to the House. Secondly, is the necessity of Members to be present in the House to transact business. Thirdly, the necessity of the Government, particularly the Front Bench, to be serious on what goes on in Parliament.

(Applause)

A lax Cabinet leads to a lax Parliament. So, will we all keep this House in a spirit of seriousness and honour. Let us proceed from there. As I said, no Question Time will be extended beyond 3.30 p.m. It will be a rule and Question Time will stop automatically at 3.30 p.m.

Next Order!

BILL

Second Reading

THE PUBLIC PROCUREMENT AND DISPOSAL BILL

(The Minister for Finance on 30.6.2005)

(Resumption of Debate)

interrupted on 5.7.2005)

Mr. Speaker: Who was on the Floor? Mr. Kimathi, you have 25 minutes
Please, proceed!

Mr. Kimathi: Thank you, Mr. Speaker, Sir, for giving me this chance to continue from where I left yesterday.

I was contributing to the importance of a Procurement and Disposal Bill. This Bill has been brought when it is too late! Procurement procedures have been used as a conduit to siphon public funds. There are two avenues that have been used to misappropriate public funds, and I hope the Minister for Finance will close them.

Mr. Speaker, Sir, procurement officers and suppliers have used loopholes in our procurement procedures to steal Government revenue. The other avenue where the Government has lost a lot of revenue is through road construction. If you look at the expenditure index in those two areas, the Government spends a lot of money. Those two areas cover almost everything. There is procurement of construction materials, purchase of medical supplies, purchase of security items and so on. In the past, those areas were not being audited. Mr. Speaker, Sir, it is very important for all Ministries, especially the Ministry of Finance, to criminalise some sections. The Constituency Development Fund (CDF) is a very important contribution from the Exchequer to the constituencies. Since Independence, this is the first time that every constituency in the entire Republic of Kenya is benefitting from such a Fund. Every one of us is receiving some money. I want to take this opportunity to thank the Minister for Finance and the Government of His Excellency the President for initiating the CDF.

Mr. Speaker, Sir, I saw in the media that some hon. Members have not utilised even the first grant of Kshs6 million that was given in the year, 2003/2004. I do not know whether that is true, but it is very shameful. I just wondered whether such constituencies do not have problems.

Mr. Speaker, Sir, it is very important that we be given guidelines on how the CDF money should be spent. In order that none of our colleagues gets temptations, it is very important for the Ministry of Finance to introduce punitive measures against those who misuse those funds. It is important to introduce criminal clauses in our laws. Most laws in this country just give guidance on how things should be done. They do not have guidelines to show what should happen in case any funding was diverted. When officers administering those funds realise that there are no punitive measures, they simply ignore the rules. They know that, even if they misused the funds, they will not be punished.

Mr. Speaker, Sir, even though I am in the Opposition, I want to thank the Government for the many reforms that it is carrying out. When KANU takes over Government, we want to find in place good methodology of managing public funds so that the taxpayers can continue to receive value for their money.

Mr. Speaker, Sir, there is a go-slow in all ports of entry into this country. As I speak, in Mombasa, most of the staff members are not computer-literate. The Ministry of Finance suddenly introduced the use of computers in clearing goods, without training its officers. I have imported a vehicle and it is now held up at the port for the last eight days instead of the normal one or two days, simply because very few officers understand how to use the computers. The Ministry of Finance should have harmonised manual and computer programmes in the clearing process. I urge the Minister for Finance to address that issue urgently. In fact, very many ships cannot dock because you have to pay through the computer system and communicate to the ship---

Mr. Sungu: On a point order, Mr. Speaker, Sir. The question of relevance is very important. If we do not apply the rules of relevance and repetition, then we may have problems of quorum. I

believe the Member on the Floor is not being relevant because he is discussing port affairs.

Mr. Speaker: Order! Mr. Kimathi, can you come back to the Bill we are discussing?

Mr. Kimathi: Mr. Speaker, Sir, I do not know why the Member interrupted me. I am discussing the Public Procurement and Disposal Bill, and procurement involves importations. We have medicine in Mombasa---

Mr. Speaker: Order! That may very well be so. But this Bill concerns only public, not private procurement.

Mr. Kimathi: Thank you, Mr. Speaker, Sir. While we are on this Bill, I would like to suggest that we must ease the methodology of procurement. If we allow litigation in the manner in which we are doing now, the Government will continue to lose. The necessary mechanism must be put place so that it does not just become a cup of tea for every failed bidder to sue.

If you go to any police station or district or provincial headquarters, you will notice very many Government vehicles, even some with little dents, just lying in heaps. If the Ministry could organise an annual disposal of these vehicles, it could be better, because they are rotting in Government stores yet they could be sold for reasonable sums of money. Like I mentioned yesterday, essential areas like KPLC, security equipment and Kenya Medical Supplies Agency (KEMSA), should be exempted from strict measures so that we can save this nation. Those are areas where we run to during disasters.

QUORUM

Maj-Gen. Nkaiserry: On a point of order, Mr. Speaker, Sir. The Vice-President and Minister for Home Affairs has just moved a Motion extending the sitting time of this House. As we continue to transact business, even now, there is a lack of quorum in this House.

Mr. Speaker: Do we have a quorum? No. Okay, ring the Division Bell.

(The Division Bell was rung)

Order! We now have quorum. Please maintain it now.

Proceed, Mr. Kimathi!

Mr. Kimathi: Mr. Speaker, Sir, I want to conclude my speech by saying that the essential areas of need like the KPLC, KEMSA and security procurement, should be facilitated so that we can acquire items quickly.

Finally, it is very important that all procurement agencies will request for samples prior to bids, so that we stop this business of receiving Chinese sub-standard goods. They must give samples of what they intend to supply. It is very important to discuss their specifications

With those remarks, I beg to support.

Mr. Wamwere: Ninakushukuru sana, Bw. Spika, kwa kunipa nafasi nami niseme machache.

Kwanza, ningependa kusema kwamba ninaunga mkono lengo la Mswada huu; kutumia uzalendo wakati wa kutoa tenda. Kampuni ambazo zitataka kupewa tenda zihusishe Wakenya kwa kuwapa hisa ili ziweze kupewa tenda. Pia, ninaunga mkono kwamba wakati Serikali inauza makampuni yake, wenyeji wapewe kipaumbele halafu wageni wafuate. Sio haki makampuni yaliyojengwa kwa jasho la Wakenya, mwishowe kuuziwa wageni kuyamiliki kwa bei ya kutupa.

Ningetaka pia kuunga mkono jambo la uwazi, kwa sababu itakuwa vigumu sana kupigana na ufisadi pasipo uwazi zaidi. Ni mara nyingi watu wamegutushwa kwa kusoma mambo yanayohusu ufisadi baada ya kufanyika, na matukio hayo yangezuiwa kama wakati wa kutoa tenda,

tenda hizo zingetangazwa katika magazeti yote nchini ili kila mtu aweze kujua ya kwamba zinatolewa. Wakati wa kuuza mali ya Serikali, kama mauzo hayo yangetangazwa katika magazeti ya nchi ili mwananchi aweze kuona yakitangazwa. Pia, uuzaji ukishatokea, pia matokeo hayo yafaa yatolewe kwenye magazeti ndio wananchi pia waweze kujua.

Jambo lingine ni kwamba, ninafikiria wakati wa kutangaza tenda, watu wengi wangefikiria ya kwamba kila Wizara ingetaza tenda ambazo zinahusu vile vitu ambavyo Wizara inataka kununua. Inastaajabisha kidogo kuona vitu ambavyo vinanuiwa kununuliwa na Ofisi ya Rais, vikitangazwa magazetini ya Ulaya na Wizara ya Haki na Mambo ya Katiba. Mtu anashindwa, inawezekanaje bidhaa ambazo zinataka kununuliwa na Ofisi ya Rais zitangazwe na Wizara ya Barabara na Ujenzi? Hapa kunaonekana kama kuna jambo ambalo halieleweki, na labda Waziri atajibu. Lakini mimi ninatatizika kuelewa ni kwa nini vitu ambavyo vitatumiwa na Ofisi ya Rais viwe vinatangazwa katika gazeti la *The Economist* na Wizara inayosimamiwa na Bw. Murungi.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Sijui kama haya ni magendo lakini hili si jambo la kawaida na tungetaka kujua sababu yake. Ninaamini ya kwamba kila Wizara inatakiwa kutangaza bidhaa au biashara ambayo ingetaka kufanya ili tusiwe na utatanishi mwingi katika jambo hili.

Bw. Naibu Spika, nikiendelea, ningetaka kusema kwamba, katika siku za nyuma, magendo yalitokea, hasa katika biashara iliyonuiwa kufanywa na Anglo Leasing and Finance Company na Goldenberg kwa sababu Serikali haikufanya uchunguzi katika makampuni ambayo yalipewa kandarasi. Ningetaka kupendekeza kwamba kabla ya kandarasi zo zote kutolewa kwa makampuni, ni sharti makampuni ambayo yanaomba kandarasi yafanyiwe uchunguzi wa kina na Wizara inayohusika. Kama uchunguzi ulifanywa, nina uhakika kwamba tungejua Anglo Leasing ilikuwa ni kampuni ya akina nani, wakurugenzi wake walikuwa ni akina nani na ilikuwa na sifa gani za biashara ambayo ilikuwa inataka kupewa. Ni wazi kwamba wakati Serikali ilipoanza kufanya biashara na kampuni ya Goldenberg, ilifanya hivyo bila kuchunguza kampuni hiyo ili kujua ni kampuni ya aina gani. Kama Serikali ilifanya uchunguzi, bila shaka iliamua kufanya biashara na kampuni hiyo kwa nia ya kufanya ufisadi. Ningetaka kupendekeza kwamba uchunguzi huu ni muhimu kwa sababu kuna makampuni mengi ya kitaifa na kimataifa ambayo ni matapeli na hatufai kufanya biashara nayo, kwa sababu tukifanya biashara nayo, bila shaka tutachomeka.

Bw. Naibu Spika, hapa niko na orodha ya makampuni mengi ambayo kimataifa yanajulikana kama makampuni tapeli. Ni muhimu kama tungekuwa na orodha kama hii, ili kila Wizara inaponuia kuhusisha makampuni ya kimataifa katika biashara, iweze kujua ni makampuni gani ambayo yanastahili kuhepwa na ni gani ambayo yanaweza kufanywa kazi nayo. Pia, ningetaka kupendekeza kwamba mikataba yote ambayo Serikali itafanya na makampuni haya yakaguliwe na Mkuu wa Sheria na aidhinishe kwamba mikataba hiyo inalinda maslahi na pesa za Serikali ifaavyo.

Inajulikana wazi kwamba Serikali imepoteza pesa nyingi kwa sababu Mkuu wa Sheria hakukagua mikataba na kuhakikisha kwamba mikataba hiyo inafanyia pesa za Serikali ulinzi wa kutosha. Ni kwa sababu hii wengine wetu hatuna imani na Mkuu wa Sheria ambaye yuko ofisini kwa sababu ana rekodi ambazo haziwezi kusifiwa na yeyote.

Kama kesho tuna haja ya kuhakikisha kwamba Serikali haitapata hasara, aidha tutafute Mkuu wa Sheria mwingine kwa sababu aliyeko ofisini ameshindwa kufanya kazi au Serikali ihakikishe kwamba Mkuu wa Sheria ameanza kufanya kazi. Kama Mkuu wa Sheria halindi pesa za Serikali, sioni ni kazi gani nyingine ambayo atakuwa akifanya.

Bw. Naibu Spika, ninaona mhe. Mbunge mmoja hapa akitingiza kichwa kama anataka kusema kuwa mimi labda ninaitamani kazi ya Mkuu wa Sheria. Mimi sio wakili na kwa hivyo, sina tamaa na kazi hiyo. Ninachoomba ni kwamba mtu akipewa kazi, anafaa kuifanya vile inavyotakiwa kufanywa. Kazi ya Mkuu wa Sheria ni kulinda maslahi ya umma. Mkuu wa Sheria ambaye yuko ofisini ameshindwa kufanya hivyo.

Mr. Maore: Jambo la nidhamu, Bw. Naibu Spika. Je, ni haki kwa Mbunge anayeongea kumkashifu Mkuu wa Sheria bila kukiri kwamba Serikali ilipochukua uongozi kwa ujanja na unafiki, ilihitaji mtu wa kuifundisha kwa njia za kuipotosha?

Mr. Wamwere: Bw. Naibu Spika, hiyo sijui! Lakini kama kulikuwa na ujanja wa aina hiyo, bila shaka umeiletea Serikali na umma wa nchi hii hasara kubwa. Ni muhimu mikataba yote ikaguliwe na Mkuu wa Sheria. Hasara ikitokea baadaye, Mkuu wa Sheria anafaa kutoa maelezo na kuchukua adhabu. Kwa hivi sasa, ni kama Mkuu wa Sheria hana kazi na kama anafanya kazi, haina matokeo mema.

Jambo lingine ambalo ningetaka kupendekeza, ambalo haliko hapa, ni namna ya kuzuia kandarasi kulipiwa kabla ya kazi kufanyika au kabla ya bidhaa kupokelewa. Wakati wa Goldenberg, ilisemekana kwamba dhahabu ilikuwa imeuzwa na hiyo ilikuwa ni dhahabu hewa. Jambo la kuuza huduma au bidhaa hewa imesambaa sana katika Serikali. Ningetaka ikumbukwe pia kwamba kuna kampuni nyingine ambayo ilipokea fedha za kuuzia Serikali magari 300 na mpaka leo, magari hayo hayajaonekana. Hizi pesa tayari ziko mikononi mwa kampuni hii tapeli. Ni makosa kwa Serikali kulipia bidhaa ambazo haijapokea au huduma ambayo haijapokea. Mswada huu unatakiwa uwe na ibara au kishazi cha kuzuia jambo lisifanyike katika siku zijazo.

Bw. Naibu Spika, Wizara ya Barabara na Ujenzi ni moja ya Wizara ambazo zimepata hasara kubwa kutokana na kulipia kazi ambayo haijafanyika. Ukisoma ripoti za Mkaguzi wa Hesabu za Serikali, utapata visa vingi ambapo Serikali imelipia ujenzi wa barabara kabla ya barabara hiyo kujengwa na baadaye, hiyo barabara inakosa kujengwa. Kenya ni nchi maskini na hatuwezi kujiruhusu kupata hasara ya aina hii hata kama hawa matapeli ni Wakenya kama sisi. Wakipata pesa hizo hawazitumii kwa namna ya kusaidia uchumi wa nchi yetu.

Bw. Naibu Spika, jambo lingine ambalo ningetaka kugusia ni kwamba, imesemekana na mabalazi wa nchi za nje ya kwamba nchi yetu ina ufisadi mwingi. Ni kweli kuwa kuna ufisadi mwingi. Lakini ningetaka kusema ya kwamba, hata makampuni ya kimataifa yaliyoko nchini yamehusika na ufisadi tulio nao. Ningetaka kupendekeza ya kwamba makampuni yaliohusika na ufisadi katika uwanja huu wa kufanya biashara na Serikali, yawe ni ya humu nchini ama kutoka nje, yapigwe marufuku ikiwa yana historia ya kufanya ufisadi. Kama inawezekana, inafaa orodha ya makampuni hayo iwekwe katika Mswada huu kwa sababu makampuni haya yanajulikana. Sio haki kwa mtu au makampuni inayojulikana kuwa imefanya ufisadi iendelee kupewa nafasi hiyo.

Nikigusia makampuni machache humu nchini, ningependa kupendekeza ya kwamba kampuni kama Mugoya Construction Company, Kirinyaga Construction Company, Karuri Civil Engineers, TM and M na Goldenberg International yapigwe marufuku kabisa kufanya biashara na Serikali. Mpaka sasa sijui kama kampuni ya kimataifa ya Anglo Leasing imepigwa marufuku au tunalalamika tu. Kabla ya kisa ambacho kilikuja hapa Bungeni, ni kweli ya kwamba kampuni hii ilihusika na biashara zingine huko nyuma. Ni makosa kwa kampuni kama hii kupewa nafasi ya pili baada ya mzozo ulioko kumalizika. Hii kampuni ya Anglo Leasing pamoja na kampuni zinazoitwa Camp Globe Limited, Matric General, Spy Matinyoles na Sogelea zinastahili kupigwa marufuku. Inafaa kampuni hizi zisipewe nafasi kufanya biashara katika nchi hii tena, kwa sababu zimeiletea nchi hii hasara kubwa.

Bw. Naibu Spika, nimeangalia kipengee kinachohusu adhabu ambayo itatolewa kwa watu au kampuni zitakazo jihusisha na kutotii amri zilizoko katika Mswada huu. Nimeona ya kwamba

kutoza faini au kifungo pekee yake hakitoshi. Pamoja na kupiga kampuni hizi marufuku zisifanye biashara na Serikali tena, kuna haja ya kumpuni hizi kunyimwa usajili kabisa. Isiwe tu zimepigwa marufuku kufanya kazi na Serikali, lakini zinaweza kuendelea kufanya kazi katika nyanja [Mr. Wamwere]

zingine. Kampuni fisadi itajaribu kuibia Serikali, na kama haina nafasi hiyo, ikiachwa, itaenda kumfisadi mtu mwingine au nchi katika nyanja zingine. Kwa hivyo, kuna haja ya kampuni ambayo imehusika katika ufisadi kunyimwa usajili kabisa.

Bw. Naibu Spika, pia kumekuweko na mazoea ya kwamba, kampuni moja ikipata jina baya, wenyewe wanaimaliza halafu wanasajili kampuni nyingine na wanaendelea kufanya biashara yao fisadi na kampuni hiyo mpya. Pamoja na kunyima kampuni fisadi usajili, kuna haja ya kuwajua watu wanaohusika na ufisadi. Kuna haja kuwajua wakurungezi wa kampuni hizi na kuhakikisha watu hawa hawaruhusiwi kusajili kampuni mpya ambayo wataitumia kuendeleza ufisadi nchini.

Bw. Naibu Spika, kuna kampuni nyingi za kimataifa ambazo zinafanya biashara nchini. Haifai wanaoilaumu nchi hii kwa ufisadi ulioko, kufungia macho ufisadi ambao unafanywa na kampuni za kimataifa. Kuna nchi zinazoruhusu kampuni zake kuhonga maofisa katika Serikali za dunia hii ya tatu. Watu wanapewa hongo na kampuni hizo. Halafu, kampuni hizo zinaporudi katika nchi zao, zinauliza zitolewe hasara waliopata kwa kulipa hongo kama punguzo la kodi.

Ikieleweka ya kwamba nchi fulani inaidhinisha utoaji wa hongo kwa maofisa wa Serikali, ningependa kupendekeza ya kwamba tusifanye biashara na kampuni kutoka nchi kama hizo, kwa sababu, zimeamua ya kwamba zitawahonga maofisa wa Serikali. Watu hawa wana pesa nyingi na wanaweza kumshawishi yeyote yule na kufanya biashara ambayo mwishowe inakuwa hasara tupu kwa nchi yetu. Kwa hivyo, tusifanye biashara na kampuni hizo. Ningetaka kuwaeleza wanaotulaumu wahakikishe ya kwamba kampuni zinazokuja hapa nchini kufanya biashara ni kampuni ambazo zinafanya biashara safi; siyo biashara ya hongo.

Bw. Naibu Spika, sikutosheka na adhabu ambayo imetolewa na Mswada huu kwa watu ambao wamefanya ufisadi. Ukiangalia nchi ambazo zimefaulu kumaliza ufisadi, utaona kwamba nchi hizo hazina huruma na ufisadi. Lakini sisi ni watu ambao tunawahurumia sana wafisadi. Nchi ya Uchina imemaliza ufisadi kwa sababu ukiudhubutu, utanyongwa au kupigwa risasi papo hapo. Hakuna huruma! Ukijua ya kwamba utapigwa risasi huwezi kudhubutu makosa hayo. Nchi ya Cuba pia imefaulu kumaliza ufisadi kwa sababu ya kuchukua hatua kali kama hizo. Juzi nilimsikia Mhe. Murungi akisema ya kwamba katika Afrika kufuta watu kazi na kuwafunga hakuwezi kusaidia katika kumaliza ufisadi Afrika. Kama huwafungi wafisadi katika jela, ni nani mwingine atakayefungwa? Kama humfuti mfisadi kazi, nani mwingine atastahili kufutwa kazi?

Tumekuwa tukiongea juu ya ufisadi kana kwamba ni jambo tofauti na wizi. Ukitazama maana kamili ya ufisadi, utaona kuwa ni wizi wa kutumia ofisi, kalamu, mamlaka na wadhifa anaoshikilia mtu. Dakika ya mwisho, wizi huu ni sawa na wizi wa watu wadogo ambao wakati mwigine wanalazimika kutumia silaha kwa sababu hawana njia nyingine. Kama tunakuwa wakali kiasi cha kusema ya kwamba mtu akipatikana akifanya wizi kule nje apigwe risasi mara moja, kwa nini tusiwachukulie wafisadi ambao wanatumia mamlaka kwa njia mbaya, hatua kali kama hizo? Kwa hivyo, ninataka kukabaliana na mhe. Murungi kwamba katika Afrika hatua za kuwafuta watu kazi hazijafaulu. Pia kuwafunga wafisadi hakuwajafaulu.

Katika nchi yetu, wafisadi hawajafungwa na bado ni wengi sana. Katika nchi yetu, wafisadi hawajafutwa kazi. Ukiingia katika wizara yoyote utawapata mle wakiendeleza ufisadi kama kawaida.

Ninakubaliana na wale waliosema kwamba haitoshi kuwafuta watu wadogo kazi. Tuwatafute watu wakubwa, na tumwangushe mmoja wao na wengine wataogopa.

Kumetolewa mfano wa Rais Thabo Mbeki wa Afrika Kusini, ambaye wakati Makamu wake

wa Rais alitajwa katika ufisadi, ingawa makamu wake huyo anatoka katika chama chake, hakusita kumfuta kazi. Na sasa amepelekwa mahakamani. Mimi ninajiuliza, Makamu wetu wa Rais akihusika na ufisadi, Rais wetu kweli atamfuta kazi? Je, atadhubutu kumfuta kazi? Hapo mbeleni, kulikuwa na fununu za kumhusisha na ufisadi. Makamu wetu wa Rais alisamama hapa kuitetea Wizara yake, kwamba haikuhusika na ufisadi. Lakini baadaye ilijulikana kwamba kulikuwa na ufisadi katika Wizara hiyo. Kwa nini Rais wetu hakumfuta yeye kazi?

Bw. Naibu Spika, kama huwezi kumfuta mtu mkubwa kazi, hata mtu mdogo usimfute kazi. Ufisadi unaenea kwa sababu ya mfano mbaya wa kutowachukulia watu wakubwa hatua. Kwa hivyo, ni vyema viongozi wa Afrika wajifunze kutokana na hatua ya Rais Thabo Mbeki. Pia ninamuomba Rais Kibaki ajifunze kutokana na hatua ya Rais Thabo Mbeki. Kukitokea Waziri ambaye amehusishwa na ufisadi, inafaa achukuliwe hatua ya moja kwa moja. Kukitokea Wabunge ambo wamehusishwa na ufisadi, wachukuliwe hatua vivyo hivyo. Kukitokea maofisa wa Serikali wachukuliwe hata hiyo hiyo, ili watu wajue kwamba Serikali haina mchezo na imejitolea kuendeleza vita dhidi ya ufisadi.

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

Sijamaliza Bw. Naibu Spika!

Mr. Deputy Speaker: Mhe. Wamwere baado ana dakika mbili zaidi.

Mr. Wamwere: Bw. Naibu Spika, ni makosa sana kama hatuwezi kuupiga ufisadi vita. Kama watu hawana subira, hawawezi kupiga vita ufisadi.

Jambo lingine ambalo ninataka kuliunga mkono ni kwamba Mawaziri, Rais, Wabunge na viongozi wengine, hasa maofisa wa Serikali, wasifanye biashara na Serikali. Ninaongeza kwamba kama Rais hataruhusiwa kufanya biashara na Serikali, bibi yake na watoto wake pia wasiruhusiwe kufanya hivyo. Hata maofisa wa Serikali wanaofanya kazi karibu na yeye wasiruhusiwe kufanya biashara na Serikali. Vivyo hivyo, tukisema kuwa Mawaziri wasifanye biashara na Serikali, pia tuwaongeze mabibi na watoto wao katika orodha hiyo. Ninasema hivyo kwa sababu unaweza kuona tunasema Rais asifanye biashara na Serikali, lakini mabibi zake wanafanya biashara hiyo. Au tunasema Mawaziri wasifanye biashara na Serikali, lakini watoto wao wanafanya hivyo, na matokeo yatakuwa yale yale tunayokataa. Kama kuna mtu anayetaka kufanya biashara na Serikali, na yumo Serikalini inafaa ajiuzulu kwanza kutoka Serikalini ili afanye biashara nayo. Lakini mtu asiruhusiwe kushikilia yote mawili.

Jambo lingine ambalo ni kosa ni kumpata mtu fulani, ambaye anaongoza kampuni ya Serikali kama vile KenGen, na wakati huo huo ana kampuni yake ambayo inafanya biashara na KenGen. Au unamkuta mtu anafanya kazi katika Ikulu kama Katibu Mkuu, na wakati huo huo anapatiwa kandarasi ya kukarabati Ikulu.

(Applause)

Bw. Naibu Spika, kufanya hivyo ni kuendeleza ufisadi. Vile vile, katika makampuni kama vile Telkom Kenya na Kenya Pipeline Company, wale ambao wamepewa nyadhifa za kusimamia makampuni hayo haifai waruhusiwe kufanya biashara na makampuni hayo. Jambo hilo likiruhusiwa, basi ufisadi umeruhusiwa.

Kwa hayo mengi, Bw. Naibu Spika, naomba kuunga mkono Mswada huu.

Mr. Deputy Speaker: Kwa vile inaonekana kwamba idadi ya Wabunge walioketi upande wa Serikali inaendelea kufifia, nitawapatia nafasi mbili Wabunge walioko upande wa Upinzani.

Endelea, mhe. Maore!

Mr. Maore: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to say a few words about this Bill.

For very many days, we have been classifying this Bill as a donor-driven Bill the same way we classified the Privatisation Bill. However, it is a wrong tag because I remember those days when the current Minister for Planning and National Development used to sit with us on the Opposition Benches. Every time he spoke about the Budget, he would emphasise the story of having in place a privatisation law before attempting to privatise. It is now three years since NARC took over and the Bill has not been given the priority it deserves. I thought it would have been brought to this House during the first three months of NARC regime.

This Bill could be described as a Bill that ought to have been implemented immediately NARC took over power. If we remember well, there was a sprint to chase away the Accounting Officers who served in the previous regime so that they could be replaced by NARC-friendly Accounting Officers. Several months later, they were followed up by the Minister for Finance who fired supplies officers in all Ministries *en masse*. For those of us who understood what the network of corruption looked like, we thought that there was an attempt to actually dismantle the web of corruption that existed only for the same network to be revived by the remnants in the name of suppliers and contractors. They revived the network of corruption because they knew how it is done. I remember some of them fumed like cobras when they occupied offices, but later toned down and invited all the suppliers, including those they had classified as cowboy contractors, to do business with them.

Mr. Deputy Speaker, Sir, we have been talking about transparency and accountability, but if you want to know how it feels to milk a snake, attempt to computerise City Hall. You will see the mafia that reigns and rules there. You will meet suppliers of both air and substandard goods. So, while we applaud the coming of this Bill, we need various regulations, administrative rules and steps to be taken to ensure that we have transparency in the way we run our affairs. There is a great deal of difference today at the Customs and Excise Department than it was seven or eight years ago before computerisation. It is now possible to monitor goods as they come in from the port of shipment up to the time when duty is either paid or evaded because of computerisation. We now emphasise that the Government must computerise all strategic departments to ensure that we have proper monitoring of all the activities in those departments and Ministries.

The Public Procurement and Disposal Bill before this House, I believe, is not a donor-driven agenda and if we are picking it, we should be ashamed as a National Assembly to enforce a donor-driven agenda. However, if it is our agenda, we should use it to streamline the process and make it user friendly. We should ensure that we do not use it for deterrence to do business in this country. We should use it to rekindle the spirit of the 1960s when the Minister for Finance and hon. ole Ntimama were in charge of a new and a young nation. You only Africanise by deliberately creating room that has bias for indigenous business; and you create deliberate clauses that will keep local wealth with the locals.

I have heard Mugoya Construction Company being mentioned. If you remember well, they made millions of shillings when constructing the NSSF Building, various roads in the country and the Times Tower. I can assure you that what we have in the bank accounts of that company today are overdrafts. The money has been siphoned out. It is not there just like so many others.

Mr. Deputy Speaker, Sir, we need a deliberate effort that will ensure that we do not become a commercial colony of either India, Asia, Europe or America. Kenya should be for Kenyans as top priority. Today, if you go to Dubai, India or any country in the Middle East as an investor, you will be welcomed with a red carpet, but in the board room, you will be stormed with a barrage of papers

asking you to surrender 51 per cent of your interest in the company to the locals. We want the same spirit to be applied here. We should make it easy to register foreign companies, create a friendly environment for investment, but ensure that the bulk of the wealth remains within our borders.

Mr. Deputy Speaker, Sir, we should also streamline the issue of the companies that do business with the Government because the Government is the number one business partner of any business in this country. Those who do business with the Government have already gone ahead to register with either the Ministry of Roads and Public Works or any other trade organisations and they are classified as A, B, C, D or E depending on the classification that is used. After being registered in a certain class, we should not hear this story of pre-qualification being used to exclude certain individuals. For whatever reason, if you do not qualify for a certain classification, you should be lowered or degraded and eventually get out of the job altogether.

With regard to the Anglo Leasing and Finance Company scandal, the most interesting part of that transaction is that all governments in the world do what is called Bill, Operate and Transfer or Commercial Funding for Projects. Any Government will do that any day, but the strange thing about Anglo Leasing and Finance Company is that it did not have a physical address. When a company does not have a physical address, it is worse than a bullet. At least, a bullet can explode once and kill one individual, but this particular one I am talking about can bring down nations and governments. We want the Government to go a step further and set up a special secretariat at Sheria House to ensure that all those who do business with Government have a physical address. The story of business merchants is really haunting and destroying our country. We want only companies with physical address to do business with Government.

Mr. Deputy Speaker, Sir, just before the 2002 elections we had a conversation with the then USA Ambassador, Mr. Johnny Carson. He asked us to cite a case, in the last 15 years, where a corruption case had been successfully prosecuted, but we were unable to cite any. The NARC Government came into power on the platform of zero-tolerance to corruption. However, it is still not able to stand up and point out a single corruption case where it has taken proper action against those concerned. The only thing the Government has succeeded in, is in bumping up prosecution cases between the Attorney-General's Office and the police. In this case, these are issues which cannot lead to proper prosecution to secure a conviction. This is a deliberate effort to undermine the fight against corruption. We need to move a step further and be genuine in what we say. If we do that, this country will be richer.

My other point is on streamlining Exchequer releases. If the previous Government did not like someone's face or politics, it would use the Exchequer releases to declare that person bankrupt. The stalling of the National Youth Service building project at Ruaraka was caused by a slight conflict between Government officials and the contractor. Payment to the contractor was stopped and he was declared bankrupt. We want a more streamlined system of Exchequer releases and not one which can be used to blackmail contractors, or declare "an enemy" bankrupt. When all is said and done, the most important aspect of this Bill are the avenues created for redress for aggrieved parties in commercial transactions.

During the previous regime, if you got into conflict with those who were in power, referred to as the "mafias", you would quickly be put in the earliest flight to another country after being declared a foreigner. We want these things to be streamlined. We should have avenues for redress. We should have avenues for arbitration and a Judiciary that can detect when nonsense is being incubated, before it hatches.

Today, there is an "animal" called the ECONET Wireless, which everyone can see what it is doing to get millions of money from this Government. We are watching what is happening and enjoying it. Our judicial system is compliant with what is happening.

With those few remarks, I support.

Mr. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir. I will not take a lot of time. Those who want to speak should not get worried. This Bill is very well drafted and presented so as to achieve certain goals, according to the Minister. It attempts to do various things, and especially maximising our resources and efficiency. This Bill is also intended to promote competition and fairness, and introduce integrity and transparency in our business practices. I am wondering if what is in this Bill has just been discovered. I am wondering if the Government has just discovered that we need integrity, fairness and fair competition in doing our business, and that is why this Bill has been brought here. If for the past two years we have been lacking what we are trying to introduce now, that means that we have been running our businesses without thinking about transparency, and any consideration of efficiency and integrity.

When we took over power, we came in with many promises, telling Kenyans that we would have zero-tolerance to corruption. I want to ask a question here: Why were 2,000 procurement officers removed from office? What was the intention of the Minister? Did he achieve his intentions? How come he did not come back to this House to tell us on what basis he recruited new officers? I think the Government was in a hurry to fulfil some promises, only to discover that it was tying its hands. The Government should have controlled corruption right from the beginning. However, those who wanted to thrive in corruption would not have wanted this Bill to go through. If the Government is not serious in dealing with corruption, how sure are we that whatever we are discussing here is of benefit to this country? If we democratise businesses by allowing transparency, how sure are we that the current institutions, which are there to fight corruption, are working accordingly?

Recently, we passed a law to deal with corruption; the Anti-Corruption and Economic Crimes Bill. How do we know that the law is operating according to the wish of this House? When you look at that law, you will see that KACC is there to carry out investigations which could have been carried out by trained investigators. The work has been given to people who are not experienced. They take their findings to the Attorney-General's Office. If the power given to this institution is not effective, with all the intentions and purposes---

Mr. Weya: On a point of order, Mr. Deputy Speaker, Sir. It is unfortunate that the media is very quick to point out when there is no quorum in this House. This is an important Bill and Kenyans need to know what is happening about the Public Procurement and Disposal Bill. The Press does not have a quorum itself!

Mr. Deputy Speaker: Order, Mr. Weya! How does the Press come in?

Mr. Weya: Mr. Deputy Speaker, Sir, the media people report on us when there is no quorum in this House. We are now discussing a very important Bill here, and yet the Press is not here.

Mr. Deputy Speaker: Order, Mr. Weya! That is a very frivolous point of order! We only keep a quorum within this House and not in the galleries. Please, do not raise such a point of order again!

Mr. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir, for advising the hon. Member. We are not here for the sake of the Press. We are here to do work of the National Assembly. We were not elected to be reported, but to carry out the business of this House.

Mr. Deputy Speaker, Sir, before I was interrupted, I was talking about the current situation with regard to the Anti-Corruption and Economic Crimes Act. The Act gives powers to the Commission to investigate and hand over its findings to the Attorney-General. Does Parliament have the powers to investigate whether the Attorney-General's Chamber is effective? Who has the power to investigate our High Court, to find out whether whatever recommendations we make are

dealt with fairly and accordingly? Do we have those powers? I challenge this august House to rise to the occasion and offer guidance. Until the time that the police, the Attorney-General and our courts have properly understood their mandate, I want to submit here that we will continue to talk about corruption in this country. Corruption in this country is in the blood of most Kenyans. It is unlikely that any system is going to eradicate it.

This House has the mandate to enact various pieces of legislation, but I submit that we are not doing our work properly. The Government was compelled by the World Bank to introduce the Public Procurement and Disposal Bill. If the Public Procurement and Disposal Bill was enacted when we took over power, corruption would have been a thing of the past.

Mr. Deputy Speaker, Sir, the issue of Anglo Leasing and the establishment of the Goldenberg Commission would have been irrelevant if this Bill had been enacted when we took over power. However, I think that some officials in the Government, who were technically endowed, decided to delay the introduction of this Bill so that they can exploit the situation to amass wealth. That is why corruption cannot be eradicated under the current regime. Those days, some of the procurement officers bought goods in bulk, for instance, spare parts, which will could last for a long period. When the NARC Government took over, it found outdated spare parts and vehicles. That was so because there was no law except for rules that were used under the Exchequer and Audit Act. We all know that this piece of legislation was delayed to enable those people defraud the Government. A lot of us who were poor during the elections are now millionaires. I want to submit here that if you see a politician who becomes rich within two years of entering Parliament, he is corrupt.

(Applause)

Mr. Deputy Speaker, Sir, let us be honest! If you earn Kshs500,000 per month, how can you buy five houses at a go? How can you buy farms at a go even if you got your degree from a Japanese university?

(Laughter)

We believe that those people know how to conduct their business. It is a shame that some of these civil servants are still in office. They will die poor because they have let down this country. His Excellency the President is a great personality. He does not believe in amassing wealth, but he is surrounded by "vultures". They will not stop at anything, but grab anything on the way. When the international community complains that Kenya is the second most corrupt country in the world, some Ministers and officials complain that somebody somewhere is working against them.

The other day I attended a meeting in Addis Ababa, Ethiopia, that was discussing the budgetary allocation for the armed forces in Africa. We were also told that our military are ranked second in corruption in Africa.

Mr. N. Nyagah: Which is the first one?

Mr. G.G. Kariuki: Mr. Deputy Speaker, Sir, Cameroon is number one. It is still the leading country in corruption, but we have taken the place of Nigeria. We are the second most corrupt nation, competing against Cameroon. Before we took over power, we were placed sixth. However, we are moving towards the first place.

(Applause)

We should ask ourselves where we are going. If we are genuine and honest, the Ministers who have been accused of being corrupt ought to quietly go and use the money that they have already taken. Some of the politicians in this country want to acquire a lot of money so that they can use it to buy votes during elections.

Mr. Deputy Speaker, Sir, I want to submit here that the public is better informed than the politicians. Those who think that they will buy votes need to think twice. Time is running out! Since we have the media all over the place, we are not going to be left to behave the way we have been doing.

Mr. Deputy Speaker, Sir, the Bill proposes the establishment of the Public Procurement Oversight Authority to be headed by the Director-General. Where is he going to come from? He will be drawn from the most corrupt fellows to defend them. I have been thinking about all the people who are now said to be fighting corruption. There is none of them who is qualified to do that job. If our intelligence network was trustworthy, it ought to advise the Minister before any appointment is made. However, since the guy who is going to be appointed must serve certain interested groups, no one cares about who will be brought in to do that job.

When I was the Minister of State, Office of the President, any person who was appointed at that time was vetted by the Special Branch and the Criminal Investigations Department (CID). Corruption was not as prevalent as today. However, if you are asked to appoint a person of integrity, you will have a lot of problems to get one who is not corrupt. Mr. Deputy Speaker, Sir, Departmental Committees in this House should also be investigated. We cannot sit here and claim we are holier than thee. I know we also have problems which need to be investigated. Therefore, this country has a big problem when it comes to issues of corruption. I would like to assure the Chair that the people who intend to fight against corruption must do it with the same zeal as those who fought for the Independence of this country. These people must be prepared to be jailed and even to die in the process. Corruption has become our norm. It is so sad that our children can now identify with this vice. This is such a sad situation, yet we claim to be honest nationalists who are ready to fight for the interests of this country. We need to understand ourselves.

Mr. Deputy Speaker, Sir, when the NARC Government took over the running of this country, there was this famous issue of "cowboy contractors". It was said that suppliers would not be paid without proper procedures being followed. Unfortunately, these "cowboy contractors" have, within a very short time, evolved to become real contractors. There were many Indians running around trying to hide because they thought they would be arrested. However, six months after the NARC Government took over the running of this country, the same Indians came out of their hiding places. They are now branded as very "clean" people, running very "clean" firms. Who "cleaned" them? Is it not our Ministers and the Government? This is a pity!

We need to look at these issues critically and criticize ourselves. I do not mean that there are better Ministers than the ones we have at the moment. Even hon. Members of Parliament are sailing in the same boat. However, we should examine ourselves and say enough is enough. Those who have misappropriated large amounts of money should keep those funds. We should not be cheated that they have been taken to court. All the people who have been taken to court just go there for formalities' sake. They have already penetrated this system. Nobody is capable of taking anyone to court and have him or her prosecuted.

People in this country have developed methods of survival. How do they do this? They just need to penetrate those who are in power. Now, if this country shifted from position six to two among the most corrupt countries, what are we saying? This means that corruption is becoming deep-rooted. Sometimes, in political circles, we say that when a Government becomes corrupt, and you remove it from power, they must make sure that the Government taking over is as corrupt as the

former so that there is nobody to question the other. It is quite unfortunate that those "cowboy contractors" who were blacklisted are now said to be the best contractors.

Mr. Deputy Speaker, Sir, on the issue of procurement, especially in the military, this House needs to be informed that there is no secret in any organisation with the availability of computers and advancement in Information Communication Technology (ICT). If you buy anything, for example, from China, and you are in the military, you just need to access the internet to find out how much the Chinese are selling their military equipment. In fact, you will be in a position to access information on what kind of military equipment this country has bought from China. So, there is no secret in this matter. Therefore, Parliament needs to be informed when military equipment is being bought.

Even the issue of the Special Branch Department needs to be brought out in the open. What duties does this department perform? What kind of insecurity are they fighting? Yesterday, I noted what the Ambassador of America said and I hope hon. Members in this House took what he said the way I did. This is a foreign country urging people to rise against their Government, and they were promised aid in the process of fighting the sitting Government. There must be something wrong.

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. I need your guidance on whether it is in order for an hon. Member to speak of a sovereign nation, which is considered to be a friendly nation, under the Standing Orders of this House.

Mr. Deputy Speaker: Just a minute, Mr. Sungu. Which nation are you referring to? I have been listening very carefully to Mr. G.G. Kariuki.

Mr. Sungu: Mr. Deputy Speaker, Sir, I thought Mr. G.G. Kariuki talked about the American Government.

Mr. Deputy Speaker: You are the one talking about the American Government.

Mr. Sungu: Mr. Deputy Speaker, Sir, then I withdraw and apologise.

Mr. Deputy Speaker: I listened to what Mr. G.G. Kariuki said very carefully. He never uttered a word about the American Government. It is you who is insinuating!

Mr. Sungu: Mr. Deputy Speaker, Sir, I withdraw and apologise.

Mr. Deputy Speaker: Mr. Sungu, sit down!

Mr. G.G. Kariuki: Mr. Deputy Speaker, Sir, I am not under training in this House, like the hon. Member. What I said is very serious and I hope my colleagues here, especially senior Ministers sitting in this House, take this matter seriously. This issue was published in the dailies yesterday. It is up to this House to take this matter with the seriousness it deserves.

I have been around in politics. I have read and written about *coups d'etat* in Africa, and these are indications that something could be in the offing. Therefore, this House needs to take that matter very seriously because it is important that we know where we stand as we count our friends.

Mr. Deputy Speaker, Sir, as I promised, I do not want to take all the time. However, I would like to thank the Minister for the courage he had to bring this Bill to this House, despite a lot of opposition. Opposition has been there for many years. This Bill was supposed to be brought to this House since 2003. If you look at the history of this Bill, it has seen its ups and downs because there are forces within the Government who thought it should take a little more time so that the bad culture of stealing continues.

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

The Assistant Minister for Lands and Housing (Mr. Mungatana): Mr. Deputy Speaker, Sir, I would like to thank you for according me this opportunity to contribute to this Bill. I would also like to take this opportunity to thank the Minister for moving this Bill. I join other hon. Members who have supported this Bill.

One of the most important clauses that this Bill proposes to be part of the law in this country

is Clause 5(1), which states that:-

"If there is a conflict between this Act or the regulations under this Act and any other Act or regulations, this Act and the regulations under this Act shall prevail."

This is a very significant provision, the reason being that there have been complaints and conflicts that have arisen with respect to procurement, especially with regard to the State Corporations Act. I realise that in this Act, a public entity has been defined to include State Corporations within the meaning of State Corporations Act, as per the proposed Clause 3. The reason why I am singling out the State Corporations Act is because some regulations were introduced a few years ago, which allowed the formation of Corporation Tender Committees. The Corporation Tender Committees which were formed in all State Corporations were given powers that no other committee within the State corporations could exercise. The chairmen and members of those Corporation Tender Committees would decide, without reporting to the main board of the corporation, who is going to be contracted to offer services, supply of goods and so on. They are not even limited on the amounts of money they can award. Therefore, they became their own powers unto themselves.

The normal procedure has been that all committees that are set up under State corporations make decisions that are subject to ratification and approval by the main board. But that has not been so for the Corporation Tender Committees. What has been happening is that, you would hear, for example, millions of shillings being committed by Kenya Ports Authority to purchase certain equipment at a very high cost, and the whole board is not involved. It is only the Corporation Tender Committee. If you try to find out what is going on, you will find that board members are not informed.

Mr. Deputy Speaker, Sir, that has not happened only in one State corporation. The procedure has been repeated in several State corporations where those committee have been operating as powers unto themselves. As a result, a lot of corruption has been going on within those committees. When we receive the reports here, we condemn the entire State corporation, the board and the membership, and yet some of those board members do not know exactly what is happening. The provision that allowed the existence of those Corporation Tender Committees to report to no one except unto themselves is wrong.

If someone has a problem with the award of those tenders, he or she would only go to the Treasury. This Bill has come to close those loopholes, and for that particular reason, I would like to commend the Minister and join those who have said that, that is a bold step. All corruption networks were circulating around those particular committees, which are replicated in various State corporations. I want to commend the Minister for bringing Clause 5, and hope that all of us will support and pass it.

Mr. Deputy Speaker, Sir, the other thing that I wish to add is that, in many of the State corporations, managing directors have been given a lot of leeway to contract for services. There is a requirement that, if services or supply of goods do not exceed Kshs5 million, managing directors have the powers to contract for such services without reverting back to the general committees. I want to state that, in this Act, that discretion has been removed. There is a particular clause which states that the powers that the managing directors have should not be extended to mean that they are being given that leeway. They must go through the normal tendering committees. I spotted that clause and I want to specifically state that, that is a bold move by the Minister. He should be given all the support that he requires as far as passing this Bill is concerned.

Mr. Deputy Speaker, Sir, however, having said a few things in support, I want to make a few suggestions. First of all, Clause 10 has made it clear that in law, the Director-General shall be appointed by the Advisory Board. I hope that will be factored here too. When this Government took

over power, a circular was issued, stating that, upon the expiration of the terms of the chief executive officers (CEOs), the sitting boards would nominate, choose and appoint the CEOs. Straight after that, there was a circular from the Head of Public Service and Secretary to the Cabinet to clarify that three members will be chosen by the board and forwarded to the Minister for appointment. Therefore, that power was removed from boards of corporations. That was a very sad development because it removed the power that ought to be where it is supposed to be. It was taken elsewhere. I hope there will be no attempts at all to remove or make the appointment of the Director-General subject to any political interference outside what has been provided for in Clause 10.

Mr. Deputy Speaker, Sir, still on the Director-General, I want to draw the attention of this House to page 133 of the proposed Bill. At the very end of this Bill, the hon. Minister states, as he is supposed to, that the enactment of this Bill will occasion additional expenditure of public funds to be provided for through the Estimates. We have said many times in this House that this statement is not enough. The Minister ought to tell us specifically, how much money is going to be spent on that board. How much are we going to be paying the Director-General? How much are we going to spend on the board and all the advisory committees that have been proposed in this Bill? We have criticized that section before and, unfortunately, it has been repeated here without giving details. It is important for us, as legislators, to know how much money we will spend by passing this law.

We were saddened to realise that when we passed the Constitutional Act that appointed Commissioners, the kind of remuneration that was proposed by the then Minister for Justice and Constitutional Affairs left many Kenyans agape and surprised by the amount of money that was going to be withdrawn from the Exchequer. We would want to specifically know how much this is going to cost us. We do not want a situation where we are going to be paying or making people millionaires, and yet they are supposed to be public servants. If they are public servants, let it be so. We should not be paying them salaries that clearly make them to be different people. They should be in business.

Mr. Deputy Speaker, Sir, I would want to make another suggestion to this Bill that I do not see. Ordinarily, when people are contracting for services or tendering is going on either for services or for supply of goods to public entities, what has been coming out is that specific companies or firms; just legal persons have been making their presentations and quotations to be considered for purposes of qualifying for tendering. I would be very happy and I hope the Minister will take this suggestion, that there must be a requirement that the faces behind these legal persons and commercial entities by the name of trading firms, businessmen, legal companies, must necessarily be known by law. There must be a requirement by law that we are trading with So-and-so.

This would help us a lot because there has been a clear tendency of certain companies which are blacklisted under a certain name and then they would go to tender under a different name, but it is the same "devil" whether red, white or black. He has been disqualified in one committee. He has misbehaved in one tender. His company has been blacklisted, but he is the same "devil". He sets up another company and goes to another Ministry and gets a tender. I would suggest very strongly that the natural persons behind the commercial names and entities must be known. Their identities must be clear because we are dealing here with public funds and contracting.

Mr. Deputy Speaker, Sir, I would want to also make another suggestion which I do not see in this Public Procurement and Disposal Bill. What has been happening in the normal Government operations is that at the very beginning of the financial year, companies or firms that wish to trade with Government have been forced to get a pre-qualification of sorts. If you wish to tender in a certain way to the Office of the President, Ministry of Environment and Natural Resources or whatever, there are some firms which are cleared or pre-cleared so that if you are to supply

cabbages to hospitals in a certain area, then unless your company was cleared at the beginning of the year, you are not eligible to get a tender for the rest of the year. I was going to propose in this Bill that that particular requirement be removed. Rules must be set to allow enterprises to tender within the year. People should not be blocked because the root of the collusion in tendering has been that, for instance, four to five companies are pre-qualified and these same companies agree to bring in tenders which are highly quoted - maybe a biro pen is quoted at Kshs100. So, they agree amongst the five of them that "This time for Company "A", we are all going to quote less so that you get the contract". The next one that comes up they say: "Company "B", will all quote less so that you get the contract".

What I am trying to say is that we have enabled the thieves to thrive within the system because of trying to pre-qualify companies at the beginning of the year. Let us agree, and I propose to the Minister that, that rule be done away with so that new enterprises can come in and there must be free trade throughout the year, so that the Government or any other public entity can get the best price possible within the year. It should not be a few people who are pre-qualified at the beginning of the year.

Mr. Deputy Speaker, Sir, I was also going to make one more suggestion which I do not see in this Bill. If we remember that at the beginning of the take-over of power by this Government in 2002, the Ministry of State in the Office of the President in charge of Public Service made it very clear that there would be public performance contracts. Following that, the State corporations performance contracting regulations of 2004 were gazetted and subsequent to that, as we are all aware, public officers have been forced or required to sign performance contracts with their various organisations where they serve.

Now, I would request that a thought be given towards allowing heads of departments to be able to make certain purchases in order for them to be effective. Why am I saying this? I am saying this because all the heads of departments in Government and various other parastatal organisations are required to do certain things, especially speaking from the Government perspective. If you are given a proposed budget of doing certain purchases and supplies in this way, and you are supposed to have done this by this time; here you are the head of department and you are supposed to produce a few commodities to enable you to do certain things to hit your targets, according to your performance contract; you are not enabled to do that because of the various requirements of sitting to tender and to do all those procedures that must be followed before you can purchase those items.

Mr. Deputy Speaker, Sir, I propose that a Vote be given to harmonise the disconnect here between those performance contracts that our heads of departments have signed in various Ministries and the requirements that are in this Bill. If we are going to tender and procure as per the procedures here in everything, how are these heads of departments going to hit their targets? I would propose to the Minister to look into ways and means of harmonising that disconnect that exists since I see it will bring a problem.

Mr. Deputy Speaker, Sir, finally, I would want to join with hon. G.G. Kariuki in suggesting that the existence of the dual list in procurement for the military and the disciplined forces as proposed in this Procurement and Disposal Bill must be done away with. I see no reason at all for the existence of that dual listing and miscellaneous Part 11 of this Bill; that is, the suggested Clause 133. I would want to emphasise that everything that one needs to know, if it is purchasing of military planes and equipment and whatever by NSIS and Kenya Police and what not, in this age and time where the Information Communication Technology (ICT) exists, there is no secret at all. Including this kind of thing in our laws will show that the Government, or the Minister, is not keeping in with the move in technology. Let us accept that there are no secrets. If you go to

purchase warplanes, or whatever, at an exorbitant price, it will be known in this country. It is even better to have an open system. We should not make things different because there is nothing that will be kept secret.

Mr. Deputy Speaker, Sir, the Kenya Revenue Authority (KRA) collects revenue on behalf of all of us. The Authority does not hide when it comes to collect money from me. As a citizen of this country, I am entitled to know how much money has been spent to purchase that military plane. Therefore, the existence of this secrecy code is outdated. It is taking us to places we do not belong in this age. So, I would urge the Minister to note those few suggestions.

Mr. Deputy Speaker, Sir, my final contribution is on Clause 134. We should reduce the time for the public consultations being envisaged, as suggested under Clause 34, where the Director-General will be required to consult with the public. Instead of three years, this period should be reduced to two years. Why am I saying so? According to the proposal contained in this Bill, the Director-General will be appointed for a period of five years and he will be eligible for a further period of five years, should he have performed satisfactorily. So, what we are saying is that, within his first five-year term, he will only have a public hearing after a period of three years. Then, we will not be doing enough in keeping with the spirit of transparency and openness that we are building in this society.

It must be remembered that this Bill is not only being enacted for us alone, but also for our children and all other people who will come after us. As we move into the computer age, where we want everything being done by the Government to be known, it would be important for the public hearings being envisaged to be held in a shorter time.

Mr. Deputy Speaker, Sir, therefore, if the Minister would go along with me, I would like to propose an amendment to this clause, that the period be shortened to two years so that we start to know whether the Director-General who would have been appointed would really meet the challenges of the duty that he would have been given by the public.

I have all along said that this is a bold step taken by the Minister. Those are my few suggestions, since I know that other hon. Members also want to speak.

I beg to support.

Mr. Deputy Speaker: Hon. Members, I know that you can speak for 30 minutes, but in view of the interest by many of you to contribute to this debate, you could shorten your speeches, so that a few more hon. Members can speak before the closure of this debate.

Mr. Omingo: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Bill.

Procurement of goods and services by Government Ministries and departments takes more than half of the Government's revenue. It is, therefore, important that this area of procurement for Government be looked into more critically and effectively.

Mr. Deputy Speaker, Sir, in the past, goods and services were not necessarily procured because the Government needed them. Ministries and departments procured goods and services because there was a cut for the officers involved. As a result, we procured defective goods that were not required and, therefore, non-economical. We have in the past, actually poured money into a bottomless pit. Monies have been removed from public coffers purportedly for purchase of certain items, but those items have never been found in those offices. By extension, we have lacked money to sustain the running of our economy. At the end of the day, we end up borrowing.

Mr. Deputy Speaker, Sir, it is this "animal" that came in through the backdoor - the Ndegwa Commission - which recommended that civil servants should be allowed to engage in private business, that led to this country being fleeced of large sums of taxpayers' money. As one hon. Member said, you find that immediately somebody occupies a Government office, before he even

gets refined in his duties, he gets rich. It is because the avenues are ripe and the taps are wet. The only thing one has to do is to turn on the taps and drain the hard-earned resources of this country.

Mr. Deputy Speaker, Sir, it is for this reason that this Bill is handy. So, I support the Minister for Finance for taking this bold move. However, this Bill intends to address the mischief that previously existed in the system. Unless this Bill curbs those vices, we will not make progress. I will give an example of a contract which was given and subsequently re-evaluated to the tune of 2,373 per cent. So, for every shilling of the initial contract sum that was to be paid to the contractor, the Government was required to pay Kshs2,373. That means, the entire loot may have gone into people's pockets.

Mr. Deputy Speaker, Sir, from past experience, I know that the Government used to procure goods and services without prior planning. We used to procure goods and services for white elephant projects. We actually procured items that we never needed. That is the mischief, which I believe, this Bill needs to curb, so that we can make progress. So much has been said about our past mistakes. Therefore, I think it is critical that we clean our house. If we continue to have in office the partakers of the previous dirty regime, and the same processes in place, the law we are making now will still be flouted. We have even had cases where people have been identified as having engaged in malpractices, only to be left off the hook, to enjoy the loot they have taken from the public coffers.

In the past, the practice of conducting corrupt business through illegal procurement was done with minimal risks. Therefore, until the Attorney-General drafts laws that will severely punish the culprits, we will be having a mockery of the entire process of this law in terms of fighting the mischief of the past. It is important to note that the law that has been in place to punish the offenders has not been fully implemented.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Dr. Ojiambo) took the Chair]*

Madam Temporary Deputy Speaker, Sir, what I am saying is that, in the past, corruption was rife and that if this Bill is to curb that vice, we must be seen to act. Would one be genuine to procure certain items on behalf of another Ministry when he does not have any interest in that particular Ministry? It would, for instance, be interesting to note that the Ministry of Justice and Constitutional Affairs is currently procuring certain items for the Office of the President. I do not understand how Mr. Murungi intends to use bullet-proof jackets to dispense justice as mandated by his docket. It does not matter whether this is a donor-funded programme. It is those conditionalities that we want to stop through this Bill. We dance to the tune of these people because they have actually colonized us, and their companies in terms of conditionalities, come on board to actually buy and repatriate the same monies they have given us. We must stand firm and say: "No" to this. How come hon. Murungi is advertising through a magazine called *The Economist*. How many Kenyans read *The Economist*? We are saying that it does not matter whether international donors are interested in this; let the relevant Ministry procure. That is the more reason why the Anglo Leasing saga will never leave our side because we prescribe and dictate on what our Ministries should buy, with ulterior motives. The motives of this will live with us for a long time, and it is not justifiable that anyone will want to justify what we are doing when we are actually trying to bring laws to curb these mischiefs. I buy not because we want to use it, but because I want to have a cut from that particular procurement procedure. That will move us into the kind of quagmire that we are

trying to run away from.

Madam Temporary Deputy Speaker, Sir, one hon. Member did say that this Bill is actually not a donor-driven Bill. For one minute, I want to believe that; but as to whether it is true or not, history will judge us quite harshly. I want to draw the attention of hon. Members to Clause 39(1). It is critical for us to appreciate the fact that until we undo the noose around our necks from the donor-driven business, we shall be done. This Clause, under Participation to Procurement says:

"Except in such instances as may be prescribed, a procurement entity shall permit persons to participate in the procurement process without regard to a person's citizenship or nationality".

What it is saying is that, if I am building a toilet in South Mugirango through the Constituency Development Fund (CDF), if I am supposed to be transparent, so to say, I must open the tenders to everybody else, regardless of where they come from, their citizenship and nationality. Therefore, persons, nationalities and citizenship, by extension, are one. Somebody comes from Ukraine to tender for a toilet in our country and yet we have policies which are meant to take the benefit of any development to the rural areas! This is an issue that we must address squarely. The Minister must actually tell Kenyans whether the mischief we want to fight here is not being sneaked in through the back door.

That is not enough, Madam Temporary Deputy Speaker, Sir. If I go to Clause 6(1), I appreciate that, that is a good move. This Clause says:-

"If there is a conflict between this Act, the regulations or any directions of the Authority and an agreement between the Government and one or more states or multilateral or bilateral intergovernmental organisations, the agreement shall prevail." That is a plus point. But let us move to Clause 5(1), which states that:-

"If there is a conflict between this Act or the regulations under this Act and any other Act or regulations, this Act and the regulations under this Act shall prevail."

For that, any sensible Kenyan will say "Amen, so be it".

Moving to Clause 6, which is about conflict with international agreements, here, we are in a catch-22 situation. Whether we pretend or not, these guys, our big brothers, have made us in the past, to sign on dotted lines and some have confessed in this House that we actually signed under dotted lines. If this law contradicts those agreements between us and them, then those agreements prevail. This is immoral! What we are trying to negate under Clause 5 is what is brought back through Clause 6.

Madam Temporary Deputy Speaker, Sir, if we are genuine enough as Kenyans and Members of Parliament, including those who have spoken here earlier like hon. G.G. Kariuki, should listen to this. That, what we are negating under Clause 5 is being introduced through the back door under Clause 6. Worse still, Clause 7 now ties whatever they want to give us with donor funding, and if this law contradicts donor conditionalities, therefore, we shall actually wag our tails to the donors. I think this is where this country is going to be plunged into chaos and we will always be in misery, because it is critical that even when we are given those shirts, let us ask whether they fit our sizes.

Madam Temporary Deputy Speaker, Sir, we have lived in a tyrannic world and Kenyans have paid debts which were incurred through these back door deals to the tune of paying tenfold. About 70 per cent of our Gross Domestic Product (GDP) is tied in debts through these dubious deals. The Minister must stand up to correct and harmonize Clauses 5,6 and 7 if Kenyans are to remove the noose around their necks. We cannot sit back and mortgage ourselves.

If those agreements were signed along dotted lines, so be it! Let the legislative agenda of

this country supersede any agreement. After all, the laws of this country are made on behalf of Kenyans while the agreements are signed by the Executive for other executives and, therefore, we must never honour them and compromise our sovereignty, laws and supremacy of this House to agreements signed in back doors on dotted lines.

Madam Temporary Deputy Speaker, Sir, it is amazing that we keep on talking about those issues which have actually compromised our independence and most of us close our eyes to it. Did you also know that, when they give us those shirts for us to put on, they could even be having some sulphuric acid on them so that when we put the shirts on, we shall be scratching our bodies throughout our lifetime and, by extension, we shall also look like we are infected with scabies and we will never look healthy in the eyes of these big brothers. That is why even the G8 do not [Mr.

Omingo]

consider us because we still appear as if we have leprosy or scabies. We must stand up to give Kenyans an identity and for that reason, all that we do must be done in the interest of this nation. Surely, if you have nothing to die for, then you have no reason to live.

Madam Temporary Deputy Speaker, Sir, I want to take you to Clause 39, which I have already spoken about. I think it is critical that we watch that Clause closely. Clause 40(1) talks about corrupt practice. What are we saying here? This is new wine in an old bottle, because the Clause says:-

"No person, agent or employee shall be involved in any corrupt practice in any procurement proceeding."

How many people have stolen? Today, one hon. Member has spoken here about cowboy contractors. Who stole the monies? Today, the same contractors are good contractors. How many people have been blacklisted by the Public Accounts Committee (PAC) and they are still serving and supplying goods to the Government? Most of these contractors mutate themselves like an amoeba into new and several other forms to again gain access to tenders at the connivance of the Executive.

Madam Temporary Deputy Speaker, Sir, if this Bill is to be brought to fruition, the civil servants as described here, Ministers and even Members of Parliament, should never be allowed to do business because they use their influence to actually corrupt the system in order to have their way.

Madam Temporary Deputy Speaker, Sir, we can do all that we want to do, but if the people who are supposed to implement the laws of this country are still sitting on the fence and apply the law selectively; if you are corrupt, then you are corrupt because you belong there. If you belong on the other side, then it is an issue we must investigate to get evidence. We will not be moving anywhere. Madam Temporary Deputy Speaker, Sir, the law that penalises offenders should be applied uniformly, so that we can make progress and ensure that Kenyans have fairness as opposed to justice in the procurement of security equipment, which is supposed to be handled by somebody else.

Madam Temporary Deputy Speaker, I want to move to Clause 43(5). It reads:

"For the purpose of this section, a person has a conflict of interest with respect to a procurement if the person or a relative of the person-

(a) seeks, or has a direct or indirect pecuniary interest in another person who seeks a contract for the procurement; or

(b) owns or has a right in any property or has a direct or indirect pecuniary interest that results in the private interest of the person conflicting with his duties with respect to the procurement."

How many officers in Government have we heard of allowing their wives, concubines or people in

positions of influence to tender for supply of goods? This is a good law. But are we actually practising what it tends to preach?

Madam Temporary Deputy Speaker, Sir, we shall be walking a tight rope if we keep pretending that the mischief that we are fighting here is being fought genuinely by word and deed.

*[The Temporary Deputy Speaker
(Dr. Ojiambo) left the Chair]*

*[Mr. Deputy Speaker
resumed the Chair]*

Mr. Deputy Speaker, Sir, one hon. Member said that procurement in State House is handled by relatives. I cannot prove that or otherwise. But the fact of the matter is that something close to that is happening. Companies close to Ministers have had to take loans on behalf of the same Ministers they intend to serve.

Cap. Nakitare: On a point of order, Mr. Deputy Speaker, Sir. I stand on a point of order for and on behalf of the rest of us who would like to also contribute to debate on this Bill. The hon. Member has been on the Floor for too long. Could he also consider us?

Mr. Deputy Speaker: Cap. Nakitare, I think I said that such points of order are frivolous. You know the Standing Orders. This is a Bill. An hon. Member is allowed to speak for a maximum of 30 minutes. The hon. Member has a right to continue. But I did ask hon. Members to be considerate if they wish. But there is no question of standing on a point of order to say that an hon. Member has spoken for too long. Look at your watch!

Mr. Omingo: Thank you for your protection, Mr. Deputy Speaker, Sir. In the interest of the new hon. Member, Capt. Nakitare, he should actually listen to me very carefully. I am not repetitive. I am touching on different items and clauses as I go along.

Mr. Deputy Speaker, Sir, an hon. Member did say here that the mischief we are fighting is that stipulated in Clause 43(5). We should not have relatives or persons actually serving and procuring for entities where they serve.

I want to echo the sentiments I heard from an hon. Member, that some people at State House are actually procuring on behalf of themselves, when they actually work there. As I said, we will be making laws, beautiful as they look, including this one, but they will actually gather dust in the archives if the Attorney-General does not pursue wrongdoers and hold them to account.

Mr. Deputy Speaker, Sir, the only unfortunate thing is that more often than not, and unfortunately so, our Attorney-General is very willing to prosecute if he has no evidence. But, if he has evidence, he is very unwilling to prosecute. That puts us in a bit of difficulty even if we put laws in place.

I am saying this with some bit of pain in my heart. Through flawed procurement deals, this nation has lost billions of shillings. The advice from the Attorney-General regarding this is wanting. Clients take the Government to court and the latter loses cases. As a result the Government loses millions of shillings, when in actual fact, the Attorney-General was supposed to represent it.

Mr. Deputy Speaker, Sir, once somebody takes the Government to Court and the case is not contested on behalf of the Government, the court is likely to find a debt legal, and the Government has to pay it. It is the legal arm of Government which has been wanting in delivery of service. I want to sympathise with the Attorney-General if he has no capacity. But we have never heard him complain about it. He says he has the power and drive. But that has not been seen in action. He does not implement the laws we pass in this House.

When I talk about efficient and economical procurement, I mean that this Government should behave like an incorporated company. It is high time this Government served this nation, or worked for the benefit of Kenyans. There is no balance sheet that they check for profits; it is their social well-being that must be seen to have been enhanced by prudent decisions. They need effective, economically viable and efficient decisions. I want to give an example. Somebody decides to put up a house somewhere in the wilderness, yet the owner of that house has not even been asked how many rooms he wants. It is procured simply because there is a conflict of interest its construction. There is a relative of a civil servant in that particular deal.

Mr. Deputy Speaker, Sir, at the end of the day, it will be like doing a long [Mr. Omingo] stretch of a road without a bridge. This is because that house is not habitable if it has got no ceiling. We have seen such monuments standing in our midst.

The only unfortunate thing is that some of us have a history and we cannot carry our own weights. Some of us have occupied the same positions for far too long. So, we cannot lift and turn our own weights. We need an effective House and effective oversight bodies such as the Public Accounts Committee (PAC) to ensure procurement is done effectively and efficiently.

Mr. Deputy Speaker, Sir, I want to talk about appointments to the proposed Procurement Board. The Minister will appoint board members who, in turn, will appoint the Director-General. This is a big office that will control, in fact, all Government procurement of both goods and services. We need to have a fair procedure for nomination. I expect the Minister to actually subject the appointment of the Director-General to a process similar to the one we subjected the appointment of the Director of the Kenya Anti-Corruption Commission (KACC). This is a critical body that can either catapult this nation's development upwards or open a Pandora's box and then we all sink.

A five-year span is not short. If somebody were appointed to proposed position in January, 2003 he would serve in it until the end of 2007. The Director-General will work under the direction of the Board, which will be appointed by the Minister, and which will in turn appoint him, and he will be answerable to it. You can see the overall authority the Minister will have in terms of direction of this Board. There has to be some separation of powers.

Mr. Deputy Speaker, Sir, the House should have an input in the appointment of the Director-General of the Procurement Board. It is only then that we will be able to hold the Minister accountable. As we all know, some Ministers have appointed their very close friends to boards of State corporations. I think it is important that this House oversees the Executive in appointments to State bodies. Unless that is done, there will be abuse of office.

Mr. Deputy Speaker, Sir, finally, I want to make a few more remarks regarding this Bill. Kenyans are watching their Members of Parliament today. This Bill will be a good one only if what we intend to fight is actually fought, and if the law that we are putting in place is going to be adhered to by all. If punishment is meted out to offenders equally, then we shall be able to make progress. A few days ago, our nation was excluded from debt relief. Why was this so?

Mr. Deputy Speaker, Sir, Kenya in terms of the bad and good times, we have managed to live. That tells you that there is great potential in this nation. Our brothers in Tanzania and Uganda have benefited from debt relief. Why I do not find it an issue to cry over those debts is because, we put ourselves in that net. Having said that, it is important to note that our brothers in the region are benefiting from that relief. We have acted well and paid our debts on time. That reflects some positive thinking about this nation. I believe that if we utilise our resources well, and run away from that dependency, we could survive the onslaught of this Bill. Nobody likes an African person. Nobody likes us. When I went to Malaysia, I realised that they were looking for househelps from

Indonesia. I wondered: Why can they not pick a few from Africa? I realised that even Asians do not like Africans.

Even us, Africans, do not like one another. You can see where we are! The whites do not like us. The Asians are discriminating against us. Me and my fellow colleague here cannot even relate because I speak a different dialect. Unless we reconstitute ourselves and put our focus on this nation---

Mr. Deputy Speaker, Sir, the amount of resources available in this nation is tremendous. If we work well, talk to each other and share experiences - because there is no one who is a monopoly of knowledge - we will be able to pull this country through.

It is very painful because even the money that we want to be written off was actually brought in by those people. Most of it was retained out there. I am saying: If we never needed the money, we would have lived within our means. We would never have required those funds to come on board. We can even say quite a bit in terms of efficient utilisation of our resources.

Mr. Deputy Speaker, Sir, there is what we call revenue leakages or improper procurement. I believe you heard a story where City Hall procured chalk in the name of chlorine. I am wishing for that day when some of us will eat eggs and leave the chicken to produce more eggs. In the past, we have eaten the chicken and the egg. That leads the entire world into misery. We are saying: If we are procuring chalk in the name of chlorine, supply half chalk and half chlorine. Then, you can have half-measure as opposed to the whole measure in your pocket. That leakage is critical and that is where we have a major deficit.

Mr. Deputy Speaker, Sir, I have been talking to David, the hon. Minister for Finance, who is my great friend. I have been begging David, and I know he can do it: "Please, in the next Budget, as you are able to do this in a very short while---

Mr. Deputy Speaker, Sir, next time, I want you to come here and tell this House: My balance sheet has balanced minus the dependence syndrome". If there is a way we can do it, I want the magical David to come up and tell us: "Today, brothers and sisters, we have tightened our belts. I have off-loaded 10 of the vehicles that have been assigned to me for purposes of budgetary cuts---

Mr. Deputy Speaker: Mr. Omingo, stick to the Procurement and Disposal Bill! You are now debating the Budget!

Mr. Omingo: Sorry, Mr. Deputy Speaker, Sir. I am talking about the revenue leakage in terms of procurement.

Mr. Deputy Speaker: No! No! The issue we are discussing is procurement.

Mr. Omingo: Thank you, Mr. Deputy Speaker, Sir. To clarify, the revenue leakage in procurement leads to deficiency in financing. That is what I am saying. We need to re-focus our attention. We need to push our agenda. We need to live within our means. We need to change our point of focus. We need to re-think our position and stop depending on donor funding that helps us to buy things.

Mr. Deputy Speaker, Sir, the Minister was not here when I was talking about Clause 7. I request the Minister for Finance to re-look at Clauses 5, 6 and 7.

With those few remarks, I beg to support.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Thank you very much, Mr. Deputy Speaker, Sir, for the opportunity to contribute--

QUORUM

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. We are discussing a very

important Motion here and I do not think we have a quorum.

Mr. Deputy Speaker: Well, I note that there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: Order, hon. Members. We now have a quorum. Proceed, Prof. Kibwana.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Mr. Deputy Speaker, Sir, at the outset, I want to

[The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs]

thank the Members of this august House who have ensured that quorum is restored, especially the Biwott camp of KANU.

Mr. Deputy Speaker: Order! Prof. Kibwana, just for the record, we do not have camps in the House. So, the camp you are referring to does not exist.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Mr. Deputy Speaker, Sir, I said that with a light touch and I withdraw.

Mr. Deputy Speaker, Sir, although I was prepared to discuss this Bill comprehensively, but because of the time, I will simply raise pertinent issues so that other colleagues are able to contribute. The first point which I am not quite clear about is Clause 5, which relates to public bodies which are covered by this particular Bill.

Mr. Deputy Speaker, Sir, I think it might be necessary for the Minister to satisfy himself whether the Constituency Development Fund (CDF), which falls under Parliament, falls under the proposed law. My reading of the proposed law does not indicate very clearly that this is so.

Secondly, I think a point has been made about agreements between the Government and international bodies, as well as agreements where there are donor conditionalities, as well as procurement through other laws. I think it is important for all those three situations to be harmonised with the proposed law so that we do not have different regimes of procurement which can bring conflicts and create bottlenecks.

Mr. Deputy Speaker, Sir, the role of the Director-General is very enhanced. This is the person who will be more or less responsible for the Government spending when money is voted by this Parliament. He should ensure that whoever the Government does business with, does it transparently without engaging in corruption. This is, therefore, a major office, which I would like to request the Minister to consider constitutionalising, so that it becomes a constitutional office, so that he or she is insulated from pressures from different quarters. The duties and responsibilities of this officer are so high and that is why officers of this nature are given constitutional protection. This is a point that has been made before and I am making it for purposes of putting more emphasis.

Mr. Deputy Speaker, Sir, there is a provision which states that the Authority should provide administrative services to the Review Board. I acknowledge that this is motivated by the desire not to duplicate the duties of those who will be offering administrative services. But given the fact that the Review Board will be examining decisions of the Authority, it might not be a good idea for the Authority to provide administrative services or be in a position to know what the Review Board is doing. In the interest of justice, this is within the proposed amendments, and the Minister should consider it.

Fifthly, the professionalisation of procurement is very important. I am not sure whether some money will be spent on the professionalisation of the procurement process to enable the Minister to have officers---

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. In pursuance to Standing Order

No.65, I want to enquire whether the Assistant Minister is reading a speech or referring to his notes extensively.

Mr. Deputy Speaker: Is he reading?

Mr. Sungu: Mr. Deputy Speaker, Sir, from where I am standing, it appears that he has been reading continuously from a written speech and that is contrary to Standing Order No.65.

Mr. Deputy Speaker: Mr. Sungu, it does not appear to me like he is reading a speech. Prof. Kibwana, are you reading a speech?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): I am not reading a speech, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I do not know what is happening to Mr. Sungu. Mr. Sungu, can you see the Assistant Minister reading a speech from where you are seated and yet the Chair has not noticed that?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Mr. Deputy Speaker, Sir, I do not mind showing Mr. Sungu my notes. I thought he was my friend.

In terms of professionalisation of the procurement process, it will be important within this law to provide funds, so that there can be proper professionalisation. In the past, some of the corruption cases and inadequacy have arisen, among other things, due to lack of professionalism. There is also a provision whereby people who are not supposed to be involved in tenders are indicated. Any entity that wants to be involved in Government tendering should supply its tax status, so that it is clear that, that entity has paid all the necessary taxes and, therefore, it will do business with the Government transparently.

Mr. Deputy Speaker, Sir, another important point is that the Government, through the procurement and tendering processes, requires to be sensitive to affirmative action. In countries like the United States of America, governments deliberately award tenders to the minorities and people who are disadvantaged, so that they are assisted. If there was a provision that women, the youth and other minority groups would be assisted in Government procurement system, this would go a long way in assisting the vulnerable groups to do business with the Government.

With regard to the Advisory Board, which gives advice to the Authority, it would be important to include the Registrar of Companies, so that he is able to supply the necessary information regarding companies that want to do business with the Government. This Bill should be supported because it is a very advanced law compared to similar laws in this Continent and elsewhere. It is very advanced in terms of the desire to introduce transparency and openness in doing business with the Government.

It would be encouraging to see that those who do business with the Government are the ones who supply and that they are not brokers. We are looking for the real people who do business in Government. I think that is a very important concern. I get the impression that this law will assist, in terms of the Government doing business more or less as a private entity. This will ensure efficiency and reduce corruption. The Government will also get value for its money.

Mr. Deputy Speaker, Sir, it might be important for the Authority to keep a list of the prices, so that when people are tendering, it knows what should be the correct prices. The Advisory Board could assist in this particular process. I like the provisions about the Government not doing business with itself, so that Government functionaries, Ministers, public servants, their spouses or relatives, are not able to do business with the Government. Officers will have to make a decision whether they will be in the Government or outside and then do business. If this is enforced, we will reduce corruption significantly within a short time.

Mr. Deputy Speaker, Sir, I also like this law because it assists in terms of prompt payment of

people. People who did business with the Government in the past, have said that they must have a higher mark-up because it takes long for them to be paid. If there is prompt payment, it will not be necessary for them to charge a lot of money. I think the completion of projects will be assisted by the fact that, now there is speedy, transparent and less corrupt procurement process. In the past, projects were varied upwards by 2 per cent. I am told it used to go up to 26 per cent and so on. I think, when this law is enforced, it will assist us to complete our projects in a better way.

Finally, this procurement law anticipates that budget will be available. This means that money will be available when there is procurement. If the money is not available, then it will not be easy to stick to the time-line of the procurement as has been very ably indicated within this proposed law.

I do congratulate the Ministry for coming up with a vanguard law which will be one of the most critical laws in terms of fighting corruption in this country. I do not know whether I can supply some of my time to somebody else.

Mr. Deputy Speaker: Order! You have no time left. You have finished your time. Sit down, Prof. Kibwana!

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Thank you, Mr. Deputy Speaker, Sir.

Mr. Mwandawiro: Asante sana Bw. Naibu Spika kwa kunipatia nafasi hii ili nitoe mchango wangu kwa Mswada huu ambao ni muhimu sana. Mswada huu una lengo la kuhakikisha kwamba pesa na mali ya Serikali inatumiwa vizuri katika nchi hii na kwamba biashara ya Serikali inafanyika kwa njia ya uavi na uajibikaji kwa kuweka hizo kanuni katika hiyo sheria.

Bw. Naibu Spika nimekaa hapa kuanzia saa nane na nusu na kwa hivyo sitayarudia maneno ambayo yamesemwa na wenzangu. Kile ambacho ningependa kuchangia ni swala la makinzano ya masilahi, yaani *conflict of interests*. Tunapotengeneza sheria hii, ni vema tuelewe kwamba kukiwa na makinzano kati ya Kenya na nchi nyingine, basi masilahi ya Kenya yatiliwe maanani. Vile vile, ni pendekezo langu kwamba ni lazima Mswada huu uhakikishe kwamba kukiwa na makinzano ya masilahi kati ya wafanyabiashara na wataalamu ambao ni wananchi wa Kenya, basi masilahi yao yatiliwe maanani. Wakati tutakapoanza kuchunguza kwa undani Mswada huu, ni sharti tuhakikishe kwamba sheria yenyewe haipendelei nchi za kigeni katika maswala ya biashara humu nchini. Sheria iliyoko inapendelea wageni kwa sababu ina misingi yake katika ubeberu na ukoloni mamboleo. Tukiizingatia, hatutaweza kulinda biashara zetu, kilimo chetu na wafanyabiashara wetu. Tunapojadili huu Mswada, sharti tuhakikishe kwamba kuna sheria madhubuti ya kulinda masilahi ya wafanyabiashara na wataalamu wa nchi yetu.

Bw. Naibu Spika, katika hiyo hiyo mada ya makinzano ya masilahi, endapo Serikali--- Tuna mashirika ya umma na ni sharti tuhakikishe kwamba tunayaendeleza. Tusikubali kutumiwa kupinga masilahi ya umma. Kwa hivyo, tunapojadili Mswada huu hebu tujaribu kuhimiza maendeleo katika mashirika ya umma.

Sikubaliani na mawazo kwamba Serikali ni mfanyabiashara mbaya. Hilo ni wazo la kibepari na lenye misingi katika utandawazi wa kibepari. Vile vile, ni wazo linalonuia kuua mashirika ya umma. Ninaamini kwamba tukiwa na usimamizi mzuri katika mashirika ya umma tutaweza kugundua jinsi mashirika hayo yanavyochangia pakubwa katika maendeleo ya uchumi wa nchi yetu. Sharti tuyalinde mashirika ya umma na tuyawezeshe kukua na kuendelea.

Bw. Naibu Spika sheria iliyopo sasa inazingatia watu walioko katika mashirika ya kibinafsi zaidi kuliko mashirika ya umma. Ni kweli kwamba mashirika ya kibinafsi ni muhimu katika uchumi wa nchi. Hata hivyo, sekta ya umma sharti iendeleo sambamba na sekta ya kibinafsi. Endapo tutaweza mikakati ya kulinda, basi sekta ya umma itaimarika. Wakati fulani ni vizuri kupendelea sekta ya umma hasa katika biashara. Ninasema hivyo kwa sababu kuna mali nyingi ya umma. Kwa

mfano, Chuo cha Utalii ni mali ya umma.

Prof. Olweny: On a point of order, Mr. Deputy Speaker, Sir. I am of the opinion that this Bill has been debated exhaustively. Am I in order to request the Chair to call upon the Mover to reply?

Mr. Deputy Speaker: Well, I will put the Question.

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

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I want to start by thanking the hon. Members who have spoken, because most of them have made very constructive suggestions. It appears as if there is consensus in this House as to what we should do with this Bill. Listening to the suggested amendments, I can say quite clearly that we are in agreement on several issues. The first issue we have agreed on is that we should have, in this Bill, an affirmative action which gives preference to the weak, gender, the small and medium enterprises, and most importantly, considers Kenyan enterprises. In that connection, I believe that we will amend Section 39 to take care of that fact.

Secondly, there is consensus on using the Bill in eliminating delays in getting tenders concluded in the country so as to speed up development. I believe, as I said when I moved the Bill, that we will reduce the period in the regulations, for instance, the period for notification of contract awards from 21 days to 14 days. We have agreed that, for instance, there should not be judicial stoppage of contract award. There ought to be no injunctions once the Appeals Tribunal has heard the appeal. Since the Kenya law permits every Kenyan to go to court, they can go to court but after paying a substantial sum, a good percentage of what the tender would cost, to show that they are serious and they are doing it because there is something wrong. We do not want people to go to court to hold up developments, even when they have no cases to stand on.

The other issues which have been suggested, and are really good are that first, we should make sure that the regulations require all the tenderers to provide their tax status. They must be Kenyans who pay taxes and have a good tax record. This way, we can make sure that we do not give tenders to briefcase tenderers who have formed companies in the caves of Wales in the United Kingdom and elsewhere, like on top of Mount Kenya.

(Laughter)

A lot has been said about the appointment of the Director-General. While it is true that the Director-General will be appointed under Section 10 by the Advisory Board, some Members have recommended that this position should be under a constitutional office. I believe that there is danger in having too many constitutional offices. Procurement is such a sensitive area that if you appoint a bad Director-General who is corrupt, and you have the rigmarole of having commissions to look into his affairs before firing him, given Kenyans political movements and the way Kenyans feel that their man is their man, then if he is to be sacked, his whole tribe would feel as if it is being victimised, we could then run into danger of having a bad man who remains in office when it is not really necessary. We, therefore, ought to think about it. However, my own view is that it will be good to have somebody who is appointed, given a performance contract, which is the way we are moving to as a Government, and who can be removed for not performing or contravening certain sections of the law.

Mr. Deputy Speaker, Sir, there was a good suggestion that we should state the actual cost of

a Bill. In cases where we are dealing with an existing institution, as is the case here, it is going to be very difficult because we do not know how long it is going to take before the Bill is passed during the financial year. We also do not know when the additional appointments will be made. However, since the additional appointments are fairly minimal, it is good to assume that we will go with the existing Budget. When the new appointments are made, we can then come for Supplementary Estimates, which are easy to justify rather than budget and hold a lot of money which is not going to be spent, and which can be put to good use in another Ministry.

The other point that has been made, and which I would like to comment on, is that these days it appears to be fashionable for Kenyans to say what other people are saying about us. Much as we say that Kenya is the second corrupt country in Africa, I would like to say that we have excelled in belittling, abusing and inflicting injuries to this country. We should avoid causing injuries to ourselves and be proud of our country. We should recognise that this our nation. It is the only place we can call our home. There is nothing worse than going to a foreign country and getting belittled. You really feel you are out of place. Mr. Omingo said that he has suffered while outside this country. When are we, as hon. Members, going to set a good example to other Kenyans that we can be proud of our country? I am sure that there are many things that we have excelled in, in this country. The very fact that we are able to give our people the freedom of expression, speech and association is good enough. However, do we not, as Kenyans, really feel that we should stop inflicting injuries to ourselves and this nation?

I really would like to stop here and say that we have done well in this Bill. I am sure that once it is amended with the amendments which have already been agreed upon, it will be an excellent law, which will help us get proper procurement procedures. These procedures should at least achieve one thing, when we are buying standard goods like biro pens, papers and milk, the standard prices should be those in the market. There should be no reason why the Kenyan Government should be buying pens at double the price what they cost in the ordinary market. The intention is to have that happen under the new procurement regulations.

We also intend to make sure that it does not matter how you do it, but you cannot split an order. If we say that the minimum order should be, for example, Kshs20,000, you cannot have four orders of Kshs5,000 each and get away with it. So, I really believe that once this Bill becomes law, we will be in a position to stretch the little money that we have to make sure we give more services to the people who elected us.

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

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Members, we still have three minutes to conclude today's business. Let us move to the next Order.

MOTION

ADOPTION OF TWELFTH PIC REPORT

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

THAT, this House adopts the Twelfth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on Wednesday, 13th April, 2005.

Mr. Deputy Speaker, Sir, on behalf of the hon. Members of the Public Investments

Committee (PIC), I beg to move that the said Report be adopted.

As an introduction, I would like to say that the Committee is, as we all know, established under Standing Order No.148 and its functions are more particularly spelt out in Sub-section 5, paragraphs "a", "b" and "c". I believe hon. Members are familiar with those provisions. I, therefore, do not need to read them out. However, more specifically is to examine in the context of the autonomy and efficiency of public investments, whether their affairs are being managed in accordance with sound business principles and prudent commercial practices.

The Committee was formed in the Second Session of this Ninth Parliament and comprised the following hon. Members: The

hon. J.B. Muturi, MP, Chairman; the hon. H. Obwocha, MP; the hon. W. Wamunyinyi, MP; the hon. G. Sungu, MP; the hon. S. Weya, MP; the hon. K.M. Sang, MP; the hon. W.A. Oparanya, MP; the hon. A. Bahari, MP; the hon. O. Kajwang, MP; the hon. M. Kamanda, MP and the hon. M.A. Mohamed. For records, the hon. M.A. Mohamed, MP, the hon. H. Obwocha, MP and the hon. M. Kamanda, MP ceased being hon. Members of the said Committee on 30th June, 2004 upon being appointed Minister and Assistant Ministers respectively.

That Committee held 60 sittings in which it closely examined the audited accounts of various State Corporations and the reports on each of them from the Controller and Auditor-General.

ADJOURNMENT

Mr. Deputy Speaker: Order, Mr. Muturi! You will continue tomorrow. Hon. Members, it is now time to adjourn the proceedings of this House. The House, therefore, remains adjourned until tomorrow, Thursday, 7th July, 2005 at 2.30 p.m.

The House rose at 6.30 p.m.