

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 30th April, 1997

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

Question No.079

### DISAPPEARANCE OF MR. NYAGA

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

- (a) whether he is aware that Mr. John Kithinji Nyaga of Kiriani Village, Murugi Sub-Location, Murugi Location, Mwimbi Division of Tharaka-Nithi District was a Police Constable, P/No.48590;
- (b) if he is further aware that Mr. Nyaga disappeared in 1986 while serving in the Anti-Stock-Theft-Unit in West Pokot District; and,
- (c) if he could inform the House of Mr. Nyaga's whereabouts since he has not been seen for the last eleven (11) years.

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

- (a) Yes, I am aware.
- (b) The late Police Constable John Kithinji Nyaga drowned in the Uaso Nyiro River at Mukogodo in Laikipia District on 10th May, 1986. A search for the deceased's body was unsuccessful.
- (c) Arising from the answer in part "b", "c" does not arise.

**Mr. Mutani:** Mr. Speaker, Sir, arising from that very sad answer by the Minister and which was not communicated at all to the parents, I am wondering whether it is possible for an officer like that one to die and be buried without any information being relayed to the next of kin or his family?

**Mr. Kalweo:** Mr. Speaker, Sir, Uaso Nyiro is a terrible river. The officer drowned and was washed away by the floods and the body was not recovered at all.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, arising from the Minister's reply to the hon. Member's supplementary question, since the late John Kithinji Nyaga was an officer of the Government and his relatives were not aware or convinced of the manner in which he died, does it not follow that the Government should have held an inquest into the death of the late Kithinji so as to bring out the fact that could finally let the family know where his resting place is?

**Mr. Kalweo:** Mr. Speaker, Sir, I will find out whether by 1986 the family had been informed or not and then I will inform the House accordingly.

**Mr. Mutani:** Mr. Speaker, Sir, take it from me that the family members were not informed at all and that is why they requested me to ask this Question on their behalf. I am wondering why the Government did not inform the family if the whereabouts of Mr. Nyaga and, even pay them his benefits.

**Mr. Kalweo:** Mr. Speaker, Sir, I have already said that I will find out whether they were informed or not as at that time.

**Bishop Njeru:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that he will go back to find out whether Mr. Nyaga was buried or not? Can he tell us where he got that information that Mr. Nyaga drowned in the river?

**Mr. Speaker:** I am sorry, Bishop Njeru, you got it all wrong. He said he was going to find out whether or not the family of the late Nyaga had been informed of the fact that he had drowned. That is what he said.

**Mr. P.N. Ndwigwa:** Mr. Speaker, Sir, you would recall that before we went for recess, we had a Question here about an army private, a Mr. Njiru, who had disappeared in mysterious circumstances and the next of kin had not been informed. Here we have another case where another member of the Police Force disappeared and the next of kin

is not informed.

Is it the policy of this Ministry to keep quiet and hide facts when members of the Armed Forces disappear? What is happening? Are you "eating" them?

**Mr. Kalweo:** Mr. Speaker, Sir, the Government is not a "cannibal" and I stand by my first position.

**Mr. Speaker:** Next Question, Mr. Mwavumo.

Question No.130

BENEFICIARIES OF MTONGWE FERRY DISASTER FUND

**Mr. Mwavumo** asked the Minister of State, Office of the President, arising from the on-going compensation with regard to the April, 1994 Mtongwe Ferry Disaster, if could he:-

- (a) table a list of the dead, their next of kin by name and district of origin;
- (b) table a list of beneficiaries of the Kshs9.2 million Mtongwe Ferry Disaster Fund by name and district; and,
- (c) consider compensating those who were injured and survivors who lost their properties during that disaster.

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

- (a) I will lay the list on this Table.
- (b) That list contains about Kshs9.2 million which was distributed to those people.
- (c) The funds paid out to the next of kin of the deceased was not compensation, but was meant to assist the families to overcome the tragic loss of their loved ones.

**Mr. Mwavumo:** Bw. Spika, kufuatana na orodha hii ya Waziri, ni watu wachache sana waliolipwa. Ningependa kumwuliza Waziri atueleze pesa hizo zingine ziko wapi au anataka kufanyia nini?

*(Mr. Kalweo laid the list on the Table)*

**Mr. Speaker:** I am sorry, Mr. Mwavumo, you asked the Question in English, proceed in English.

**Mr. Mwavumo:** Mr. Speaker, Sir---

**Mr. Ndichu:** On a point of order, Mr. Speaker, Sir. Earlier on you ruled that when a Member asks a question while at one spot, he should not move to another spot to ask a supplementary question. The hon. Mwavumo asked his Question here, then he went "there" and now he has gone to the Table. Is he in order?

*(Laughter)*

**Mr. Speaker:** I think Mr. Mwavumo today is becoming nomadic! Can you continue?

**Mr. Mwavumo:** Mr. Speaker, Sir, arising from this list that the Minister has tabled here, it is evident that very few people have been paid. Where is the balance of the money because he said it was Kshs9.2 million?

**Mr. Kalweo:** Mr. Speaker, Sir, I request the hon. Member to peruse the list in order to say whether others have not been paid.

**Mr. Gatabaki:** Mr. Speaker, Sir, the issue is not about compensation, but about funds to help the families. The accident occurred in 1994. Is the Government waiting until all the family members are dead before it can pay compensation?

**Mr. Kalweo:** Mr. Speaker, Sir, I hope hon. Gatabaki could be more reasonable. This was just an accident and not something caused by the Government.

**Mr. Anyona:** Mr. Speaker, Sir, here is a case where a lot of Kenyans lost their lives while they were travelling in the ferry. Is the Minister now telling this House and the country that this ferry and similar vessels for transport are not insured, so that people who die or get injured can be compensated by insurance companies, rather than from a fund like this one, which was hastily put together by the Government? Are the vessels insured or not? If not, why? What does the law require?

**Mr. Kalweo:** The question of insurance should be pursued by bereaved families, not by the Government.

**Mr. Mwavumo:** Mr. Speaker, Sir, the Minister did not answer part (c) on compensation. Could he answer it?

**Mr. Kalweo:** Mr. Speaker, Sir, in respect of part (c), the money paid out to the next-of-kin of the deceased was not compensation but was meant to assist the families to overcome the tragic loss of their loved ones. The Government, therefore, does not have funds to pay those who were injured or lost their property during the disaster.

**Prof. Ouma:** Mr. Speaker, Sir, the question is on compensation after a tragic loss of lives. It is a fact that

maritime transport in Africa is in a pathetic state. There is no supervision or regular and systematic checks on these ferries. Can the Office of the President re-assure this House, which consists of the representatives of the people, that following this disaster not only in Mombasa but also on Lake Victoria and other places, there is systematic and regular checking of these vessels to ensure that they are seaworthy or lakeworthy so that in future we do not have this miserable compensation for very valuable lives? Can we be assured that there is systematic checking to make sure that the vessels are seaworthy and are not floating mortuaries?

**Mr. Kalweo:** Mr. Speaker, Sir, any machine or vehicle or anything else that is made by human beings must be checked on and off---

**Prof. Ouma:** On a point of order, Mr. Speaker, Sir. With all due respect to the Minister, we should have proper answers to important questions. I am not talking of a machine which can fail. I am talking of a system of checking to make sure that the vessels do not fail. Does that system exist now? Is there a machinery for checking the machines?

**Mr. Kalweo:** Mr. Speaker, Sir, I have said that these are human-made machines, which are bound to have some accidents. We normally say that there must be regular inspections of machines, but you cannot rule out the possibility of a human error.

*Question No. 041*

DISMISSAL OF CONSTABLE MURIITHI

**Dr. Lwali-Oyondi** asked the Minister of State, Office of the President why police constable, John Njoroge Muriithi, P/No.84762, was dismissed from the Police Force.

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

Police constable John Nyogoro was dismissed from the Police Force---

**Dr. Lwali-Oyondi:** On a point of order, Mr. Speaker, Sir. I asked about police constable John Njoroge and not "Nyogoro".

**The Minister of State, Office of the President** (Mr. Kalweo): Mr. Speaker, Sir, there is a typing error.

Mr. Speaker, Sir, I beg to reply.

Ex-police constable John Njoroge was dismissed from the Police Force with effect from 6.1.92 after committing a serious disciplinary offence.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, that answer is quite inadequate. I am sure that no hon. Member has understood what it meant. Could the Minister tell the House what that serious disciplinary offence was?

**Mr. Kalweo:** It was covered by the police regulations.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, I am supposed to go and tell my constituent what the Minister thinks happened. So far, I have not got any answer. Could the Minister tell the House what sort of disciplinary offence this particular constable committed?

**Mr. Kalweo:** Mr. Speaker, Sir, on 20.12.91 at Mau Narok Trading Centre, this police officer and his friends got "drunkard."

*(Laughter)*

He then became rowdy and started shouting and trying to misbehave. Therefore, when he went back to his camp he was disciplined.

**Dr. Kituyi:** Mr. Speaker, Sir, arising from the Minister's reply if a police officer gets what he calls "drunkard and rowdy", is it the procedure that every drunk officer is dismissed from the Force?

**Mr. Kalweo:** He was even fighting in that bar!

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to confuse answering a question with supplementing his original answer? I have not asked what else he did. Is it a policy of the Government that any police officer found drunk is dismissed from the Police Force? If it is the case, why do we have so many policemen who get drunk every night and are still in the Force?

**Mr. Kalweo:** Mr. Speaker, Sir, if I may give further information, this same police officer was drunkard.

*(Laughter)*

Mr. Speaker, Sir, the officer was in Narok while his working station was in Nairobi. So, he moved from Nairobi to Narok during working hours. When he committed this disciplinary offence, he was supposed to be in Nairobi and not Narok.

**Mr. Maundu:** Mr. Speaker, Sir, I believe that this police officer, who was "drunkard---"

*(Laughter)*

Mr. Speaker, Sir, I believe that this officer was given a fair hearing before he was dismissed, in the sense that he must have been subjected to orderly proceedings. Further to that, so that justice is seen to have been done, was he arrested and charged in a court of law for being drunk and disorderly, and thereafter dismissed from the Force?

**Mr. Kalweo:** Yes, Mr. Speaker, Sir.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, the Minister is misleading the House. First, there is a letter in which one of Mr. Njoroge's superiors says that Mr. Njoroge showed the two finger-sign, and that is why he was dismissed. Secondly, his work station was Mau Narok and not in Nairobi. In any case, which is more serious: Being absent from his so-called Nairobi work station or being drunk?

**Mr. Kalweo:** Mr. Speaker, Sir, the hon. Member should have understood that this officer was in Narok during working hours when he should have been in Nairobi. They are not supposed to desert their duty stations. In any case, if that particular police officer gave the two finger signal, it was wrong because the police are not supposed to play politics.

*Question No. 048*

UTILISATION OF PRESIDENTIAL BURSARY FUND

**Mr. Kamuyu** asked the Minister for Education the current balance of the Presidential Bursary Fund in Dagoretti Division, and how much money has, so far, been given out to assist students at various levels since its inception.

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

It is not possible to give the figure of the current balance of the Presidential Bursary Fund for Dagoretti Division because the bank account for the money for all the Divisions in Nairobi Area, is held centrally by the Provincial Commissioner. A given sum of money is retrieved from the account each year and shared out equally to all divisions. The remaining amount in the bank continues to accrue interest depending upon the bank's rates until the following year. However, as of 10th January, 1997, the balance carried forward by the Nairobi PCs office for the year 1998 was Kshs1,768,003.

For the eight years since inception of this fund in 1990, Dagoretti Division has received a total of Kshs1,200,000 at the rate of Kshs150,000 per year, to assist secondary school students only from Dagoretti Division.

**Mr. Kamuyu:** Mr. Speaker, Sir, I wish to thank the Assistant Minister for that answer. But the Presidential Bursary Fund is technically dead in Dagoretti because since 1993, I have never been called for any meeting where these funds are disbursed. Now I have got the facts and figures regarding the Kshs150,000. This money is simply divided between the area Chiefs and the District Officer into their own pockets, or given to the children of KANU supporters.

Can the Assistant Minister tell this House when the last meeting for this Presidential Bursary Fund disbursement took place in Dagoretti and the people who attended the meeting, if there was any?

**Mr. Komora:** Mr. Speaker, Sir, if the hon. Member was interested in the details of the actual meetings where these funds were disbursed, he should have asked specifically for that. But as it stands, I went out into the specifics of his own Question, and therefore, the information is not available.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. You probably did follow the Assistant Minister's answer. He started by saying, and I have got his written answer here: "It is not possible to give the figure of the current balance of the Presidential Bursary Fund for Dagoretti Division." Therefore, he is unable or avoiding to answer the question outright. The gist of this question is that the Presidential Bursary Fund is either dead or is being mis-directed to other uses, but not educational use in Nairobi. I have not yet heard of any one student who has benefited from this fund for the last three years in Dagoretti. I thought the Assistant Minister would probably go into some researched details and tell this House whether the Presidential Bursary Fund is dead or alive in Dagoretti. The gist of this question is when they last met.

**Mr. Komora:** Mr. Speaker, Sir, obviously, my answer is very clear that the Bursary Fund is still alive. There is a balance of more than Kshs1 million for all the Nairobi divisions and this is controlled by the Provincial Commissioner. I have also said that Kshs150,000 has been given to Dagoretti division every year for the last eight years. If the hon. Member wants details, I can provide the details later.

**Mr. Mulusya:** Mr. Speaker, Sir, can the Assistant Minister tell us; if there is such money in the account, what is the money doing in that account when there are children who are unable to go to school because of lack of

school fees in Dagoretti, specifically, and in Nairobi at large? Why is that money lying in that account?

**M. Komora:** Mr. Speaker, Sir, the Fund is not meant to be exhausted all at once. The purpose of the Fund is to continue, and I would urge hon. Members of Parliament to insist on perpetuating these funds.

**Mr. Kamuyu:** Mr. Speaker, Sir, how many secondary school students were given this fund the last time it was disbursed, I presume, in January, 1997? Why was I not invited to that meeting?

**Mr. Komora:** Mr. Speaker, Sir, I already said that these details are not available.

**Mr. Speaker:** Next Question!

*Question No. 007*

ELECTRICITY SUPPLY TO GETA LOCATION

**Mr. Githiomi** asked the Minister for Energy when the residents of Geta Location of Kipipiri Division will be supplied with electricity.

**The Minister for Energy** (Mr. M'Mukindia): Mr. Speaker, Sir, I beg to reply.

Unfortunately, my Ministry and the Government does not have funds at the moment to electrify Geta location. Therefore, the residents of this location will be supplied with electricity when funds become available.

**Mr. Githiomi:** Mr. Speaker, Sir, there is ambiguity and uncertainty in the answer that the Minister has given this House. Has the Ministry planned when Geta location will be served with electricity? When will funds be available? When the Minister tells me that Geta location will be served with electricity "when funds are available," then I would not take him seriously. Are the funds going to be available this financial year, next financial year or after 10 years? Exactly when? Can he be specific?

**Mr. M'Mukindia:** Mr. Speaker, Sir, I think hon. Githiomi, first of all, should be very happy because he has benefited more than any hon. Member of this august House in terms of electrification of his constituency. Nevertheless, we do realise as a Ministry that we have a major challenge in providing for rural electrification. For that reason, we are re-organising ourselves and also re-organising the rural electrification fund to ensure that we attract funding; not only from the Government itself, that is the Treasury, but also from Kenya Power and Lighting Company Limited (KPLC) and the donor community.

The demand for rural electrification far outstrips the funding that is available. Indeed, year after year, we put in the budget figures that we require. For example, next financial year, we would like to be supplied with an amount of K£13.3 million for the rural electrification fund. But what we actually get from the Treasury is far much less than that. So, it is true Kenya requires a lot of money for rural electrification and we need to look into this issue more seriously, and my Ministry is looking into it.

The next thing I would like to tell the hon. Member is that, in so far as the District Development Committee (DDC) is concerned, the priority list that we have shows Miharati division headquarters as the priority area to be electrified in the event that funds become available, followed by Wanjohi trading centre and thirdly, Geta location. So, unless the priorities have changed, we have to go by what the DDC has recommended.

**Mr. Mulusya:** On a point of order, Mr. Speaker, Sir. The Minister knows very clearly, and it has been said in this House, that the DDCs are illegal; they operate under an illegality. Is he now in order to refer the hon. Member for Kipipiri again to a DDC prioritization when he knows it is illegal? There is no law under which the DDCs are established.

**Mr. Speaker:** Mr. Mulusya, that is an agreeable argument.

**Mr. Mulusya:** It is illegal---

**Mr. Speaker:** Order, Mr. Mulusya. Thou shall behave in the House.

**Mr. Ndicho:** Thank you very much, Mr. Speaker, Sir. The Ministry of Energy is the one which supervises Kenya Power and Lighting Company which is a profit making company. Can the Minister tell this House whether if there are people who are interested in venturing into power generating projects in this country, he would agree to remove monopoly from the KPLC so that if there is competition from other companies, then every Kenya can have power on a pro rata basis? Can you allow other companies to have power generating projects here?

**Mr. M'Mukindia:** Mr. Speaker, Sir, that is a separate question. But, nevertheless, the hon. Member may be aware that we are actually in the process of doing exactly what is asked for. What may be irrelevant, as far as his question is concerned, with regard to rural electrification is that the KPLC has been the Government contractor in constructing the rural electrification network. In the future, when funds will be available, we shall use not only KPLC, but any other electrical contractor to ensure that we do this work much faster than we have been able to do in the past.

**Mr. Githiomi:** Mr. Speaker, Sir, the Minister misled this House by saying that my constituency is one of the constituencies that benefited most in rural electrification. In the whole of Kipipiri Division, there is only one centre

with electricity and that is Ndemi Shopping Centre. Even the division headquarters do not have electricity and he has been made to believe by his civil servants that we have electricity in Kipipiri. Could the Minister think of ways and means of electrifying Kipipiri Division without the notion that we have electricity because we do not have? We only have electricity at Ndemi.

**Mr. M'Mukindia:** Mr. Speaker, Sir, I do think that we have been misled by my officers. First of all, it is our duty not only to electrify Kipipiri but to electrify the whole country. So, that is our challenge, we accept it and we are working towards it. However, the Minister who was in charge before I came to this Ministry about three months ago, made a Ministerial Statement here which clearly showed that Kipipiri had a lot of projects under the rural electrification programme and, indeed, some of them were read out. I can read out a few. These are Nyakiambi High School, Rurie Boreholes, Rurie Secondary, A.C Primary and Environs, Ndemi Market, Passenger Market, Water pumps and Olkalou Youth Polythene which was electrified at a cost of Kshs35 million. Further, more work was done and was going on at that particular point in time which cost the Ministry some Kshs6.5 million and that was not all. I am quite right to say that very few of the hon. Members in this House have had as much work done in their constituencies as the hon. Member. I think, he should be fair to thank the KANU Government for looking after his people.

*Question No.106*

MANAGEMENT OF NHIF

**Dr. Otieno-Kopiyo** asked the Minister for Health:

- (a) whether he could confirm to the House that the National Hospital Insurance Fund is being properly managed in accordance with the prudent business principles; and,
- (b) if he could further avail to this House the investment portfolio of the National Hospital Insurance Fund covering the financial years of 1990 to 1996.

**The Assistant Minister for Health** (Mr. Criticos):

- (a) Yes, the NHIF is properly managed and in a prudent manner.
- (b) The investment portfolio for the financial years 1990/96 is as follows; 1990/91 - Kshs603,550,883; 1991/92 - Kshs771,689,333; 1992/93 - Kshs778,393,930; 1993/94 - Kshs903,852,852; 1994/95 - Kshs1,134,558,653, and 1995/96 - Kshs2,087,161,999.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, it is amazing that this answer is coming from a well known businessman in the country who should know the difference between investment in sisal at the Coast or pineapples in Thika or the cost of buying a motor car.

**Mr. Speaker:** What is your question, Dr. Otieno-Kopiyo?

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, I am making a point. What I am saying is that the list that he give me has nothing to do with a portfolio; it is just a list of figures. A portfolio means putting five shilling for purchasing such-and-such items under this title and so on. I want an investment portfolio from the Assistant Minister. What he has given us are just figures which are supposed to show the total cost of the investment. But I want an investment portfolio and he knows the difference.

**Mr. Criticos:** Mr. Speaker, Sir, I would like to ask the hon. Member if he wants a breakdown of the figures which he is referring to or a portfolio.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, I want an investment portfolio. I am confident that the hon. Assistant Minister knows the difference between this list and an investment portfolio. Infact, he was rubbing himself while he was giving the answer because he was not convinced that this is a portfolio. So, could we have an investment portfolio which shows where NHIF has put this money?

**Mr. Criticos:** Mr. Speaker, Sir, 1990/91 we had Kshs376,239,886 in the bank.

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Speaker, Sir. Since the Assistant Minister had the figures for the portfolio, he should have laid them on the Table so that the hon. Member could have a look at them? Is he in order to try and hide what should be laid on the Table so that everybody can have access to it?

**Mr. Criticos:** Mr. Speaker, Sir, I do not have that supplementary information for that supplementary question. The answer has been with the Clerk of the National Assembly and the hon. Member has got a copy of Question No.106. This is supplementary information which I am giving.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** We do not seem to be getting very far.

**Dr. Otieno-Kopiyo:** Yes, Mr. Speaker, Sir, I agree with you. There is no portfolio and, therefore, these figures cannot take us very far. Since he does not have it, may I request you humbly to allow him to go back and bring us the portfolio for the National Hospital Insurance Fund.

**Mr. Speaker:** What is it anyway? Is it a briefcase or something?

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, it could be a briefcase. I do not think they use all the money in purchasing a briefcase. I suggest that he goes back and brings a proper answer with the breakdown of a portfolio where the money has been invested.

**Mr. Criticos:** Mr. Speaker, Sir, I can tell the hon. Member where the money is. I am not going back to look for an answer for the investment portfolio. If you like it, I will give it to you right now. Obviously, he does not want to see it.

If the hon. Member could be kind enough to write down the following: In 1990/91 we had Kshs376,239,883; non-bank, Kshs227,300,000 making the original total which I had given earlier, Kshs603,530,883.

MONEY HELD IN BANKS	IN NON-BANKING INSTITUTIONS	TOTAL
1991/92		
Kshs358,389,333	Kshs413,300,000	Kshs771,689,333
1992/93		Kshs365,093,930
1993/94		Kshs413,300,000
Kshs490,552,852	Kshs413,300,000	Kshs903,852,000
1994/95		
Kshs 721,258,653	Kshs413,300,000	Kshs1,134,558,653
1995/96		
Kshs1,673,861,999	Kshs413,300,000	Kshs2,087,161,999

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, the figures he has given us still fall short of what I am looking for. He is talking about money put in banks and money put in non-banking institutions. I would like to get the list of the banks and the financial institutions in which these monies were placed, together with the balance of the money that is described as not being in banks to get to know where they are. That will give us the impression we want to form on whether these funds are invested prudently or not, not forgetting that some of the money that was invested in Heritage Bank is no longer there since the bank has collapsed. He is not disclosing this fact and some other facts that we want him to disclose.

**Mr. Criticos:** Mr. Speaker, Sir, this is another question altogether. For the information of the hon. Member, there was nothing invested in the Heritage Bank.

**Mr. Onyango:** Mr. Speaker, Sir, is the Assistant Minister in order to mislead this House by saying that the National Hospital Insurance Fund (NHIF) is properly managing its funds when we know very well that right now, there is a case in court regarding the mismanagement of funds at the Head office?

**Mr. Criticos:** That is obviously a problem which we have identified and we are handling it. That is a normal management problem.

**Dr. Kituyi:** Mr. Speaker, Sir, I am glad that at the end of the day, in his last reply, the Assistant Minister has confirmed that all has not been well at the NHIF. There is a crisis of mismanagement of claims by certain number of doctors, which have been syndicates of syphoning money from the Fund. More importantly, it is not acceptable that the Assistant Minister can stand before this House and claim that the NHIF did not put any money in Heritage Bank when we know that the Heritage Bank has been the conduit through which Raymond Moi transferred money from NHIF to buy Simba Airlines. Is the Assistant Minister saying that he is not even aware of these facts?

**Mr. Criticos:** Mr. Speaker, Sir, the hon. Member has got more facts than me. I suggest that he should table them in the House, but as far as we are concerned, we have not put any money in the Heritage Bank and that is final.

#### *Question No.032*

#### REPAIR OF GUNGA BRIDGE

**Mr. Onyango** asked the Minister for Public Works and Housing:-

- whether he is aware that Gunga Bridge between Agenga Chief's Camp and Number Onger has virtually collapsed; and,
- when the bridge will be repaired.

**The Assistant Minister for Public Works and Housing (Col. Kiluta):** Mr. Speaker, Sir, I beg to reply.

(a) There was no bridge in existence along Road D214 at Gunga between Agenga Chief's Camp and Number Onger. However, two sections of the road which measure about 8 meters wide and another approximately 2 meters wide were washed away by floods.

(b) Twin 4x2m and 2x2m box culverts will be constructed at Gunga during 1997/98 Financial Year to bridge the sections washed away by floods.

**Mr. Onyango:** Mr. Speaker, Sir, it is very unfortunate to get such a misleading answer from the Assistant Minister. I am the Member for Parliament for that particular area and I know very well that there was a bridge which was washed away by floods around 1991. In actual sense, it is only one section and not two sections as he says. Can the Assistant Minister give the correct answer to this Question? There was a bridge which was washed away by floods in 1991 and up to now it has not been replaced. Why has it taken so long to be replaced?

**Col. Kiluta:** Mr. Speaker, Sir, this Question came up last week and it was deferred. We sent people from our Headquarters together with the Resident Engineer to the area and they confirmed that. It is possible that what the hon. Member is calling a bridge is what we are calling a culvert. We are not disputing that there was a section that was washed away and, as I said, we are preparing ourselves to go and rectify the situation.

**Mr. Anyona:** Mr. Speaker, Sir, that is a very amusing answer. If the Assistant Minister says that there was no bridge, how can you have a road passing over a river and yet not have a bridge? How does he define a bridge? Was there a bridge or was there no bridge which was washed away? What are you going to reconstruct? What English are you speaking?

**Col. Kiluta:** I am speaking the Queen's English and it is a pity because here we are talking about professionalism. What you call a bridge is what we call a drift. What was in that section was not a bridge, but a culvert.

**Mr. Otieno:** Mr. Speaker, Sir, hon. Kiluta did answer a Question on this particular road and I remember us telling him that six bridges were washed away. The actual bridge itself is not the issue, but the issue here is that there are six sections of the same road that were washed away in 1991. Now, he is telling us that he is going to provide money to repair the little section. There are five other sections and you promised last year that you would send somebody to examine the whole road from the bridge that hon. Ojodeh asked you about that time and now to the bridge that hon. Onyango is asking you about. Can you now tell us that you will send an officer to follow this road from Nyarongi to Wathonger and then allocate money in the 1997/98 Budget to bring this road back into use.

**Col. Kiluta:** Mr. Speaker, Sir, I will have difficulties in pronouncing the names of those places he has mentioned, but all I know is, we have sent surveyors and done costing for the whole road. It will cost us less than Kshs 1 million to do those bridges; we have budgeted for that and it will be done.

*Question No.101*

COLLECTION OF FUNDS FROM WEIGHBRIDGES

**Mr. Obwocha** asked the Minister for Transport and Communications:-

- (a) how much money has been collected from the Embakasi and Mariakani Weighbridges for the years 1994, 1995 and the period from January 1996 to date; and,
- (b) how many people have been prosecuted for offenses relating to any misappropriation of funds referred to in "a" above.

**The Assistant Minister for Transport and Communications** (Mr. Morogo): Mr. Speaker, Sir, this Question was directed to my Ministry and yet, the issue of weighbridges and the collection of funds from the weighbridge is under the Ministry of Public Works and Housing. We have agreed with the Ministry of Public Works and Housing that they answer this Question.

**Mr. Obwocha:** Mr. Speaker, Sir, the Deputy Speaker deferred this Question yesterday to today afternoon because it was very urgent. I asked this Question last year and you can see these Ministries are dilly dallying. Could you now precisely order when it should appear or when they can be able to answer it at the earliest?

**Mr. Speaker:** Well, I will defer it and ask that it be put on the Order Paper as soon as possible.  
Next Question.

*(Question deferred)*

*Question No.045*

COMMITTEE MEMBERS OF KITANGA  
CO-OPERATIVE SOCIETY

**Mr. Musyoki** asked the Minister for Co-operative Development:-

- (a) who the committee members of Kitanga Co-operative Society are; and,
- (b) how many members have paid their dues and have been issued with title deeds.



**The Minister for Co-operative Development** (Mr. Munyi): Mr. Speaker, Sir, I beg to reply.

(a) The Chairman of the Co-operative Society is Mr. James Katiru, Vice Chairman is Mr. Wilson Walawa, Treasurer is Mr. Kyalo, the Honorary Secretary is Mr. Wamae. The committee members are: Mr. Ndadieko, Mr. Ndaimu, Mr. James Munyala and Mr. Magayu.

(b) All the Members have already paid what was supposed to be paid but so far, the title deeds have not been given to them and this is a problem with the Ministry of Lands and Settlement.

**Mr. Musyoki:** Mr. Speaker, Sir, thank you for the answer the Minister has given this House. But I would like to know from him when this committee was last elected and for how long it has been in office.

**Mr. Munyi:** Mr. Speaker, Sir, this committee was elected in 1978 and since that time, there was some misappropriation of the funds and as a result, action was to be taken so that other new members are elected according to the new system.

**Mr. Ndilinge:** Mr. Speaker, Sir, last week hon. Musyoki talked about title deeds for his people. Now the Minister is saying that these co-operative members have never been issued with title deeds because of laxity of the Ministry of Lands and Settlement officials in Machakos.

Could he tell the House whether his Ministry is going to look into the issue? It appears that in-between, the said co-operative members might suffer. Could the Minister also tell us whether somebody was taken to court for the misappropriation of funds as he has told the House?

**Mr. Munyi:** Mr. Speaker, Sir, I am taking this opportunity to urge my colleague in the Ministry of Lands and Settlement to try and speed up the exercise of giving the title deeds to these people and others who need the title deeds.

Regarding the other question, nobody was taken to court because that matter had not been brought to us.

**Mr. Shikuku:** Bw. Spika, kufuatana na lile jibu lake la hapo mbeleni amesema kwamba hao maofisa wa chama hicho cha ushirika walichaguliwa mwaka wa 1978. Hii ni karibu miaka 20 iliopita. Yeye Waziri anatosheka kwamba hii ni haki au Katiba ndio inasema wakae hapo milele?

**Mr. Munyi:** Mr. Speaker, Sir, I would like to tell the hon. Member that at that time, they were elected, there was mismanagement of the co-operative society.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. There is some confusion here. In accordance with the standing orders, if a question is framed in English the answer should be in English and vice-versa if it is in Kiswahili. Though in the first place, I was not quite sure whether hon. Shikuku's question in Kiswahili is proper. But in any case, hon. Shikuku asked his Supplementary question in Kiswahili. Surely, should the Minister not answer him in Kiswahili?

**Mr. Speaker:** No! No! I think you are wrong there. When a Member has began talking in either English or Kiswahili, the Member must then continue in that language of his or her choice from the beginning to the end. But the Member replying is not obligated to reply in that particular language; he or she can either reply in that language or in English. And the languages are only two anyway; English or Kiswahili. Tribal languages are not allowed.

Proceed!

**Mr. Shikuku:** Jambo la nidhamu, Bw. Spika. Hajamaliza kujibu swali langu.

**Mr. Speaker:** Ndio, alikatizwa.

**Mr. Munyi:** Mr. Speaker, Sir, I am satisfied because at that time there was that committee, and now the present committee is a very good committee.

**Mr. Speaker:** I will give the very last one to Mr. Musyoki!

*(Several Members stood up in their places)*

What is it Mr. Mulusya? Can we hear Mulusya?

**Mr. Mulusya:** On a point of order, Mr. Speaker, Sir. The hon. Minister either did not understand the question put to him by hon. Shikuku or he is deliberately trying to avoid it. The question hon. Shikuku asked is whether he is satisfied that those people are legally in office; whether it is the Co-operative Act which states that they should stay in office for 19 to 20 years or what is the position?

**Mr. Munyi:** Mr. Speaker, Sir, those who are in the office have been there for less than two years.

*(Several Members stood up in their places)*

**Mr. Speaker:** Order! Order, Members! I suppose I will give the chance to one more Member because we must proceed. We cannot be with this Question forever. I will call Mr. Maundu.

**Mr. Maundu:** Thank you, Mr. Speaker, Sir. This is a very important question because it touches on the livelihood of many people. This Co-operative was dissolved by 1979 because members were allocated their shares. The problem is with the Ministry of Co-operative Development which has not linked up with the Ministry of Lands

and Settlement to formally dissolve the co-operative society, so that members may be issued with their title deeds. Will the Minister move very quickly and make sure that everything is done to dissolve this co-operative society so that members may get their title deeds from the Ministry of Lands and Settlement?

**Mr. Munyi:** Mr. Speaker, Sir, that is a good suggestion and I will surely do that.

*Question No.111*

REVIEW OF THE CHIEFS ACT

**Mr. Gatabaki** asked the Attorney-General:-

(a) whether there are measures which the Government has taken to review the Chief's Act, as promised by the Attorney-General on 15th May, 1996; and,

(b) if the answer to "a" above is in the negative, when will the Government repeal the Chief's Act, given the excesses committed by the chiefs against the people of Kenya.

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

(a) On 15th May, 1996 this House unanimously passed a Motion which resolved that the Government reviews among other laws, the Chiefs' Authority Act and repeal or amend the same where necessary. The Task Force on the reform of Public Order and Security Laws is undertaking that exercise and it will be making recommendations for consideration by the Government.

(b) In view of the answer to (a) part (b) does not arise.

**Mr. Gatabaki:** Mr. Speaker, Sir, I think I speak on behalf of Kenyans. That was a very unfortunate answer from the Attorney-General. Last week, this House discussed a Motion of Adjournment on the Public Order Act and the behaviour of the administration police. On Friday, this nation was told by a section of the Press that the Attorney-General, acting on the instructions of the President of the Republic of Kenya submitted to the Cabinet a memorandum on the Public Order Act and the Chief's Authority Act. These were rejected by the a Minister in the Office of the President and the Vice-President. Can the Attorney-General tell this country what has transpired between 1995 and last Friday; and why the request by the President of the Republic of Kenya to have these two Acts changed was turned down by a Minister in the Office of the President and the Vice-President?

**Mr. Wako:** Mr. Speaker, Sir, the Question touches on the Chief's Authority Act. The Public Order Act is not subsidiary to the Chief's Authority Act. In fact the Public Order Act is a separate Act altogether and therefore, any references to the Public Order Act are not in order, because we are dealing with the issue of the Chief's Authority Act - which I have replied to.

**Mr. Anyona:** Mr. Speaker, Sir, there are two issues in this Question. The first part of the Question is asking the Attorney-General to tell the House what progress he has made on the resolutions made by this House. The second part of the Question is talking about the excesses committed under this Act. Can the Attorney-General tell us precisely what has happened to the Task Force that he set up to study, among other laws, this particular law? The Task Force went around the country collecting views. It invited Members of Parliament - and I was one of them - to submit memoranda. We did that and thereafter, there was dead silence and in the meantime, excesses have been committed. Can you tell us what has happened to that Task Force and what you are going to do to stop those excesses in the meantime?

**Mr. Wako:** Mr. Speaker, Sir, this particular Task Force is one of the most active that the Government, through the office of the Attorney-General has set up. It has been working very hard, even on the Chief's Authority Act which deals--- This Question deals with the Chief's Authority Act and as I said, the Task Force has undertaken the exercise which this House gave to the Government to review the laws, repeal and amend where necessary.

**Mr. Murungi:** Mr. Speaker, Sir, the Attorney-General has made statements regarding Task Forces in this House several times. We have information that the Task Force on Security and Public Order laws have completed their work. Can the Attorney-General report to this House when he is going to lay on the Table the reports of these Task Forces, noting that it is almost three years since the Task Force was set up and the elections are about to take place? The Attorney-General had promised that the Task Forces would bring their reports well before the 1997 General Elections. Is he going to wait until after the elections?

**Mr. Wako:** Mr. Speaker, Sir, that is a general question on Task Forces. If I may also make a general comment on that, as and when the Task Forces have completed their reports, the reports come to my office, I digest it, it goes to the Cabinet and from the Cabinet, if approved, it is published and it comes to the House. A number of Task Forces have actually finalised their work and their reports have been debated in this House and this House has been good enough to pass those legislations unanimously. As to the Task Force on Security---

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. Is the Attorney-General in order to mislead this House, that as a matter of fact, we have considered and deliberated on the reports of the Task Forces when none of the reports of those Task Forces has been brought to this House by the Attorney-General? Which one was brought here?

**Mr. Wako:** Mr. Speaker, Sir, I was trying in a diplomatic way to correct my learned friend who is also an hon. Member of this Parliament on the procedures which this Government is using as far as the reports of the Task Forces is concerned. It is not true that we debate but we table in this House the reports of the Task Forces. What happens is that the reports of the Task Forces come to my office by virtue of the Law Reform Commission Act. From my office, it goes to the cabinet. If approved, and the approval there really means approval of the report and the legislation enacting that approval comes to this House, this House has to debate it for a number of days. In fact, the last one, the Auctioneers Bill, I made available the report in order to assist Members to debate that Bill when they were already enlightened. As far as the Task Force on Public Order Act---

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

**Mr. Speaker:** Order! Order, Mr. Gatabaki! We cannot make progress if we are perpetually on points of order, which are not really points of order but questions. It is now Question Time. Can we give hon. Members the time to ask Questions. You must rise on a point of order, if it is truly a point of order. Otherwise, we are already behind schedule. Anybody who wants to ask a supplementary question? Yes, Mr. Maundu! **Mr.**

**Maundu:** Thank you, Mr. Speaker, Sir. I thank the Attorney-General for making available many task forces. But the handicap that he has is that of task forces within task forces. He is not making as much progress as he should. But be it as it may, the Chief's Act is becoming a thorn in the flesh. If the authority within the Chief's Act is exercised by the chiefs per se, there would not be much complaints. But it appears that the whole administration is using the Chief's Act for purposes other than administration.

With or without the task forces, would the Attorney-General move as quickly as possible to make sure that the offending sections of the Chief's Act are amended as quickly as possible?

**Mr. Wako:** Mr. Speaker, Sir, as I said, the Task Force will shortly be making recommendations, which will be considered by the Government.

**Mr. Gatabaki:** Mr. Speaker, Sir, the Attorney-General says that this is subsidiary legislation, meaning that you do not have to bring an amendment to the House. The Attorney-General is well known for sneaking in amendments to the Constitution. What is it that makes it so difficult for the Attorney-General to sneak in an amendment to repeal the Chief's Act, noting how overwhelmingly the people of Kenya hate it? It is not only hated from this side of the House, but also on the other side of the House. When will the Attorney-General do that on behalf of all Kenyans, humanity and civilised order of governance?

**Mr. Wako:** Mr. Speaker, Sir, first of all, my friend did not get my point about the Chief's Authority Act being separate and distinct from the Public Order Act. I think it is not "subsidiary to", as you state. These two Acts are very different. I can assure the hon. Member that as soon as the Task Force has finalised its recommendations, and they have been considered by the Government, the Government will do something about the Chief's Authority Act.

#### *Question No. 129*

#### FINALISATION OF THE LATE BISHOP MUGE'S CASE

**Mr. Sifuna** asked the Attorney-General:-

- (a) whether he is aware that the case of the late Bishop Alexander Kipsang Muge who died in a road accident on 14th August, 1990, has not been finalised; and,
- (b) when the case will be finalised.

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

(a) There are in fact two cases and I was not quite sure which case the hon. Member was referring to. The first case was the trial of the Traffic Criminal Case, and that was finalised and the accused, Mr. Nikonari Munayi Omukuba was found guilty of causing death by dangerous driving and sentenced to seven years imprisonment. He was also barred from driving for five years after serving the sentence. He appealed against conviction and sentence, but the appeal abated by virtue of Section 360 of the Criminal Procedure Code as the appellant unfortunately died.

Secondly, the other case was filed by the widow, Mrs. Ema Muge in Kakamega, High Court Civil Case No. 351 of 1994. The case has been heard by hon. Justice B.K. Tonui. The plaintiff's advocates have filed written submissions and the defendant's advocates have been ordered to file their written submissions by 7th May, 1997.

- (b) This civil case will be finalised as soon as possible, after the written submissions have been filed.

**Mr. Sifuna:** Arising from Mr. Wako's reply, could he tell us when the High Court ordered the appellant's

advocates to file a written submission? Was the order made only after receiving my Question?

**Mr. Wako:** Mr. Speaker, Sir, my office received this Question on the 18th of April. This order was made - I do not have the file with me - but it was made sometime in March. It ordered both parties to file written submissions by 16th of April, 1997, well before this Question was brought to my attention. By the 16th of April, 1997, only the plaintiff's advocates had submitted their written submissions. So, the Judge ordered the defendant's advocates to ensure that their written submissions are filed by 7th May, 1997.

**Mr. Kapten:** Mr. Speaker, Sir, was it necessary for the Judge to order the advocates of the parties to file written submissions? This is because after the end of the case, the parties themselves know that they have to make submissions. When did the actual hearing of the evidence end? When was the final date?

Secondly, why was it necessary for the Judge to order the advocates for the defendant to file written submissions? This is because once the case has ended, and you do not give submissions as per the date required, the Judge has the right--

**The Speaker:** Can I just ask this of hon. Kapten and the Attorney-General? Are we really in order to give general directions of how the Judge should conduct that case? I am asking both of you. Do you think we are right?

**Mr. Kapten:** Mr. Speaker, Sir, we may not be right, but I am just surprised that the Attorney-General is telling us that the Judge ordered the advocates for the defendant to file written submissions. It is not necessary! Why was that order made?

**Mr. Speaker:** Well, my view is that we are wrong to discuss on that particular base. Can we continue about the cases that are not *sub judice* now?

**Mr. Sifuna:** Mr. Speaker, Sir, arising from the reply from the Attorney-General, can he tell this House when Mr. Omukuba died, and what caused his death in prison?

**Mr. Wako:** Mr. Speaker, Sir, Mr. Omukuba died on 23rd March, 1995, and according to the post-mortem report, he died from tuberculosis.

### QUESTIONS BY PRIVATE NOTICE

#### CATTLE RUSTLING IN KATHIANI AND KANGUNDO

**Mr. Mulusya:** 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 Range farmers in Komarock, Lukenya and Athi River areas in Kathiani and Kangundo have in the last four weeks, lost 866 head of cattle to armed rustlers?

(b) What action is he taking to recover these cattle/or have the owners compensated immediately?

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

(a) I am aware that there have been eight incidents of cattle theft in the areas in question, whereby 142 head of cattle were reported stolen, and not 866 as alleged.

(b) The Government has, so far, recovered 34 head of cattle and investigations are still in progress with a view to recovering other animals, and arresting the criminals behind the thefts. Therefore, the issue of compensating the victims of the crime does not arise.

**Mr. Mulusya:** Mr. Speaker, Sir, the Minister has acknowledged that there have been eight incidences of cattle theft in the area in question. He says that it is 142 head of cattle which were stolen. But the figure has now risen to 981 head of cattle. Since the total cost of the cattle stolen is about Kshs18 million, can he tell this House, from the 34 head of cattle which were recovered, how many arrests have been made so far? Has anybody been taken to court?

**Mr. Kalweo:** Mr. Speaker, Sir, no arrests have been made, but we are still carrying on with investigations and we hope we are going to apprehend some of the criminals.

**Mr. Nthenge:** Mr. Speaker, Sir, does the Minister notice that in the Question these are armed rustlers and not the ordinary rustlers? Under these circumstances, do you not think that the Government should also send their armed members of the forces to combat that problem?

**Mr. Kalweo:** Mr. Speaker, Sir, the records we have in our stations either in Machakos, Kangundo or Athi River do not indicate that these are armed robberies, but pure cattle thefts. We are investigating and we are about to apprehend some of the people.

**Mr. Mulusya:** Mr. Speaker, Sir, the Minister is deliberately misleading this House. These cases have been reported to police in Kangundo, Machakos and so on. The DC knows that these cases have been going on. When these cases are reported there is no immediate follow up by the police. Is it possible for all the GSU to be mobilised to

follow up the cattle-rustlers? Why is it that when these reports are made, the police and GSU wait until almost after seven days to start following those rustlers?

**Mr. Kalweo:** Mr. Speaker, Sir, I have not misled the House. I have agreed that whenever these incidents have happened, the owners report to the nearest police stations. I have also said that we are investigating because we believe that some of the cattle end up into our butcheries around the City. I cannot comment more than that.

PAYMENT OF PENSION BENEFITS  
TO FORMER KNAC EMPLOYEES

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that former employees of Kenya National Assurance Company have not yet been paid their pension benefits?

(b) Is he further aware that the official receiver has threatened to auction their houses for failing to keep up with mortgage repayments?

(c) If the answers to "a" and "b" above are in the affirmative, what urgent steps is the Minister taking to alleviate their suffering?

**The Minister for Finance** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the former employees of Kenya National Assurance Company have not yet been paid their pension benefits since the money forms part of a closed fund presently being re-organised by the official receiver.

(b) I am not aware that the official receiver has threatened to auction houses belonging to former employees of Kenya National Assurance Company. But I am aware that the official receiver has notified employees of their financial obligation with regard to the payment of mortgages.

(c) The Kenya National Assurance Company Limited is a subject of a winding up case by the High Court of Kenya. I am therefore, unable to assist the former employees of the company beyond the payment of their terminal benefits which the Treasury has already paid.

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, the former employees of the KNAC were paid terminal benefits from the Treasury. Why is it so difficult for the Minister to use the money which has already been collected by the official receiver to pay off the employees of KNAC?

The official receiver has appointed a special manager who is earning a whooping Kshs5 million per month while the employees' children go without school fees and they are just about to lose their houses.

**Mr. Mudavadi:** Mr. Speaker, Sir, the pension fund of the KNAC employees is one amongst many which were all vested with the KNAC and, unfortunately, those are the ones that are being re-organised now. Any payment of any individual or group before the meeting of all the creditors would be contrary to the law. They cannot be given the preferential treatment.

**Mr. Muite:** Mr. Speaker, Sir, does this Government not feel some sense of moral responsibility for these employees or other accident victims who are now without any source of being compensated and yet it is the Government which had appointed the "crooks" who ran down the KNAC through stealing? Is it not their moral obligation to compensate all the employees and all the people who were insured by this company because it is your responsibility and it is you who appointed those people who drove KNAC down the drain?

**Mr. Mudavadi:** Mr. Speaker, Sir, I still maintain the position that I have taken that the compensation of pension fund will be made after the re-organisation that is taking place and also to make sure that there is no preferential treatment of any single rule. In any case, one of the biggest policy that was made with KNAC pension fund is that they should have put it in a different institution and not in the one that they are working in.

**Mr. P.N. Ndwiga:** Mr. Speaker, Sir, could the Minister tell this House which other groups had their pension fund with the KNAC and how long does he expect this re-organisation to take and when will the employees be paid their pension fund? Could he also guarantee that the members of staff will not lose their houses before they have been paid their pensions?

**Mr. Mudavadi:** Mr. Speaker, Sir, there are so many other organisations. For instance, the universities had their pensions with KNAC, Kenya Breweries Limited, hon. Members of Parliament and many other institutions whose employees had put their pension fund with the KNAC. At the same time, I would like to say here that we are doing everything possible, through the official receiver, to make sure that there can be sufficient re-organisation of pension fund which can then be transferred to an insurance company which can then pay all the people that are owed some money.

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. There is an issue that the hon. Minister is avoiding to

face. The universities or parastatals were coerced by this Government to insure with the KNAC. Is it in order for the Minister to evade answering the question as to whether this Government is going to live up with its moral responsibility or not?

**Mr. Mudavadi:** Mr. Speaker, Sir, I am not evading anything here. All I am saying is that there is no money at the moment until the pension fund has been restructured and then it is transferred to an insurance company which will be able to take up the obligation and then they will be paid. The issue of what transpired before is really "water under the bridge" and we know that there was mismanagement within the KNAC. Nobody is evading that.

**An hon. Member:** What about the houses?

**Mr. Speaker:** Would you like to say something about them?

**Mr. Mudavadi:** Mr. Speaker, Sir, the question of the houses, as things stand now, is that the employees have already filed the case in court which has restrained the official receiver from taking any further action on those houses. That is where the matter stands as of now.

**Mr. Speaker:** Very well. Next Question, Mr. Maundu.

#### MAINTENANCE OF EMALI-WOTE ROAD

**Mr. Maundu:** Mr. Speaker, Sir, I beg to ask the Minister for Public Works and Housing the following Question by Private Notice.

(a) Is the Minister aware that due to the current flush floods in parts of Makueni, the road and bridge linking Emali Market and Wote District Headquarters have since been washed away?

(b) Could the Minister take quick remedial action to make the said road passable?

**The Assistant Minister for Public Works and Housing (Col. Kiluta):** Mr. Speaker, Sir, I beg to give the following reply.

(a) Yes, I am aware that a section of the road between Matiliku and Wote has been washed away during the current heavy rains and that necessary action will be taken.

(b) The Ministry will provide a deviation within one week and then proceed to instal new three lines of 900mm diameter fine culvert to facilitate flush flood flow within three weeks.

**Mr. Maundu:** Mr. Speaker, Sir, I thank the Assistant Minister for answering this Question. The stretch of the road that has been washed away is from Emali Market to Wote Market, where the district headquarters is situated. It is not from Matiliku to Wote which is in the middle of that road. Be that as it may, this is a very important road---

**Mr. Speaker:** Could you put your question please?

**Mr. Maundu:** Mr. Speaker, Sir, I am putting the question across. I am just trying to help the Assistant Minister understand what I am asking because---

**Mr. Speaker:** Order! Order, Mr. Maundu! If I may invite the hon. Members to look at what time it is--- So, please can you be direct.

**Mr. Maundu:** Mr. Speaker Sir, thank you. My question is: Since this is a very important road and people have been marooned on that side of Emali, thus they cannot make it to the district headquarters, how much money has he allocated to make sure that this road is passable within the time that he is specifying?

**Col. Kiluta:** Mr. Speaker, Sir, as you are aware, the hon. Questioner is one of my best friends and I really think I worked overtime to make sure that I give him an appropriate answer. We have already sent our engineers there to assess the damage which requires Kshs300,000. We have already issued an AIE to that effect. Work will start on Friday. So, if he cares to go home on Friday, he will find people working on that road.

**Mr. Ndilinge:** Mr. Speaker, Sir, I would first of all want to thank the Assistant Minister because he is my friend and he knows very well that---

*(Laughter)*

**Mr. Speaker:** Order, Mr. Ndilinge! I think the Chair is getting a little bit impatient with this alleged friendship. Now, can we get into business?

**Mr. Ndilinge:** Thank you Mr. Speaker, Sir. Does the Assistant Minister agree with me that if there was an earth dam upstream, beyond that washed-away bridge---

**Mr. Speaker:** That is hypothetical, Mr. Ndilinge! Ask a real question.

**Mr. Ndilinge:** Thank you, Mr. Speaker, Sir. Does the Assistant Minister agree with me that the question Tabled before this House is just an example? Is he aware all the roads in Makueni District are impassable?

**Col. Kiluta:** Mr. Speaker, Sir, I am not particularly aware about the roads in Makueni but I know that after

the heavy rains, most of the roads have been washed away and action is being taken to put them back into a motorable condition.

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

**Mr. Speaker:** Order, Mr. Nthenge. Mr. Ndicho, I do not think you ought to do that. So, proceed Mr. Nthenge.

**Mr. Nthenge:** Mr. Speaker, Sir, the district being as large as it is and since its headquarters is almost inaccessible, what is the Ministry doing to make sure that most of the roads are at least passable before the end of next month?

**Col. Kiluta:** Mr. Speaker, Sir, as I said before, a lot of roads were damaged during the current heavy rains. It has not only affected roads in Makueni District because even roads in Masinga District have been affected also. Action is being taken. We have actually organised for a special fund to make sure that we move as fast as possible to put the roads back into a motorable state.

#### KILLER LION IN NGARE NDARE FOREST

**Mr. Mwiraria:** Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that there is an old male lion which has become a man-eater, living in the Ngare Ndare Forest area of Timau Division?

(b) Is he further aware that in mid-March this year, the lion killed and devoured a woman on the roadside at Subuiga Hill between Isiolo and Timau next to a lorry which had broken down and that same lion has been killing sheep around the area?

(c) Since the lion has already tasted human flesh and is likely to kill more people if allowed to continue roaming the area, what urgent steps is the Ministry taking to stop the menace?

**The Assistant Minister for Tourism and Wildlife (Mr. Kisiero):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that there is an old lion which has become a man-eater and living in the Ngare Ndare Forest area of Timau Division.

(b) I am also not aware that in mid-March this year, the said lion killed and devoured a woman on the roadside at Subuiga Hill between Isiolo and Timau and that the same lion has been killing sheep around the area.

(c) In view of the above answers to "a" and "b", this Question does not therefore arise.

**Mr. Mwiraria:** Mr. Speaker, Sir, during the last four years, there has been a lot of work of trying to bring administration closer to the people. Apparently, that administration is getting farther and farther away from the Ministry headquarters because every Question that I have asked in this Session, the answer has been "I am not aware" and yet I have made the Ministers concerned aware. Could I make the Assistant Minister now aware of what happened: On the 19th March when a lorry broke down and the driver left a man and his wife in the lorry in order to go and look for spares, the lady went to prepare tea for the husband and this lion pounced on her, killed her and ate her while the husband watched. On 1st of April, the same lion which, is by the way lighter in colour maybe because of old age, entered into my little *boma* in Ex-Lewa Farm and out of 90 sheep, it chose the only ram which was serving all the other sheep and devoured it. I reported this to the Kenya Wildlife Service (KWS) in Meru.

There have been other reports from Ex-Lewa and Kisima farms. How am I supposed to prove this case? Shall I get the Minister's authority to go and get our young people to shoot it with poisoned arrows and come and lay it on this Table to prove that it is dead?

*(Laughter)*

**Mr. Kisiero:** Mr. Speaker, Sir, as late as the 20th March this year, there was a Wildlife Management Committee meeting held at Isiolo in which some of the officers from Meru and Isiolo participated. And during that meeting, nothing was mentioned about a lion that was eating human beings. As of 22nd April this year, when we made enquiries from our KWS offices in Meru and Isiolo, they still had no information about this incident. We would appreciate if a report can be made to the KWS offices so that we are made aware.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. If the Government is not sure and wandering about this issue, could the Minister authorise the Member to allow the ordinary killing of these lions with poisoned arrows?

**Mr. Kisiero:** Mr. Speaker, Sir, we would prefer that a report is made immediately and we would also

appreciate if we are shown where this old lion is so that we may attend to the matter.

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. The Meru people who live around Ngare Ndare area have Maasai blood and they are not really scared of lions. Since the Government has refused to see or to do anything about these lions, could we ask our Meru people to deal with the lions according to our traditional customs and knowledge and not to report to the Government?

**Mr. Kisiero:** Mr. Speaker, Sir, but I have said that we would be happy to be informed of the whereabouts of the lion so that we may deal with it.

**Mr. ole Tuya:** On a point of order, Mr. Speaker, Sir. Could the Minister tell this House that if there will be a complaint about such kind of animal, then the people threatened by it should carry spears or poisoned arrows? What do you say about this suggestion?

*(Laughter)*

**Mr. Kisiero:** Mr. Speaker, Sir, the human-wildlife conflict is not all that bad.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is all the time harping on this question of the report. An hon. Member of Parliament from that area reported the matter to KWS and he also states that human life was lost. What report does this Assistant Minister want? Or would he be more concerned if his wife or child was eaten up? Could you reply to the Question by the hon. Member who reported that a lion has been killing people? So, what report do you want?

**Mr. Kisiero:** Mr. Speaker, Sir, I will follow up the report that the hon. Member made to KWS officials in the area and I would be able to report back to the House my findings because, as I said earlier on, KWS has informed us that they have not received any report.

**Mr. Speaker:** Order! Order, hon. Members! Now, that Mr. Kisiero would like to find further about this lion, I think the House would like to hear more about it. So, I will defer this Question until next week, to know whether or not as a matter of fact, this lion is there.

**Mr. P.N. Ndwiaga:** On a point of order, Mr. Speaker, Sir. I am wondering how hon. Mwiraria came to know that this lion is old and it is a male?

*(Laughter)*

**Mr. Speaker:** Order! Order! That may be very difficult for those hon. Members who come from places where there are no lions. But it is quite easy for those Members who hail from areas where the lions are. They would know whether it is male or female and when it is old. Next order.

**Mr. Ndilinge:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Ndilinge, you cannot inform the Chair. Can you?

**Mr. Ndilinge:** Mr. Speaker, Sir, I want to inform the Minister.

**Mr. Speaker:** I am sorry, that matter is over.

**The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso):** On a point of order, Mr. Speaker, Sir. I am seeking your guidance as to whether hon. Martin Shikuku is in order to breach his own oath which he promised here that he will never speak in English while contributing in this House, but instead he would be using Kiswahili?

**Mr. Speaker:** Order! Order! The only lawful oaths taken in this House are those administered by Mr. Speaker. To the best of my knowledge, Mr. Shikuku has never sworn before me or taken an oath before me that he will not speak in any language. Next order.

## BILLS

### *Second Reading*

#### THE CUSTOMS AND EXCISE (AMENDMENT) BILL

*(The Minister for Finance on 17.4.97)*

*(Resumption of Debate interrupted on 29.4.97)*

**Mr. Speaker:** Mr. Shikuku was contributing.

**Mr. Shikuku:** Bw. Spika, ninaomba msamaha kwa mhe. Mutiso na Bunge hili kwa jumla. Nilikuambia



nilipoanza uwe ukunikumbusha nikisahau kutumia Kiswahili ili nirudi na niko tayari kukumbushwa na mhe. Mbunge yeyote kwa sababu Kiswahili ni chombo muhimu katika Kenya. Kiswahili kitatuunganisha na ikiwa wahe. Wabunge wataanza kuzungumza Kiswahili na hata katika mikutano yao waache kutumia Kikikuyu, Kiluhya na Kikamba, itakuwa afadhali.

Ninataka kumaliza hotuba yangu. Jana Bunge lilipoahirishwa nilikuwa nimezungumza juu ya mahindi, sukari, ngano na nguo kuukuu. Lakini sasa ninapomaliza, ninataka kutoa mapendekezo yangu. Sitauunga mkono Mswada huu vile ulivyo hivi sasa kwa sababu kufanya hivyo ni kufungua mlango mkubwa wa maji kuingia nami sitaki kulaumiwa baadaye kwamba nilikuwa mmoja wa wale waliofungua mlango mkubwa wananchi wa Kenya wanyanyaswe na watu wachache, wengi wao wakiwa katika Bunge hili. Kwa hivyo, nitapendekeza maoni yafuatayo.

Wakati Waziri wa Fedha atakaposimama katika Bunge hili kujibu maoni ya wahe. Wabunge aweze kuahidi Bunge hili kwamba wakati tutakapokwenda katika Kamati ataleta masahihisho kwa mambo yafuatayo. Sahihisho la kwanza atafuta lile neno "sugar", "nguo kuukuu" na "maziwa" vile alivyotuahidi.

**The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development** (Mr. Noor): On a point of Mr. Speaker, Sir. I do not want to interrupt hon. Shikuku, but it is him who has repeated again that allegation he made yesterday about second-hand clothes. Yesterday, I challenged him here that second-hand clothes are not included in this Bill, but he insisted and read some clauses to prove that "nguo kuukuu" are part of this Bill and this Bill only talks about foodstuffs. Could he substantiate or apologise to the House and the nation for misleading us?

**Mr. Shikuku:** Bw. Spika, ukiangalia Mswada katika ukrasa wa pili Kifungu cha 119(1)(i) kinataja mahindi, ngano, sukari, maziwa na pia wakati Waziri alipokuwa akiwasilisha Mswada huu, alisema maharagwe pia yaongezwe.

Na "nguo kuukuu" ziko hapa chini anaposema juu ya "used clothes". Je, nini maana ya "used clothes"? Nguo hii nimevaa sasa, nimeitumia, lakini kama sijaitumia inaitwa "new clothes" kwa Kiingereza na nikishaitumia inakuwa "used clothes" na Kiswahili ni "mitumba" au "nguo kuukuu". Hii ndiyo tuanambiwa tusahihishe.

**Mr. Speaker:** Order! Can I now finish this matter by giving guidance to the House! Section 119(2) is to be amended by adding a new sub-section 1(A) which is not part of this Bill and it is not going to be amended. It states:-

"Notwithstanding the provisions of sub-section(1), the Minister may, by order in the Gazette, decrease the rates of duty on maize, wheat, sugar, milk or rice by an amount during the periods of civil strike, national disaster or calamity declared under any written law for the time being in force and may, upon revocation of declaration increase the rates of duty by such amount as may be necessary to restore the rates prevailing immediately before the declaration".

Habari kuhusu "nguo kuukuu" inapatikana katika Mswada ule wa zamani, lakini katika masahihisho yanayoletwa sasa, hakuna nguo kuukuu.

**Mr. Shikuku:** Bw. Spika, ninakushukuru kwa kunisahihisha, lakini nilikuwa nikiangalia Mswada ule wa zamani katika Kifungu cha 119. Pia katika sehemu hii Waziri alituahidi kuwa---

**The Assistant Minister, Office of the President** (Mr. Shamalla): On a point of order, Mr. Speaker, Sir. Hon. Shikuku has already admitted that he was basing his arguments on the section that is being amended. Do we now understand that he is supporting the Bill?

**Mr. Shikuku:** Bw. Spika, ninataka mhe. Mbunge ajue kwamba wakati wa Maswali umekwisha na sasa tunazungumza juu ya Mswada huu! Nimesema kwamba tulikuwa tukijaribu kuweka marekebisho. Ule Mswada ambao tunarekebisha imeandikwa nguo kuu kuu. Pia ningependa maharagwe yawekwe katika marekebisho tutakayofanya.

Bw. Spika naomba tukiingia katika Kamati Waziri aondoe kutoka katika Mswada huu maziwa, sukari, mchele na mahindi. Tunataka hiyo miezi sita iandikwe katika Mswada huu.

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

**Mr. Speaker:** Can I do this? Probably, I would have responded to you but the hon. Member is making suggestions as to what he thinks should be removed and what should be inserted in the Bill.

**Mr. Shikuku:** Ahsante sana, Bw. Spika, kwa uamuzi wako. Ninajaribu kueleza vile tunavyoweza kuwasaidia wananchi wetu ambao wana njaa. Huyo mhe Mbunge anatoka katika makao makuu ya njaa. Najua kwamba watu wake wakiyasikia maneno yake atakuwa akisikia kwamba kuna Bunge lakini hatakuwa hapa.

**Mr. Arte:** On a point of order, Mr. Speaker, Sir. With all due respect to hon. Shikuku, he has told me that I come from the headquarters of famine. That is an insult to the people of Northern Eastern Province? Can he withdraw it?

**Mr. Shikuku:** Bw. Spika, sijamtukana mtu. Ukweli ni kwamba huko kuna ukame kila wakati. Mimi silifurahia jambo hilo na simtusi mtu. Hata nimesema kwamba watu wa huko na Wakamba wapewe maji ili wapate chakula kila wakati.

**Mr. Arte:** On a point of order, Mr. Speaker, Sir. Huyu mzee amekaa katika Bunge hili kwa miaka mingi. Yeye anajiita "Vice-President" wa chama fulani. Kuna wakati ambapo alisema kwamba kule Mkoa wa Kaskazini hakuna watu ila kunaishi wanyama tu. Leo anasema watu wa huko wanaishi katika makao makuu ya njaa. Can he withdraw that?

**Mr. Shikuku:** Bw. Spika, nitamwacha mhe. Arte kwa sababu Waswahili wanasema kwamba "Kumwashia kipofu taa ni kuharibu mafuta."

**Mr. Arte:** On a point of order, Mr. Speaker, Sir. Ni haki kwa mhe Shikuku kusema mimi ni kipofu? Si hii ni kunitukana? Is that in order? Is it parliamentary language?

**Mr. Speaker:** Order! It is a proverb. I suppose that this should now conclude the "war" between the hon. Member from the farthest East and the one from the farthest West. Can we come to the middle ground, which is this House, a House of the people? Proceed.

**The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development** (Mr. Noor): On a point of order, Mr. Speaker, Sir. We do not take very kindly to the sentiments by hon. Shikuku. It is an insult to the people of North Eastern Province to say that we are the headquarters of famine. There is famine everywhere in the country. Could he really withdraw that? He is imputing improper motive to the people of North Eastern Province.

**Mr. Shikuku:** Bw. Spika nitaondoa na ninasema kwamba Mkoa wa Kaskazini Mashariki ni makao makuu ya chakula na hakuna taabu wala njaa, lakini Mkoa wa Magharibi ni makao makuu ya njaa.

Inafaa mahindi na mchele viwekwe katika---

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order, Mr. Speaker, Sir. My point of order is different from the famine headquarters hon. Shikuku is talking about. But he is taking us through what he took us through yesterday. According to Standing Order 87 no hon. Member should repeat himself. If you look at the HANSARD, you will see that he went through what he is going through now. He even talked about secondhand clothes. He is repeating himself.

**Mr. Speaker:** Well, I was not here and I have not looked at the HANSARD.

**Mr. Shikuku:** Bw. Spika, mhe. Makau ananiingilia bure. Mimi natoa maoni yangu, na jana sikusema mchele na mahindi viondolewe kutoka katika Mswada huu. Nasema kwamba inafaa mahindi and mchele viingizwe katika ule muda wa miezi sita ambayo Waziri alitangaza katika Kenya Gazette. Kwa hivyo, inafaa tukiingia katika kamati kuwe na marekebisho kuhusu mahindi na mchele. Waziri alitambua kuhusu muda huu wa miezi sita, lakini muda wenyewe hauko katika Mswada huu, na hali tukiupitisha utakuwa sheria. Mhe Makau angenisikiliza kwa sababu nimekuwa hapa kwa miaka mingi. Hata mimi nilijifunza kutoka kwa watu niliowapata hapa. Ubaya ni kwamba watu wengine wanaingia katika Bunge hili lakini hawataki kujifunza.

*[Mr. Speaker left the Chair]*

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

Kwa hivyo, Bw. Naibu Spika wa Muda, ningependa muda huo wa miezi sita kuhusiana na mahindi na mchele uwekwe katika Mswada huu, na pia aina nyingine za vyakula viondolewe kutoka katika Mswada huu. Tuna ushahidi wa kutosha kwamba watu wakubwa katika nchi hii tayari wameleta chakula humu nchini ili kuwafanya watu wetu wawe na njaa na wakose kazi. Pili, nataka Serikali yenyewe iwe ikileta chakula humu nchini, badala ya kumkubalia mtu kama Shikuku kuleta chakula. That is something which this Government must do, if it is really a Government of the people. Tatu, nataka huu uwe Mswada wa mwisho kuhusiana na kuletwa kwa chakula kutoka nje. Haifai tuende kuomba chakula tena. Tunataka Serikali iwe na maongozi kuhusu ardhi. Tangu Uhuru tumejaribu kuwa na maongozi kuhusu ardhi, lakini imekuwa vigumu kwa sababu watu fulani wamenyakua ardhi kubwa, na hawataki mtu mmoja awe na kiasi fulani cha ardhi yenye rutuba na ardhi kame. Jambo hili la watu kuwa na ardhi kubwa isiyotumika linatufanya kuwa na njaa. Ningependa tuwe sheria ya kuiwezesha Serikali kuchukua ardhi isiyotumika kutoka kwa wenyewe, na kuitoa kwa watu wengine wanaoweza kuitumia kwa kupanda chakula ili tusije tukaomba chakula tena. Ardhi inaweza kuendelea kuwa ya mwenyewe, lakini watu wengine wanaweza kuitumia ili kupanda chakula.

Jambo la nne, ningependa tuwe na maongozi kuhusu chakula ambayo yatamsaidia mkulima. Inafaa maongozi hayo yamfanye mkulima kuwa mtu muhimu zaidi. Hii ni kwa sababu hakuna mtu anayeweza kuwa Rais, Waziri, Waziri Msaidizi au Mbunge bila kula. Kwa hivyo, inafaa anayetoa chakula awe mtu muhimu zaidi. Tuwache maneno mengine yote. Tumpatie yule anayetulisha mbolea na kila kitu hata na diesel kwa bei nafuu ili aweze

kuzalisha chakula kingi, ili Kenya isije ikaomba tena. Ninasikitika sana mimi ni mtu wa Kenya na ninaongozwa na Serikali hii ambayo haina aibu ya kuomba.

Watu wanaokuza miwa na wafugaji wa ng'ombe pia wapewe usaidizi kwa kupatiwa chakula cha ng'ombe na madawa za kupe ili tuwe na maziwa ya kutosha. Ninataka maziwa yaondolewe katika orodha hii kwa sababu sasa tuko na mvua, na Mungu asifiwe. Tukikubali maziwa yaletwe hapa, tutakuwa tunawaua wakulima wa maziwa. Ningependa kusema kwamba hiyo ikifanywa, katika Committee Stage, nitaunga mkono. Isipofanywa, sitaunga mkono.

**The Minister for Co-operative Development** (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, there was an agreement that after Mr. Shikuku has spoken, we are going to call the Minister to reply.

**Mr. Obwocha:** Mr. Temporary Deputy Speaker, Sir, there was no agreement. Even the Finance spokesman from the Opposition has not spoken on this Bill.

**The Temporary Deputy Speaker** (Mr. Arte): Mr. Obwocha!

**Mr. Obwocha:** Thank you, Mr. Temporary Deputy Speaker, Sir. Thank you for giving me this opportunity to contribute to this Bill. I am sure the hon. Members know, if there is nobody contributing from this side, if there are two or three hon. Members from the other side, they can have an opportunity to contribute one after the other. I do not know why they are complaining, maybe because this Minister, for Co-operative Development normally comes to this House through the back door. He never comes through the front door.

**An hon. Member:** Correct!

**Mr. Obwocha:** Mr. Temporary Deputy Speaker, Sir, I would like to start by asking the Minister for Finance, first and foremost, that when it comes to Committee Stage---and I would like to share the sentiments of some of the hon. Members of this House, who have voiced their concern that this Bill does not provide a time limit. Therefore, we would like to ask the Minister for Finance that when we come to the Committee Stage, he should state precisely for what period he wants to vary these rates. Currently, the Customs and Excise Act gives him powers to vary these rates up to 30 per cent. I do not want to go through the rigmarole of what others have said about these cereals, on which the Minister for Finance intends to reduce the rates. I am happy that his Assistant Minister did promise this House that sugar will be excluded from the items that he is asking for a variation of the rates. Since the rains are here with us, he should also exclude milk because in a short while---if you import milk, there is going to be an outcry from the milk farmers in this country that you have imported milk from outside and yet the milk is in plenty here. Therefore, I am pleading with the Minister for Finance that when it comes to the Committee Stage, he does vary the rates only for maize, because maize takes a long time before we get the harvest, wheat and rice. But for sugar and milk, there is no reason why these rates should be decreased at this juncture.

I would also like to say that the body that is entrusted with the running of wheat and maize in this country is not well run. First of all, the maize sector has been run down because the farmers have not been given the price of what they have put in. The Minister for Agriculture, Livestock Development and Marketing, who is in charge of the National Cereals and Produce Board (NCPB)---If this country is going to succeed, you cannot bring policemen to run your parastatals. You need a professional agriculturalist and the NCPB should be headed by competent people. I just wish the new Minister for Agriculture, Livestock Development and Marketing was here. If there is indeed a food policy, then that food policy should be implemented by officers of the NCPB. Subsequently, if they did implement that policy, then this famine would not be here because, as you remember in 1995, there was plenty of maize in this country. In fact, the prices came down up to about Kshs300-Kshs400 a bag. But how can a farmer, who is putting input of Kshs800-Kshs900 sell his maize at Kshs400? So, the first thing, if the Government is serious about what they are doing, they should formulate a new food policy and have competent officers implementing that policy.

Mr. Temporary Deputy Speaker, Sir, I would also like to ask the Minister for Finance, in running the Treasury, he should tell this country the truth. In our annual budget, the Minister for Finance told us--- and it is in black and white--- that he is going to use only Kshs2.8 billion to develop the Eldoret airport, and Kshs1 billion to subsidise the issue of the new generation of identity cards. But I said in this House that a Permanent Secretary has been appointed in the Treasury with a view, first, to facilitate the printing of money this year and secondly, to carry out certain orders that are not in conformity with Treasury regulations and the budgetary provisions that have been passed by this House. I have circular No.8, dated 1st April, 1997, from that Permanent Secretary, addressed to all Accounting Officers showing monthly expenditures in shillings for the fourth quarter. It is signed by the Permanent Secretary, Treasury, Mr. F.S. Lesirma.

Mr. Speaker, Sir, I want to question the Finance Minister on this:- In the Budget, you provided Kshs2.8 billion for the Eldoret Airport and in the circular, this Permanent Secretary has gone ahead to provide for K£200 million or Kshs4 billion in excess of what this House approved. We would like the Finance Minister to tell us what this money is going to be used for.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think,

that should come in form of a substantive question because it is a completely different matter here. We are dealing with the Customs and Excise (Amendment) Bill and the issue that he is bringing up is something that relates to a document that he is tabling here and he had not raised it earlier. So, I cannot in any way make any meaningful response to the issue that he is raising because the context of that Treasury Circular may be very different from what he imagines exists.

**The Temporary Deputy Speaker (Mr. Arte):** I totally agree with you. Mr. Obwocha, can you stick to the Bill?

**Mr. Obwocha:** Mr. Temporary Deputy Speaker, Sir, if we give the Minister for Finance these powers, what guarantee do we have that he is not going to misuse these powers?

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Although we are now debating this Customs and Excise Bill here, a statement has been made on the Floor of this House.

Unisamehe, Bw. Naibu Spika wa Muda. Nimesahau tena habari ya Kiingereza; kimeniingia sana. Nataka kujaribu nisiwe nikisahau. Ijapokuwa tunazungumza kuhusu ushuru wa forodha huko Mombasa katika Mswada huu, mhe. Mbunge anayezungumza, amewahi kutaja jambo ambalo ni la muhimu sana kwamba kuna Katibu Mkuu katika Wizara ya Fedha ambaye ameteuliwa kuchapisha pesa. Na ikiwa yeye ameteuliwa kuchapisha pesa ambazo si halali, hilo si jambo linaloweza kuachwa bure, ingawa tunazungumza kuhusu Mswada huu. Anaweza kuthibitisha kwamba Katibu Mkuu aliyeteuliwa katika Wizara ya Fedha kazi yake ni kuchapisha na kuongeza pesa mpaka ziharibike, kama vile ziliharibika kabla ya kupiga kura mwaka wa 1992? Anaweza kuthibitisha jambo hilo? It is very serious to print money!

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

*[Mr. Deputy Speaker took the Chair]*

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I made two allegations here. First, the Permanent Secretary who has been appointed to Treasury is incompetent to handle matters in Treasury. He has only been appointed for the purpose of printing money this year. We are yet to see that. Hon. Shikuku, that is on the way and you are going to see. But the more important point I am trying to make is---

**The Minister for Finance (Mr. Mudavadi):** On point of order, Mr. Deputy Speaker, Sir. I do not think it is proper to impute improper motive here on a public officer who has been appointed. They are already accusing him of something which cannot even be proved. I think, Mr. Lesirma has been a Permanent Secretary in the Kenya Government serving in various Ministries for a very long time. Wherever he has been, he has been able to hold out effectively as a Permanent Secretary. I think, it is wrong for one to impute improper motive. It is only proper that the hon. Member withdraws.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, the Permanent Secretary has no experience in financial matters at all.

**Mr. Deputy Speaker:** What is the subject under discussion; is it the PS or is it the Bill?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I brought up this point because we are giving powers here to the Minister for Finance whom I have respect for. I do not know why he is panicking. He is the first young man to be in charge of the Treasury since Independence. We have been having very old fellows who were dragging this country into various scandals. I am saying that what he brought into this House in form of a Budget---

**The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo):** On a point of order, Mr. Deputy Speaker, Sir. The hon. Member on the Floor is trying to avoid answering the question. He said here that the sole purpose of appointing Mr. Lesirma as a PS, Treasury was for printing money. Can the hon. Member prove that, if not, can he withdraw?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, if I can finish what I was saying. The Minister for Finance brought a Budget to this House specifically for---

**Mr. Deputy Speaker:** Order! I am sorry, I came in after the heat had already mounted. But I think, it is important that I remind the hon. Members particularly the hon. Member who is on the Floor the rule of relevance should be respected at all times. You should concentrate your contributions on the subject before the House. The competence or effectiveness of a senior official of the Government like a Permanent Secretary in Treasury mainly is a subject of public and Parliamentary concern. I think, there are appropriate procedures by which you can put that conduct before the glare of the House by way of a specific procedure. I am afraid, I still do not think it is proper that we digress now to discuss the character of individuals outside that prescribed procedure. It is enough to say that you

have the doubts and for the Chair it is enough that the Minister of the Government says that he has all the confidence in him. Beyond that really, I do think we should not be bogged down by concentrating on the question as to whether or not Mr. X is qualified because I do not think it is in the core of the subject matter under discussion. As a result of your cursory observation or expression of your doubts, the Minister has given his assurance that he has confidence in him.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I was challenging the Minister for Finance---

**The Assistant Minister for Lands and Settlement** (Mr. Sumbeiywo): On a point of order, Mr. Deputy Speaker, Sir. We are not talking about the competence here; we are talking about a person who has been appointed as PS Treasury allegedly to print money. This is a very serious matter. According to hon. Obwocha, the PS---

**Mr. Deputy Speaker:** Mr. Sumbeiywo, I think, you are making matters worse. I do not think you have to labour this because I have made my position very clear. If such an allegation is made, in fact, it is not a terrible allegation against the person appointed. It would be a serious allegation against the person who appointed him. I think, the Minister responsible has said that, that is nonsense and that is not the purpose for his appointment. He said in good faith that he is competent. Why do we have to dwell on it?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I think, this man who used to be a policeman is not a good Member of Parliament---

**Mr. Deputy Speaker:** Mr. Sumbeiywo, are you sure that you have a worthy point of order?

**The Assistant Minister for Lands and Settlement** (Mr. Sumbeiywo): On a point of order, Mr. Deputy Speaker, Sir. I agree that the hon. Minister has said that his PS is competent. But the Minister is not the person who appointed the PS and so, it means the person who appointed the PS also knew that this man was going to print money.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, you can excuse the Member because he recently won a by-election and he needs a few lessons from hon. Shikuku. He cannot follow that ruling of the Chair immediately. However, all I am saying is that the Minister for Finance is asking us to give him a blank cheque on this Bill and that is what we are against. As regards what we have given him, for example, in the Budget, he and officers have not used this discretion.

**The Assistant Minister, Office of the Vice-President and Ministry of planning and National Development** (Mr. Nooru): On a point of order, Mr. Deputy Speaker, Sir. This Bill is very brief and clear and many Members have dwelt on it thoroughly. Would I then be in order to ask that the Mover be called upon to reply?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I am the Official Respondent from the Opposition and Parliament practices demand---

**Mr. Deputy Speaker:** Are you the Official Respondent from the Opposition?

**Mr. Obwocha:** Yes, I am the shadow Minister for Finance from the Opposition. In fact, I am the small Mudavadi.

**Mr. Deputy Speaker:** On that understanding, I will defer the Question. I would rather put it after the Official Respondent has finished what he is saying. That will make your case much stronger.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, some of these Members need to be educated a bit about Parliamentary practices. The day after tomorrow, Tony Blair is going to be Prime Minister of the United Kingdom. So, you should know that next time, you will be on this side and I will be on the other side.

**Mr. Achieng-Oneko:** On a point of order, Mr. Deputy Speaker, Sir. Could the defenders of the faith leave our Finance Minister to explain what is going on in that particular Bill because we are listening very attentively.

**Mr. Obwocha:** That is the voice of a nationalist that is defending us. We are appealing to the Minister for Finance not to misuse this blank cheque, substantively, the issue I raised about that circular of Kshs4 billion that has been given out. He should explain how this has come about and we will raise it when the Appropriation Bill is brought here. In one quarter he promises to use Kshs1.8 billion and in another quarter he proposes to use K£400 million, which is Kshs4 billion.

I would also like to register---

**The Assistant Minister, Office of the President** (Mr. Shamalla): On a point of order, Mr. Deputy Speaker, Sir. Hon. Obwocha has said that K£400 million is equivalent to Kshs4 billion. That is not correct.

**Mr. Obwocha:** I am sorry, I meant to say K£200 million. The circular is here.

Mr. Deputy Speaker, Sir, if I could add, financial management in this country needs to be improved from the levels of Government officers. Now, there is a problem when the Minister for Finance goes ahead and reduces, for example, the whole budget of development programmes that are being funded by IFAD in the whole of Western Kenya. The impression we get is that the Government is unable to raise the 10 per cent required by these donors so that they can undertake these projects.

The manner in which the Supplementary Estimates were brought here was very irregular and we would have queried some of the things contained there, but the Minister went round the whole issue. If we are going to believe him, and I am sure he is a straight forward man, then he must change his style. He should not at any one time be

corrupted by some of these Ministers who sit with him on the same bench.

**The Assistant Minister, Office of the President** (Mr. Shamalla): On a point of order, Mr. Deputy Speaker, Sir. The House discussed and approved Supplementary Estimates last week. Where was this shadow Finance Minister? We are discussing the Customs and Excise Bill, not the Supplementary Estimates. If the hon. Member has no further contributions, could the Mover be called upon to reply?

**Mr. Deputy Speaker:** Mr. Obwocha, I think that does really strengthen the case. If the matter was discussed only last week and you are reverting to it, it means you have nothing more to say.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I am talking about financial management.

**Mr. Deputy Speaker:** Keep to the Bill.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I would also like to touch on one or two things on financial management. Now, when we are told that the rates of maize, wheat, sugar, milk, rice and beans need to be varied, there is one issue that comes up which the Minister for Finance and the Government must address. There are parastatals in charge of these various products or goods and most of these parastatals' accounts are in arrears to the tune of four to five years. If you revisit what the Public Investments Committee is doing at the moment, they are debating some of the published accounts of some of these parastatals that date back to 1991, 1992 and so on. The latest report is for 1993. Now, in our laws, there are certain limits that are set in the various Acts of these parastatals, for example, the National Cereals and Produce Board, the Coffee Board and so on. Why does the Minister not enforce those regulations relating to the submission of their accounts? It is even worse in the Ministry of Local Government. The accounts of some of those local authorities are non-existent.

I would like to finish up by saying that what we require in this country are not only the reforms that are being asked for by the people of this country in terms of legal, constitution or administrative reforms, but a good economy. We need to look at what the people of Kenya are asking for at the moment. If we do not address ourselves to these issues, then we are bound to experience a situation similar to that of Zaire which I am sure the Kenya Broadcasting Corporation--- They are always telling us the opposite of what is happening there. At the moment, Laurent Kabila is getting nearer the dictator called Mobutu---

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order, Mr. Deputy Speaker, Sir. I would like to refer to Standing Order No.87. Mr. Deputy Speaker, Sir, are you satisfied that the hon. Member on the Floor is not violating that Standing Order by being irrelevant and repetitive?

**Mr. Obwocha:** I have just said that I am winding up my contribution. If you do not address yourself to constitutional and the administrative reforms, then Kenya will be like Zaire. I am saying that KBC is always telling us that Mobutu is supposed to meet Laurent Kabila somewhere in the forest, but the man is getting nearer to the dictator. If you do not take what we are saying here seriously, you will be in a situation similar to that of Zaire.

With those remarks, I beg to oppose.

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

**The Minister for Finance** (Mr. Mudavadi): Thank you, Mr. Deputy Speaker, Sir. I just want to first of all acknowledge comments that have been made by various Members on issues relating to this Bill and indeed, matters relating to the Customs and Excise Act in general, and to highlight just one or two points about this Bill which seemed to have been lost in the discussion.

First and foremost, I think it should be very clear that I am not seeking a blank cheque. The Ministry for Finance is not in any way seeking a blank cheque by having brought this proposed amendment here. This request and the issues that are being proposed here are for very specific periods and this is when there has been a declaration of a national disaster, a strife or something of that nature. Mr. Deputy Speaker, Sir, so, it is not an amendment which provides for a situation that will prevail throughout the year. It must come only under very specific situations, that is when this law can be applied. So, I think it is there. Even if you look at the Memorandum and Objects and the reasons for this, it states why. Even within the main Object of the Bill, it says that: For the time being it deals with a situation of calamity and disaster. It is not under all normal situations. It is right there in the same Bill the hon. Martin Shikuku is holding. So, I just wanted to clarify this point because the impression being created is that--

**Mr. Shikuku:** On a point of order, Mr. Deputy Speaker, Sir. With the little experience I have had in this House since 1963, when you talk of the Aims and Objects in a Memorandum, that is not law. What is law and what would become law is found on page 1 of that Bill. Now, in that Bill there is no specified period. It does not talk of temporary. That is what is going to become law and that is why we are asking him to bring an amendment at the Committee stage to restrict it to six months which is stated in his earlier special gazette notice.

**The Minister for Finance** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I think if the hon. Member will read, and I would like to draw his attention to the same Bill that he is holding. It says:-

"Notwithstanding the provisions of Sub-section I, the Minister may by order in the gazette decrease the rates of duty on maize, wheat, sugar, milk or rice by any amount during periods of civil strife, national disaster or calamity declared under any written law for the time being in force, and may upon the revocation of the declaration, increase the rates of duty by such amounts as may be necessary to restore the rates prevailing immediately before the declaration".

So, the point I am trying to put across here is that, in the gazette notice which I issued in conjunction with this Bill, I put a date which says that this order shall hold until 30th June, 1997. Now why we cannot legislate directly for a situation of civil strife or disaster is because sometimes you may not be sure for how long such a problem will prevail. For instance, if the rains had not come, then it would have been superfluous for me to say that I can legally legislate for a short time. But the situation is that, if the law provides for somebody to review and if we now know that we are out of danger, we simply revoke the gazette notice which is there until 30th June. So, I think, it is a point that needs to come out clearly because the impression has been that it is a free for all.

Mr. Deputy Speaker, Sir, I however take note of the points raised on issues that could have detrimental impact on our industry such as sugar. We need to delete this from the Bill and I have taken that in good spirit and definitely we will look at it, at the Committee Stage when we shall be looking at possible adjustments that have emanated from the views expressed by the Members in this House.

Equally, Mr. Deputy Speaker, Sir, I would like to state that it was necessary to have it because it would be superfluous for me to pretend that the Government could afford all the food requirements through importation into this country. No Government can pretend that it can feed its people solely without taking into account that there is need and there are budgetary requirements that must also deal with other aspects of the economy, for example, health, education, infrastructure and so forth.

Now, the reason why I brought this proposal, made it public and brought it to the Floor of this House was for everybody to know that we are seeking this because we are in a crisis and we want the private sector to also come in and help in bringing in grain to support Kenyans who are in need of food. But to say that the Government can be the sole importer of food is not correct, it is not affordable and we would not be able to have enough resources to import the food requirements of this country. Therefore, we have to supplement and compliment each other in the sense that the Government can do part of it, and the private sector, Non Governmental Organizations and other charitable bodies should also play a role in helping with the feeding of our people.

**Mr. Shikuku:** Will that stop them from increasing prices?

**The Minister for Finance** (Mr. Mudavadi): Well, presumably here, the idea is that in a situation of shortage, definitely the prices will go up. But I would like to point out that for the time being, the situation is that prices are beginning to show a somewhat downward trend and, hopefully, this will ease off once our own stocks start coming fully into the market.

Mr. Deputy Speaker, Sir, the other thing that I would like to point out is that, in the legal gazette notice that I issued, I also pointed out that issues that related to imports of things like milk was only in relation to that which would be for free distribution. But as I speak now, we have not allowed any commercial imports of milk on a duty-free basis. That is very clear and I would like the public to know that no milk has come in on a duty-free basis and so far, we have not received any milk products that have come in for free distribution or donation as we had proposed. What has come in largely is the maize, some rice and a little bit of wheat. But things like milk, we have not seen at all. Even sugar has not come in at all for free distribution by anybody and I would like to highlight that we will not allow any sugar coming in for free distribution. I have an interest both in terms of making sure that industry in this country grows and also bearing in mind that I come from a sugar growing zone.

Mr. Deputy Speaker, Sir, I would like to highlight here that the biggest problem we have been facing with the sugar industry at the moment is the diversion of transit goods. Recently we gazetted very stringent rules on the question of how to ferry transit goods from the Port of Mombasa destined for other countries. I would like to highlight here that indeed, we have already put a lot of people in a quagmire; the people who had imported sugar saying that it is destined for certain countries. Right now that sugar is held in Mombasa because we are demanding cash bonds. Nothing less than a cash bond will allow the release of the sugar that we know is there. This has sent a very strong message that if somebody is indeed a genuine importer or dealer, he would not have hesitated or had difficulties in raising the bond as required. But those who are having difficulties in raising the bond are most likely those who have been perpetrating the issue of diversion of sugar.

Mr. Deputy Speaker, Sir, I would equally like to take this opportunity to send a very strong message to insurance companies that have been involved in this issue of issuing bonds. Because, there is clear collusion between some insurance companies and some customs people and also some traders. The bonds they are issuing are either

invalid or some of the insurance companies do not know what some of their junior officers are signing off or perhaps they are directly involved. We have called for insurance bonds for about 11 companies from a number of insurance companies and we hope that they will come out clearly. Either they pay for the goods for having issued the bonds and if those bonds are fake, then they have to prove that indeed they were forged. Otherwise, the message we are sending is that, we do not want to have this diversion of transit goods which is causing havoc to some sectors of our economy.

Mr. Deputy Speaker, Sir, the point I am trying to put across is that this was a very unfortunate situation. We were faced by a national disaster, our people required food and we needed the concerted effort of all parties - the Government, the private sector, the NGOs and so forth, to help us in dealing with the crisis - in anticipation that the weather would turn in our favour. Indeed, so far, it seems that this has happened. So, we hope that this will not prolong the shortage of food that we have been having. We must also acknowledge that what has been planted cannot come out of the soil immediately. We need some little time for the crops to come out and for people to start harvesting, then we can know that things are in order.

The other issue which I would also like to point out is in the area of the National Cereals and Produce Board. Right now, the Government is commercialising this Corporation, so that it can operate on commercial principles. Those who have been following the audited accounts of the NCPB over the years, and particularly on how they have been relating to the impact on overall Government expenditure and the implications on the Budget deficit, will know that for a long time NCPB has been doing a lot of haemorrhage to the overall Government position and we want it to be converted into a commercially oriented institution, so that its operations will not have such serious implications on our Government expenditure or the Budget that we normally bring to this House. So, it is important that when we talk about the NCPB and how it handles grain, we quickly focus on ensuring that it will operate on commercial principles without causing haemorrhage on our overall national resources.

With these few remarks, I beg to reply.

*(Question put and agreed to)*

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

*Second Reading*

#### THE RETIREMENT BENEFITS BILL

**The Minister for Finance** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to move that The Retirement Benefits Bill be read a Second Time.

Mr. Deputy Speaker, Sir, I would like to take some time to highlight why we are bringing this Bill before Parliament for deliberation. The purpose of this Bill is really to extend the on-going restructuring of the financial and capital markets reforms in the economy in order to promote savings and also to protect retirees. This legislation will provide for the establishment of a regulatory authority to oversee the operations of the Retirement Benefits Schemes in the country. This will include, registration, regulation and supervision of their operations. I would like to point out that Kenya has a relatively large number of private pension schemes already in place, including the National Social Security Fund which provide and determine benefits to employees mainly in the private sector.

Equally, it is important for the House to know that all these benefit schemes have assets which are estimated in totality to amount to nearly 21 per cent of our Gross Domestic Product. That is 21 per cent of our GDP is literally in the hands of all these pension funds and authorities.

Mr. Deputy Speaker, Sir, such an amount of money clearly is the kind of resource that Parliament must be able to legislate and regulate and know that it is in good hands. This, in a way, perhaps even relates to the issues that we handled earlier through the Kenya National Assurance Company and the implications when such pension funds are not protected adequately.

The other thing which I would like to point out is that this Bill, in trying to encourage savings, is also bringing out the recognition that we cannot continue relying on official development assistance from outside our own resources because this is rapidly dwindling. Official aid flows are on the decline and, therefore, we need to look at other ways and means of generating resources which can then---

#### QUORUM

**P.N. Ndwiga:** On a point of order, Mr. Deputy Speaker, Sir. I do not want to interrupt the Minister. But it



appears that he is moving a very important Bill without a quorum in the House. I am told that hon. Members are preparing for the meeting which will be held at Kamukunji on Saturday.

**Mr. Deputy Speaker:** I have confirmed that there is no Quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**Mr. Deputy Speaker:** We have a quorum now. You may continue, Mr. Mudavadi.

**The Minister for Finance** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, now that we are all here and we may have vested interests on matters of pension, let me proceed.

As I was saying, because the official foreign assistance is rapidly dwindling, it has become necessary to start looking for ways of mobilising our savings level and increasing it. Right now as we speak, it is only 19 per cent of GDP. But for us to have a serious impact, we must be able to enhance our savings to a level of about 30 per cent of GDP, so that we can know that sufficient resources are being mobilised locally.

The other thing that comes out clearly after giving that preamble is that our country has no consistent set of rules and regulations at the moment, to ensure that pension funds are managed prudently, and in a professional manner, to enhance the value and provide security to pensioners funds. Some of these funds, for instance, are at the moment regulated under the Insurance Act, while others are partly regulated under the Income Tax Act. But neither of these laws focuses on prudent management of these funds. They are more concerned with the compliance to the Insurance Act and the Income Tax Act. We are sure that there are many instances where these funds have been abused, and retired workers have had to wait for several years before they can be paid their retirement benefits. Worse still, sometimes, they even do not get anything at all. So, this is a situation which we need to arrest very urgently.

The other thing is that with the lack of security for pensioner's funds, what has been happening is that workers are discouraged from subscribing from such retirement schemes, and have instead chosen to put their resources in things like real estate, which at the end of the day, may not provide sufficient resources within the economy, to help substantial economic growth. It is as a result of this that we think that it is now necessary that a very clear Authority is put in place to govern the operations of the pensions and retirement benefits sector. The Authority, as proposed, will govern all retirement benefits schemes under one regulatory and supervisory body. It will also ensure healthy competition in the sector by providing a level playing field for the various schemes.

The proposed framework will ensure that the sector is managed for the benefit of pensioners, sponsors and the entire economy, and it will have the following functions:

- (1) To promote orderly development of the retirement benefit schemes.
- (2) To protect interest of the members and sponsors of retirement benefit schemes.
- (3) To regulate and supervisor retirement benefit schemes.
- (4) To ensure that retirement benefit schemes are established and managed in accordance with this Act.
- (5) To ensure that the schemes are fully funded and retirees are paid on time.
- (6) To ensure separation of employers' or sponsors' businesses with the schemes' funds.

The classic example is the Kenya National Assurance Pensions Scheme that was for the employees, where one could see clearly that the employer did not separate the pensions funds from the company's funds. This is part of the problem that we are facing now.

This Bill also highlights that we will want a Board composed of seven members, five of whom will be from the private sector, and only two, basically, the Permanent Secretary, Treasury, and the Chief Executive, are the ones who will be appointed by the government. But we want the rest to come from the private sector. We are also very specific here, that the Board members that we are putting in place must be people who are qualified in aspects like law, business, administration, retirement benefits, insurance, finance and curial matters. I am sure that some of those are workers.

Mr. Deputy Speaker, Sir, the other thing that we are also bringing out is that we want the Board to be appointed for a target term of four years, and no member of the Board should serve for more than two terms. We think that this is absolutely essential so that we do not have a Board where people overstay their welcome, and at the end of the day, they are no longer making any further meaningful contribution to a Board of this nature.

The functions of the Board will be: Drawing out the policies for the development and the regulation of the retirement benefit schemes, monitoring the performance of the Authority, reviewing the administrative policy of the Authority including personnel arrangements and the budget. Also, the Authority is expected to operate as an autonomous body, and it will be expected to consult with the Minister for Finance on a continuous basis.

Equally, we are making very clear rules that contributors for this scheme will be protected through regulation and supervision of trustees, custodians, managers and administrators of schemes, and they will be required to report regularly to the Authority, so that there is no way we would have any individual pension scheme, where the managers

can do whatever they want. They must be able to report their operations to the Authority.

Equally, the sponsors' interests will be safeguarded by ensuring that the scheme's funds are prudently invested and accounted for. This is very important because we want to make sure that workers are not subjected to any losses, if these resources are not invested in areas that will yield the necessary results. I think this is a very important indication that we want to bring direction in the area of the pension funds.

Initially, the Authority will be funded from public resources, but subsequently, we would like it to raise its resources from levies and fees from the various pensions or retirement schemes that will be there.

Equally, the Authority will be audited by the Controller and Auditor-General, and we would want the report tabled in Parliament so that this Parliament can always know what is happening within this particular Authority. We are also providing a mechanism to ensure fair play and accountability on the decisions of the Authority in the sense that there will be an Appeals Tribunal, so that if for any reason, there is an aggrieved party, they can seek redress through a Tribunal under the Pensions Authority. This should be chaired by an advocate of the High Court who should have no less than seven years of experience in matters that relate to law.

Also, the Bill provides for a transitionary period where we do not want to cause a shock in the economy. We are providing a transitionary period for all pension funds that exist today, to be given some time to comply with this law. That is being provided for in the Act. This is because as things stand now, once this law is in place, we also hope that pensioners will have the freedom to put their resources to a fund of their own choice, and not necessarily to be forced into any given area. That would require some adjustments.

Mr. Deputy Speaker, Sir, I think this is a very positive Bill. It seeks to try and address a problem that we have all been facing, and I would also like to highlight that this Bill does not in any way, take over the role of National Social Security Fund (NSSF). The NSSF will now operate as a pension fund subject to the discussion of the NSSF Bill as well. It will be a fund just like all other funds that are operating in the economy. This is purely a regulatory body covering all such funds without any exceptions, so that at the end of the day, this Bill will also be the one to guide the investment policies and the regulations that all of them, whether it is Backlay Trust Fund or NSSF, will be complying with. I think this should bring greater confidence in this area which has been suffering lately in terms of public confidence.

I would also like to point out that this is a matter which we need to take extremely seriously. This is because the issue of pensions, if not followed very carefully, can become extremely explosive. Even in Albania, amongst other issues, one of the biggest contributors to the situation of distress there, was the collapse of the pension funds in that particular country. This definitely fomented a lot of resentment from the people there.

So, it is important that we act now to safeguard all these pension funds and to make sure that the funds contributed by members will be available when they are required, and they will be invested prudently.

With these few remarks, I beg to move.

**The Minister for Labour and Manpower Development** (Mr. Masinde): Mr. Deputy Speaker, Sir, I rise to second this Bill. This is a very important Bill, especially to the workers in this country. Many workers have not been covered by any scheme to make them feel secure especially when retiring.

Mr. Deputy Speaker, this Bill also opens the way probably for liberalisation. Let many other employers, with their employees, set up some pensions schemes to be sure that when an employee has spent most of his time working, at the old age, he should leave employment knowing that he can still afford to earn his bread and have tea with milk for his children, probably until he dies.

Mr. Deputy Speaker, Sir, we know that many companies in this country have got their own private pension schemes. Many of them are contributory and others are non-contributory, but more often than not, the terms governing these schemes are probably drawn up by the employer without any consultation with the employees. In this respect, when there is a problem in the scheme, then the employee hardly has anything to say although he may stand to lose his money. On many occasions, we have had of schemes like insurances, even some of these retirements or pensions schemes collapsing, and when the company which is running these schemes collapses then it means that the employee has no redress. He has nowhere to go to appeal to get his money back and so on.

Mr. Deputy Speaker, Sir, I think it is a good thing that this Bill is being introduced here and we hope that this Bill will regulate the running of these schemes and make sure that they supervise the running and management of these schemes. The Retirement Benefits Authority will also give the power to the members of the Board to act against any of the retirement schemes that is probably running contrary to the interests of the workers and all those that should enjoy these pension schemes.

Mr. Deputy Speaker, Sir, the Authority will also have the power probably to remove any managing director of this sort of scheme who is mismanaging the scheme and place somebody there temporarily to look after the affairs of the scheme in the same way the Governor of the Central Bank does to the private banks that fail to follow the established norms.

Mr. Deputy Speaker, Sir, I would like to stress a point here that the role of the Authority should be basically supervisory. The day-to-day management should be left to individuals and individual pension schemes should draw their own administrative procedures and be allowed to manage their schemes without undue interference. This is important to be done, otherwise, it will begin discouraging the companies that have already established pension schemes.

Mr. Deputy Speaker, Sir, I also hope that the Authority will treat all the schemes equally and not differentiate one from the other. Each scheme should be treated in respect to its performance. If it is performing in accordance with its own regulations, it should be left to run its affairs without any interference.

Mr. Deputy Speaker, Sir, we have established pension schemes already in the Government; local Government, NSSF and other private schemes. However, the Government, at least, when salaries are increased, a Motion is usually brought here for debate and increase retirement benefits for retirees of the public sector. I think this also should happen to the private enterprises which are running these retirement schemes. For example, I am a retired officer from the private sector. It is ten years since I retired and there has never been any change in my retirement benefits. I think the companies that have established retirement or pension schemes should consider, from time to time, that what may have been enough for a retiree 10 to 15 years ago, is not sufficient at the moment, and they should accordingly look into the question of revising the retirement benefits the way the Government does.

Mr. Deputy Speaker, Sir, the other thing is the promptness of payments of these retirement benefits. In many existing retirement schemes, especially the Government, the civil servants are told when they are going to retire a year in advance. When the time comes for them to retire, they spend, perhaps, a year or two before they are given their retirement benefits. In this respect, we are driving the retirees to their graves before their time because we give them extra worries. Here is a retiree who is used to taking some tea with milk and bread to his children when going to school. He has retired and is himself used to having a cup of tea in the morning and so on. Having been given a year's notice, we expect that the files of these people, even if they are working in the countryside, are brought to the headquarters, processed and anybody retiring should start earning retirement benefits within the first month of his retirement time. Unfortunately, this is not what is happening. I know we used to have a similar problem with the NSSF, but I am happy to say that the situation has drastically changed and we are able to pay any retiree who makes his claim properly within 30 days from last date of his working.

So, Mr. Deputy Speaker, Sir, I appeal to the Government and I am sure that the Treasury would be quite happy, to manage the payments in time. But the problems will arise from other Ministries. The other Ministries have to send the details from the work station of the retiree to the Treasury. First of all to the headquarters in Nairobi and then the headquarters has to send the details to the Treasury and these delays take a year and over. I feel that this is completely undue delay. And if other Ministries have any problems within this issue, then I suggest that the Ministry of Finance should send somebody to every province to be processing the retirement benefits of all the retirees in a particular province. This can go a long way in improving efficiency in the payment of their benefits without having to cause undue suffering to the retirees.

Mr. Deputy Speaker, Sir, I would like to emphasise that the Board members of the Retirement Benefits Authority should work in close liaison with the other people who are running other retirement schemes. If possible, they should get explanations of what is happening in these particular areas without unduly having to jump to conclusions and taking over the management of the retirements schemes to which, in fact, they contribute nothing as a Board of the Retirement Benefits Authority.

Mr. Deputy Speaker, Sir, since this is going to be followed by amendments to the National Social Security Fund, I would not like to say much in that respect but with those few remarks, I just second the Bill.

*(Question proposed)*

**Mr. Muite:** Mr. Deputy Speaker, Sir, may I first of all take this opportunity to extend a very sincere invitation to all the hon. Members on the other side to come on Saturday to Kamukunji Grounds and attend the convention of the public rally which is taking place there. Hon. Makau is also invited. Please bring the KBC.

*(Laughter)*

Mr. Deputy Speaker, Sir, this Bill has the same structural weaknesses as afflict the current National Social Security Fund (NSSF). The same policy weaknesses are inherent in the proposed Bill. The real reason for these structural inherent weaknesses is that this Government has never made a distinction between regulation and control. Regulation is not a concept which this Government is aware of. Or if they are aware of it, then they do not have the political will to let go of control of institutions. They do not have the political will to let go of control of the economy.

So, what appears to be happening in this country, as far as this Government is concerned, it appears as if this Government is being run from Washington and New York. It is being run by the World Bank and the International Monetary Fund (IMF). That is, whatever they are told to do; whatever piece of legislation they are told to enact, they attempt to enact them not because they want to achieve any particular objectives for the betterment of the economy of this country but because they want to appear to be doing all that the World Bank and the IMF are telling them to do. So, they come to this House with cosmetic pieces of legislation intended to make or give the appearance that they are doing all that the World Bank wants them to do while in actual practice, in terms of substance, they are not letting go; they are not moving whatsoever.

Mr. Deputy Speaker, Sir, so these are legislations that are intended for the appeasement of the World Bank rather than structurally changing the management of the economy or the institutions in this country. If one looks at Clause 6 for example of this Bill, it states:

"The management of the Authority shall vest in a board of the directors of the Authority which shall comprise (a) a chairman to be appointed by the Ministry."

The Minister here is a hand-picked appointee of the Chief Executive of this country and if he gets out of step, even once slightly, then he will not be the Minister for Finance the following day. He will be sacked. So, he has to implement and carry on the wishes of the Chief Executive. We know that because of the support he enjoys from the World Bank and the IMF, he has achieved some measure of good. That I concede. But he is on a very short leash from the Chief Executive. Even he cannot implement all the reforms he would otherwise wish to implement. He must first of all go and kneel down and sell them to the Chief Executive and only what the Chief Executive will permit is what the Minister is able to bring to this House.

Mr. Deputy Speaker, Sir, when Clause 6 provides that the Chairman is to be appointed by the Minister, this Minister, I submit, is not in a position to appoint anyone unless that name has been given by the Chief Executive. It means, therefore, that the Chairman of the Authority will not be able to act independently in the best interests of the people who are making contributions for these retirement benefits. He is answerable and he will be an errand boy of the Minister and in turn the Minister knows that he must carry out the wishes of the Chief Executive. So, what are we likely to achieve? This Authority is not going to have the autonomy, authority and the independence which it ought to have if it is going to achieve the objectives that the Minister is suggesting this Bill is intended to achieve.

Mr. Deputy Speaker, Sir, that is not all. The Chief Executive Officer will be appointed under Section 11 of the Bill and when you look at Section 11, it states:

"There shall be a Chief Executive Officer who shall be appointed by the Board in consultation with the Minister."

If the Board before it can appoint a Chief Executive must consult with the Minister, then this is a play with words and language. What it means is that the Chief Executive Officer will be an appointee of the Minister and in turn the Minister cannot appoint a Chief Executive Officer unless the Chief Executive Officer in the country has given that name. So, we have the same situation of going round in circles. These important positions are going to be filled with politically-correct, political rejects, inefficient people who do not know what they are doing; the same ones who have through corruption run down Kenya National Assurance and other parastatals.

How is this Authority going to be different from other authorities which have been ruined by this Government through incompetence and corruption? The Board of Directors itself, includes the Permanent Secretary in the Ministry of Finance. Again, who appoints this Permanent Secretary? It is the Chief Executive. The others are five members, not being public officers appointed by the Minister by virtue of their knowledge or experience in matters relating to the administration of scheme funds, insurance, law or actuarial studies.

Mr. Deputy Speaker, Sir, when you look at the composition of the Board, the Board again is hand-picked by the Minister. Is this the sort of Authority that can be entrusted to manage a very wide and heavy portfolio of millions and millions of workers' money? What track record does this Government have of managing workers' money? The only track record it has is through the National Social Security Fund (NSSF), and we know what has happened. This is money contributed compulsorily. What is very painful to many of us, as far as NSSF is concerned, is that the watchmen we employ to guard our houses, each one of us is obliged to deduct some amount of money from their salaries. We are also obliged to deduct money from the salaries that are given to the messengers in the offices. We are obliged to deduct money from the salaries we give even to the drivers, the most disadvantaged members of the society and this money is paid to the NSSF. This is the money that is accessed by this Government, by politicians and by "sons" of some of the most powerful politicians in this country. Many examples have been given of how these politically-correct, including the "sons" of the Chief Executive, they will go and identify a plot which is worth Kshs5 million and buy it. Then they would rush to the NSSF and because the Chairman and the Chief Executive are "errand boys" of the powers that be in this country, NSSF is then ordered to buy that plot, which on open market value is worth not more than Kshs5 million; but NSSF will be ordered to buy it at Kshs40-50 million. So, in one day, there are

Kenyans here making profits of Kshs40 million, while the rest of the country is deep in poverty. They cannot even have one square meal and this is money which is being stolen from these watchmen, messengers and drivers. This is the most painful aspect of it.

Mr. Deputy Speaker, Sir, the Government record in running NSSF is abhorring or a disgrace and, as if that is not enough, the Government is now trying to access even wider funds by providing that even private companies, the banks in this country, for example, have been running on behalf of their employees very successful retirements benefits which are beyond the control of this Government at the moment. The insurance companies have been running retirement benefits on behalf of their employees. Major companies have been running very successful retirement benefits without the assistance of the Government.

This Bill is not intended to regulate those pension schemes which have been running well. This Bill is intended to give this Government access to that money so that they can decide where that money is going to be invested and with which politically-correct banks. A time is going to come in this nation, let them not think that they are going to get away with the money they have stolen from NSSF and other financial institutions. As we speak here, in my own Kikuyu Constituency, there are old men and women who are dying before their time. I know that this is happening across the entire country. You will get Kenyans who, on attaining the age 60 or 70 years, start suffering from high blood pressure or diabetes. When these Kenyans go to Kenya National Hospital (KNH), or any other Government hospital, they cannot get drugs, and yet they cannot afford drugs in private pharmacies because of their cost. Many are the times when I am told by these people, when they come to see me in my constituency office, that they now wait for disease to leave their bodies, because there are no drugs in Government hospitals and they cannot afford them elsewhere.

Mr. Deputy Speaker, Sir, it is a fact that there are many Kenyans who are losing their lives before their time for death arrives. If our hospital system was properly funded, those people would live an extra five, 10, or 15 years. They are dying pre-maturely. And who is killing them? I submit that the people who are killing them - and they are no different from murderers who take guns and shoot people - are this Government. They are the people who facilitate corruption in this country. So, why should we not, when the time arises in this country, try those individuals for murder? The direct consequence of their plundering of the economy, corruption and stealing is premature deaths of these people. Why should we not try and hold them responsible for the loss of these lives? Indeed, when they are found guilty, as they will be--- These crimes are so enormous that the offences which are created by the Penal Code - and you, Mr. Deputy Speaker, and I know them--- What the Government is doing is so outrageous and momentous that the Penal Code was never intended for these sort of crimes.

**Dr. Kituyi:** On point of information, Mr. Deputy Speaker, Sir. I wish to inform hon. Muite that it is because of the outrageous nature of the crimes that some of the leaders in this Government have committed that the Labour shadow Minister for Overseas Aid, Ms Clare Short, has described one of the leaders in this country as one of the only two political dinosaurs remaining in Africa, the other one being Mr. Mobutu.

**Mr. Muite:** Mr. Deputy Speaker, Sir, I am grateful for that piece of information, and this Government should listen very carefully to this sort of information.

As I said, the offences in the Penal Code are not adequate to deal with the offences being committed by this Government. Those committing them will be tried for crimes against humanity. We will establish a truth commission, and they will be tried for crimes against humanity. And if they are found guilty, as they will--- Those to be tried will include one of somebody's sons, whose record is a matter of public notoriety. The law is very clear that if one is found guilty he must be hanged - I do not intend to frighten hon. Munyi - by the neck with a rob until he is dead. We shall see to it that, that aspect of the law is complied with.

Clause 18, which is on page 97 of the Bill, is on investments of funds of the Authority. It provides:-  
"The Authority may invest any of its funds in securities which for the time being trustees may by law invest trust funds----"

If there was a full stop to that clause then we might begin to get pleasantly surprised by thinking that there is some sincerity on the part of this Government. But what do we find instead of a full stop? This Government has perfected the art of taking with the left hand what it gives with the right hand. The Trustee Act is a good piece of legislation. It specifies the blue chip securities that are secure and are unlikely to jeopardise the trust investment. But this Government is not content with the Trustee Act. It goes on to say: "Or any other security which the Treasury, may from time to time approve." When we talk about Treasury, we are talking about the Minister of Finance. "Securities which the Minister may from time to time approve". We know the sort of securities the Minister is going to approve. The Minister is going to approve Transnational Bank and other "politically correct" institutions. He is not going to work in the best interest of the contributors of this Fund. This money is intended to be accessed in order for it---

**The Minister for Finance (Mr. Mudavadi):** On a point of order, Mr. Deputy Speaker, Sir. I would just like to make a correction here. I think the hon. Member should distinguish between---These are the funds that manage the

Pension Authority. We are not talking of the fund of the individual retirement pension schemes. I think there is a distinction. So, I hope the hon. Member will realise that he is got it wrong and he is misleading the House because the impression being created is that the funds we are talking about here are the funds that belong to those schemes. No, not at all.

**Mr. Muite:** Mr. Deputy Speaker, Sir, I am reading the Bill as it is drafted here. It says: "Or in any other security which the Treasury may from time to time approve."

**The Minister for Finance** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, but at the same time, besides that, it says: "Investment of funds of the Authority", not investment of funds of the pension schemes.

**Mr. Muite:** Mr. Deputy Speaker, Sir, we are coming to that. I have gone carefully through the Bill, if the Minister gives me the opportunity to go through it. There can be no doubt whatsoever that the intention of this Government is to access this money. They are not content with the National Social Security Fund (NSSF) money alone. They now want to access the money of the employees of the Kenya Breweries Limited, banks, insurance companies, my own employees and everybody. You want to force me to take that money to a particular scheme which is approved by the Minister and then the Minister has got the power to direct. In fact, it is worse, it is not just the monies of the Authority. Even that you do not want the Authorities to have a free hand in the investment. You are telling the Authority to go and invest its own money where the Minister directs them.

But if one looks at Clause 22 - Part 2 - Registration of Retiring Benefits Schemes and Managers, page 199. It reads:

"No person shall establish a retirement benefits scheme, except in accordance with the provisions of this Act and under the authority of a certificate issued under this Act."

So, if I want to establish a retirement benefit scheme for my own employees in my own company, now you want to control that. This is not regulation, this is control. When one looks at Clause 32(3) page 204, it reads:

"Subject to the provisions of this Act, the Minister may, in consultation with the Authority, make regulations with regard to the funding, vesting, management, application and the transfer of scheme funds and the accounting for such funds."

This is absolute control, not regulation, and the Minister will be able to direct where these should go to. As of now, the Minister is able to direct the NSSF as to where they should take the workers' money. There are examples currently of how this is abused. As I said, this Government is notorious with the art of taking away with the right hand what they have given with the left hand. Take the case of the National Bank of Kenya, which we were told was being privatised. I would like to pay tribute here to the very able officers who are running that bank.

*[Mr. Deputy Speaker left the Chair]*

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

The Chief Executive is one of the best that you can get anywhere in the world. So is the General Manager. There are also many other first class managers, who have been able to run that bank very well and effectively on commercial basis. I pray tribute to them.

Just like I do, to a certain extent the Minister for Finance and the Governor of Central Bank, should examine the privatisation of national banks. The Government says that it was selling its majority share-holding in national banks. What happened? The National Social Security Fund (NSSF) has taken up 40 per cent of those shares. So, NSSF owns 40 per cent of national banks and the balance of 20 per cent is still being held by the Government. So, 60 per cent of the share-holding is directly controlled by the Government.

**Mr. Mulusya:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform hon. Muite that over and above the 40 per cent shares owned by NSSF in the National Bank of Kenya, NSSF has given loans to the National Bank of Kenya to the tune of more than Kshs3 billion which National Bank of Kenya is unable to pay back. The National Social Security Fund is not allowed to convert that into equity today. So, NSSF would be owning more than 50 per cent, if it was allowed to convert that money into equity.

**Mr. Muite:** So, Mr. Temporary Deputy Speaker, Sir, this is the privatisation that this Government is talking about. They are determined to continue clinging to what they have, and as if that is not enough, instead of these building structures purely to be confined to regulations, it is controlled. They want to access the money or retirement benefits of each and every person in this country and to direct when and how those funds are going to be invested. This is absolutely dangerous; this is not liberalisation. This is a Government that is determined to control the entire money in this country. Currently, the interest rates are as high as they are because this Government has insatiable

appetite in accessing to all the available money. It is borrowing internally. As of today, Treasury Bills are in excess of Kshs100 billion, and I pause to give an opportunity to the Minister for Finance to say that I am wrong.

**Mr. Otieno:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The figure of Kshs100 billion appears excessive. The last one I saw was Kshs87 billion. Can the hon. Member substantiate?

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, the figure was Kshs87 billion, but it has gone up to over Kshs100 billion. I challenge the Minister for Finance to bring documents here to show that, that is not true.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think that I need to bring any documents here. It is true that our Treasury Bills level have gone very high and the figure of Kshs100 billion is very correct and factual. So, there is nothing that I can hide about that. It is a public affair and it will appear even in the normal quarterly report of the Central Bank. The stock of Treasury Bills is at a certain level close to Kshs100 billion. So, there is nothing strange about what hon. Muite has said, that is factual. The only thing I would like to do is to bring the breakdown of the shareholding of the National Bank of Kenya because the figures which were given here are not exactly true.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, what I am saying is that the real intention behind this Bill is to give this Government access to funds which they would otherwise have no access to. As of now, Barclays Bank has got a retirement scheme for its employees, all the insurance companies of East Africa and any other company has a similar scheme for its employees and so currently that money is not available to the Government. If this Bill becomes a law, that money will become available. The Minister for Finance will be directing where Barclays Bank will invest its funds and that will be a way of accessing that money. That is what we object to very strongly.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I need to clarify that point from the very outset. There is no way we are going to start accessing these resources. In fact, at the moment, we never even see the accounts of these other so-called numerous private pension funds. Perhaps, the damage there is even worse than we may be thinking of and it is only proper that we provide some regulation which can make these institutions also make their accounts available, particularly on how they are investing public pension funds.

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Minister in order to mislead this country that the intention of this Bill is not to get access to these funds? What would be the Minister's interpretation of Clause 32(3) which states "Subject to the provisions of this Act, the Minister may in consultation with the Authority, make regulations with regard the funding, vesting, management, application and the transfer of scheme funds and the accounting of such funds"?

**The Minister for Finance** (Mr. Mudavadi): I have just said it here.

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! I am not sure of what is going on.

**An hon. Member:** We will tell you.

**The Temporary Deputy Speaker:** I do not think, hon. Mulusya, you have raised a point of order. Hon. Muite, proceed.

**Mr. Mulusya:** Hon. Muite, pursue that point.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, the reality is that there has been no outcry in this country from the employees in the private sector that the retirement benefits have been misused. The outcry that has been there is only in those institutions that are run by this Government. We have an example of Kenya National Assurance Company. This Government first of all appoints individuals who should be at Kamiti Maximum Prison to run Kenya National Assurance Company. This Government coerced all the Government institutions to their retirement benefits with the Kenya National Assurance Company and this is a pathetic situation.

Recently, there was a widow who came to me whose late husband was an employer of the Kenya Agricultural Research Institute (KARI) at Muguga. KARI had been ordered that the retirement benefits of its employees must be with Kenya National Assurance Company. This poor man's money is being deducted, the employer is also giving a bit of deduction and that money is going to Kenya National Assurance Company. And, this is a very pathetic case. This employee died in an accident and the benefits are supposed to be paid to the widow. The widow comes to my office with a cheque of Kshs300,000 written in her favour, that this is representing retirement benefits for your late husband. She had eight children. But the minute this cheque was given to the lady, the following day, Kenya National Assurance Company went down. So, she still has got this cheque, she took it to Kenya Commercial Bank and of course it could not be paid because a receiver had been appointed by this Minister.

Mr. Temporary Deputy Speaker, Sir, the enormity of the suffering is beyond words as a result of deliberate mismanagement and politically correct individuals who are corrupt being given Kenya National Assurance Company to run. It appears that the understanding between the appointor and the appointee is that: I am giving you an opportunity to go and enrich yourself. But, at whose expense? At the expense of innocent Kenyans. Kenya National

Assurance Company has hundreds of judgements.

Mr. Temporary Deputy Speaker, Sir, there are people who lost their legs, crippled in accidents and their vehicles were insured by the Kenya National Assurance Company. Those judgements now cannot be satisfied. That is the record of this Government. So, all they have been doing is mis-running, mismanaging and stealing every institution and every funds that they have been handling like the NSSF funds. Why do they not continue running what they have been mis-running and leave what has been running well? The retirement benefits being run by the private sector have been running well. What rationale can there be for this Government wanting to access that money? Because, as hon. Mulusya says, what is the purpose of the Minister wanting the power to direct where that money is going to be invested, unless it is in order to access it and direct that a plot be purchased, that perhaps another airport be constructed or get a way of stealing that money. Can the Government show us one success story? Can it cite, one organization, one company which they have run profitably apart from Kenya Wine Agencies which for a long time was being run by a "White man"? Is there any other that is making a profit?

Mr. Temporary Deputy Speaker, Sir, what is there to persuade Kenyans that when this authority is going to be given the control and management of so much money, they are going to do so efficiently, competently and that they are going to keep their fingers away from the till? This Government is incapable in any manner of keeping their fingers from the till. Before these sort of pieces of legislation are brought to this House, we want these Government to tackle the issue of corruption. We want this Government to come up with political will to tackle the issue of corruption. Because, unless that is addressed and resolved, everything else is a waste of time. Corruption is so endemic.

**The Assistant Minister for Research, Technical Training and Technology** (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that Kenyans cannot run their own affairs until we have the "Whites"? And he goes ahead to quote one at Kenya Wines Agencies, whereas Kenya Commercial Bank, Uchumi Supermarkets and others have been making profits and they are run by Kenyans?

**Dr. Kituyi:** On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Ndoto): Order! He is dealing with a point of order.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, through you, the Assistant Minister did not say whether a Mr. Shah who is an Asian and who I know was running Uchumi Supermarkets has resigned.

Mr. Temporary Deputy Speaker, Sir, I do not wish to talk about the Kenya Commercial Bank. I would like auditing to be done very carefully. I know, perhaps that the Chief Executive there comes from the hon. Kagwima's part of the country. Let us not pass judgement on Kenya Commercial Bank until we have the accounts. I was talking about corruption and not Kenyans. I talked about this Government. Of course, Kenyans can run the economy of this country very well; if tomorrow it is this side of the House which was running the Government, we would turn the economy of this country around in five years. I promise that. We would do exactly that. That should be the objective at the end of the day and not politicking. We have got to come up with policies that are going to improve the social-economic situations of the majority of our people. Poverty is increasing as corruption is increasing and the Government is doing nothing about it. Today, there is no institution of this Government where corruption has not penetrated.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like hon. Muite to tell us, why he did not give this expertise to Kenya Finance Bank when he was a shareholder and a director?

**Mr. Muite:** That was not a point of order. The Minister knows it perfectly well that it was because an unacceptable scheme was given to the Central Bank of Kenya to appoint a receiver of Kenya Finance Bank. The major shareholder did not want the bank to close. The Minister knows that perfectly well and he also knows of discussions that have taken place even at very high levels. In a word, this Minister knows perfectly well that the going down of Kenya Finance Bank was purely a political affair.

**The Minister for Finance** (Mr. Mudavadi): On a point of order Mr. Temporary Deputy, Speaker, Sir, I want to raise a point that hon. Muite has not answered quite clearly. He should let us know why he conveniently exited and disposed of his shareholding just before it collapsed.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, the Minister is asking questions which he knows the answers perfectly well. The Kenya Finance Bank was targeted by this Government because of my involvement in it - because I was a shareholder and a director. I got out in order to give Kenya Finance Bank a chance to survive. If they were being targeted because of me and my political inclinations, then I had to get out and that is what I did.

**Dr. Kituyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is trying to argue before this House that, if he can show you are shrewd in one business deal, you are negating the litany of corruption by this Government. It would have been more useful in the flow of events for this Minister to help this House understand such phenomenon occurrences like the fact that one Gideon Moi holds upto now, the record of the poorest student to



finish school in St. Mary's School Nairobi. He is the only one ever, to get 54 points and yet, he is a multi-millionaire today. He sells disused quarries to NSSF because of the KANU Government.

**The Temporary Deputy Speaker** (Mr. Ndotto): The information which we would like you to give according to the rules should relate to the issues of the financial institution which he was challenged to substantiate. That is the information which you ought to be giving and not any other information.

**Dr. Kituyi:** But I was still continuing with the information. It is about corruption and collapse of institutions and one good example is the siphoning of money from the NHIF through Heritage Bank. When it was known that Heritage Bank was not viable, that money ended up buying Simba Airlines which has been transporting weapons to *interahamwe* until it was impossible to land in the refugee centres in eastern Zaire. This Simba Airlines belongs to Raymond Moi. How could he destroy Heritage Bank, KCC and move to Simba Airlines?

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Order! Hon. Muite, I do not think that was relevant information to the point you were on. Proceed!

**Mr. Muite:** The point I am making is that, unless we first force the Government against its wishes, to address and resolve the issue of corruption, these sort of pieces of legislations are not going to succeed in helping the economy of this country, to recover in any manner. I am saying that there is no evidence of any political will at all, on the part of this Government, to address the issue of corruption. In Kikuyu Constituency, I lost the late Mr. S.K. Ndungi. I would like this Government to investigate whether corruption had something to do with it. Who are these policemen who recovered the Kshs96 million stolen from the Standard Bank? They say that the only amount of money they recovered is Kshs2.5 million. Is it possible that a brilliant young lawyer was murdered in a gruesome murder because, perhaps, he had information establishing that these police officers had actually recovered a lot more than the Kshs2.5 million, which they admitted to have recovered? Is it possible that, that is the reason why he was killed? Is it possible for the Police to investigate themselves?

**The Temporary Deputy Speaker** (Mr. Ndotto): Hon. Muite, you are a distinguished lawyer in this country, and you know that, that matter is before a court of law, and you should not refer to it in your discussions.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, I did not know that the matter relating to the murder of Mr. Ndungi was already in court. I was talking about the murder and nobody has been arrested. I suspect very strongly that nobody is going to be arrested.

**Mr. Mulusya:** It is not in court!

**The Temporary Deputy Speaker** (Mr. Ndotto): Hon. Mulusya, with all due respect, that matter is before a court of law---

**Mr. Mulusya:** Which court! Mr. Temporary Deputy Speaker, Sir, it is not in court!

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Hon. Muite, I have ruled and I will still abide by my ruling.

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it not be in order for the Temporary Deputy Speaker, to tell this House, which court the case of Mr. Ndungi is, and against who? It cannot be against Mr. Ndungi because he is already dead!

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! I am afraid, hon. Mulusya, but I will not take that kindly.

You are challenging my ruling and I hope you will not do that again. Proceed, hon. Muite!

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, it is quite clear to a lot of us that what the Attorney-General and the Government are doing is bringing a very heavy list of Bills to this House. If one examines those Bills, including this one, the intentions of this Government is to ensure that there is no time for this House to debate and enact the priority Bills, like the amendment to the Constitution and the repeal of the colonial repressive laws, that we want to repeal. This is the intention. This is why these sort of Bills are being brought to this House, to occupy the time of this House, instead of this Government bringing relevant Bills for us to debate and pass them. They want to delay the Constitutional and legal reforms which we have been demanding.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Hon. Members, it is now time for the interruption of business. The House, therefore, stands adjourned until next Tuesday, the 6th of May, 1997, at 2.30 p.m.

The House rose at 6.30 p.m.