

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th May, 1995

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 069

NUMBER OF POLICE RESERVISTS

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

- (a) how many Police Reserves of African, Asian, Arab and European origin are currently serving in the Kenya Police Force; and,
- (b) what the criteria in the recruitment of Kenya Police Reservists is.

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

(a) Several Kenyans of African, Asian, Arab and European origin are serving in the Kenya Police Force as Police Reservists.

(b) The criteria used in the recruitment into the Kenya Police Reserve is that a candidate must be:-

- (i) A citizen of the Republic of Kenya;
- (ii) Must be over 18 years of age;
- (iii) Must have no criminal record; and
- (iv) Must be willing to give voluntary service.

Mr. Shikuku: Mr. Deputy Speaker, Sir, if you look at the Question, would you not agree with me that the hon. Minister has not yet replied to the Question? The Question reads: "How many Police Reserves of African, Asian, Arab and European origin". He said several, but I asked "how many" of each tribe mentioned. Could he give a breakdown of each tribe as per the Question?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, it is 242!

Mr. Shikuku: Mr. Deputy Speaker, Sir, out of that 242, how many are Africans, Asians, Arabs and Europeans?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, there are 203 Africans, 26 Asians, 8 Europeans and 5 Arabs.

Dr. Otieno-Kopiyo: Mr. Deputy Speaker, Sir, could the Minister confirm or deny that the Police Reserves of the Asian origin are specifically hired to harass Africans, particularly those from the underprivileged lot, among them street children, beggars and so on so that they can protect the Asian shops and businesses within the Nairobi City? Are they hired as Police Reserves to serve the general public or are they specifically hired as watchmen and provided with guns from the Police Force?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not know what the Questioner is up to!

(Laughter)

Mr. Wamae: Mr. Deputy Speaker, Sir, Reservists of Asian origin are only 26 in number and we know of one who was whipping people in Nyeri. We also know three in Nairobi who have already killed people by shooting them. How can these 26 people create so much havoc in the country?

Mr. Mwaura: On a point of order, Mr. Deputy Speaker, Sir. According to the Assistant Minister, he said that one must be a Kenya citizen, 18 years of age and no criminal record. Is that really a qualification? What qualification does one need to have to become a Kenya `Police Reservist?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the Question reads: "What is the criteria"? So, that is the criteria.

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir. Is it not high time we invoked Standing Order, I think, 83, where a Minister refuses to answer a legitimate question? There is a provision when a Minister refuses to answer, steps can be taken against him. Now, the hon. Assistant Minister has refused to answer hon. Wamae's supplementary question.

Mr. Deputy Speaker: What was the question, Mr. Wamae?

Mr. Wamae: Mr. Deputy Speaker, Sir, I asked, if there are only 26 Police Reservists of Asian origin and we know that they have already beaten people in Nyeri, killed a number of people in Nairobi, how can such few people create so much havoc in the country?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, if indeed the hon. Member could pardon me because I do not think his question is based on the right premise. He is assuming that I already know that there is such havoc that has been caused by the Police Reservists. I am not aware of such havoc caused by the Police Reservists to the extent that the hon. Member is mentioning here. Therefore, the question does not arise.

Mr. Deputy Speaker: Next Question, Ms Martha Karua.

Dr. Otieno-Kopiyo: (Inaudible)

Mr. Deputy Speaker: Order, hon. Kopiyo! It is grossly disorderly to talk while the Speaker is on his feet. So, I am ordering you, Mr. Kopiyo, to leave the Chamber for the rest of this afternoon.

Order! Very well, hon. Kopiyo, I take it that you are now refusing to comply with my order to leave the Chamber. I am now giving you the last chance. I will ask the Sergeant-at-Arms to remove you and you know what consequences follow on that!

(Hon. Dr. Otieno-Kopiyo left the Chamber)

Mr. Deputy Speaker: Is Ms. Karua not here? We will leave that Question for the moment.

Question No.055

ISSUANCE OF TITLE DEEDS

Mr. Mbui asked the Minister for Local Government:-

(a) whether he is aware that village plots in Kirinyaga District are registered under Kirinyaga County Council instead of the occupants; and,

(b) since the occupants have lived in these plots for over thirty(30) years, if he could direct the Council to surrender the plots and title deeds to them.

Mr. Deputy Speaker: Is anyone from the Ministry of Local Government here? Well, we will pass that Question for the moment. We will come to it later. I am afraid the Questioners are in trouble now.

I will call out Question 026 for the second time, Martha Karua.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I apologise for coming in late.

Mr. Deputy Speaker: Order, hon. Ndicho! I have called hon. Martha Karua to ask her Question. Do you want to ask on her behalf, hon. Ndicho?

Mr. Ndicho: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: In that case you have to seek my permission if you have been requested to ask the Question. You have been here for more than two years and you should know the procedures. Go ahead and ask the Question, hon. Ndicho.

Question No. 026

PAYMENT OF MR. KIBOKO'S PENSION

Mr. Ndicho, on behalf of **Ms. Karua**, asked the Minister for Finance when the pension of Mr. Fredrick Gichobi N. Kiboko, P/No. 151030, formerly working at the District Commissioner's office, Kiambu, who retired on 1st July, 1994 will be paid.

The Assistant Minister for Finance (Mr. Koech): Mr. Deputy Speaker, Sir, I beg to reply.

Mr. Fredrick Gichobi N. Kiboko P/No. 151030 who retired on 1st July, 1994 has already been paid his retirement benefits vide cheque No. CR 51-003949 dated 27-4-95 of Kshs. 227,130/75 cts.

Mr. Ndicho: Thank you, very much Mr. Deputy Speaker, Sir, for the Ministry to have paid this gentleman's money. There are very many other Kenyans who are suffering because their retirement benefits cannot

be paid in time. We take it that this person was paid only because his Member of Parliament asked the Question for him. There are many other Kenyans who are languishing in abject poverty because they have not been paid their retirement benefits. Could the Assistant Minister assure this House that they are going to process the retirement benefits of other Kenyans who have retired and they do not have to wait for hon. Members of Parliament to ask questions before they pay them?

Mr. Koech: Mr. Deputy Speaker, Sir, as soon as we receive the necessary documents it does not take long to process the payments. For example, for this particular person, we received his particulars on 4th of April, 1995, and we have already dispatched his payment. So, the hon. Member can see how fast we are in processing these retirement benefits.

Mr. Mulusya: Mr. Deputy Speaker, Sir, arising from that answer given by the Assistant Minister, could he further assure this House that his Ministry, in conjunction with the National Social Security Fund (NSSF), is going to work out a programme where a person retiring from service and who is a contributor -now that the department has computerized its operations - will be paid his retirement benefits promptly? This is better than that person having to fill papers or provide copies of the necessary documents upon reaching retirement age not forgetting that the moment this person becomes a contributor he provides all this information. Now that the records are computerized, he should be paid promptly without having to fill other unnecessary forms.

Mr. Koech: Mr. Deputy Speaker, Sir, I do not know what assurance the hon. Member wants. We are already working on this and when it comes to pension or other payments, it is not one body which does the processing of all these. The person who is going to be paid, the employer and others are also very important ingredients to this particular payment.

Mr. Mulusya: Mr. Deputy Speaker, Sir, what I was saying is that, the employer has information on when the employee is supposed to go on retirement. The NSSF knows the retirement age of this person because all the particulars are there. Now NSSF has to wait until it is informed by the employer that this person has retired. What I am asking you is whether the Ministry of Finance and NSSF can get all the necessary information ready through co-ordination and make sure that whoever is going on retirement gets his retirement benefits on time. They should ensure that there will be no lapse of time between the time the person is paid and when he retires like it has happened in this case.

Mr. Koech: Mr. Deputy Speaker, Sir, I do not have to answer for NSSF. If the hon. Member feels that this is something very important to him and I think it is, then he should raise that matter with the Minister for Labour and Manpower Development.

Mr. Deputy Speaker: For the second time, Question No. 055.

Question No.055

ISSUANCE OF TITLE DEEDS

Mr. Mbui asked the Minister for Local Government:-

(a) whether he is aware that village plots in Kirinyaga District are registered under Kirinyaga County Council instead of the occupants; and,

(b) since the occupants have lived in these plots for over thirty(30) years, if he could direct the Council to surrender the plots and title deeds to them.

The Assistant Minister for Local Government (Mr. Walji): Mr. Deputy Speaker, Sir, I apologise for being a little bit late. I beg to reply.

(a) Yes, I am aware the village plots are registered in the name of Kirinyaga County Council.

(b) The County Council has not made any decision regarding the issuance of title deeds to the occupants.

Mr. Mbui: Mr. Deputy Speaker, Sir, I have a different answer from what the Assistant Minister has read out and I do not know which is which now.

An hon. Member: Can you read it out?

Mr. Mbui: Mr. Deputy Speaker, Sir, part "b" of the Question states:-

"(b) The County Council is in the process of sorting out the ---"

Mr. Deputy Speaker: What are you reading by the way?

Mr. Mbui: I am picking my spectacles.

Mr. Deputy Speaker: We can then move on to the next Question.

Mr. Mbui: Mr. Deputy Speaker, Sir, I think you better allow me to read the answer.

Mr. Deputy Speaker: I have said we have no time.

Mr. Mbui: I will continue reading it.

" ---the persistent problem of village plots in Kirinyaga, and has set up machinery to establish genuine village plot owners. As soon as this process is complete, individual title deeds will be issued to owners."

These people have been living there for the last 30 years and they are in those plots in question. The Question is: Since they occupy these plots when will your Ministry issue title deeds because they are there and they are there to stay?

Mr. Walji: Mr. Deputy Speaker, Sir, it is not necessarily that if a person has stayed in particular place for 30 years it becomes his. The Council, as I have said, has not made any decision so far of issuing title deeds but, in future, they may decide to issue them with title deeds.

Mr. Nyanja: Mr. Deputy Speaker, Sir, the way we know the law is that previously if a person has lived on a piece of land for 12 years and now it has been changed to 10 years, that land becomes his. If somebody stays on a piece of land for 10 years and he is a Kenya citizen it becomes his by law. So, the ignorance of the Assistant Minister cannot be accepted by this House and the whole nation. Is it in order for this Assistant Minister to continue misleading the nation when we know the law?

Mr. Walji: Mr. Deputy Speaker, Sir, I am not aware of the law which says that if you stay in a particular place for 10 years that place becomes yours. I have stayed in a particular place for 30 years and it is not mine!

Mr. Gitau: Mr. Deputy Speaker, Sir, can the Assistant Minister assure this House and the whole nation that when title deeds are out these plots will not be given to individuals other the ones who are living there? This is what is happening in other places like Kileleshwa and other areas, where plots are being given as bribery to the so-called KANU Government supporters!

Mr. Walji: Mr. Deputy Speaker, Sir, I suppose that the hon. Member does not have anything to ask except to shout at the top of his voice "KANU; KANU!". Let me tell him that KANU forms the Government, but the plots are not necessarily given to KANU supporters. They are given to individuals who are fit to get them.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. I am sure you heard it very clearly because the Assistant Minister is near you! He said that the hon. Member for Gatundu, where the late Jomo Kenyatta came from, was shouting in this House! Is he in order to say that an hon. Member is shouting here? We do not come here to shout!

Mr. Deputy Speaker: Hon. Members do not shout; they ask questions.

QUESTIONS BY PRIVATE NOTICE

ARREST OF PEOPLE IN MATHIRA

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

(a) Is the Minister aware that the following persons from Mathira Constituency were arrested by plain clothes police officers: Mr. Ephraim Maina Kibunja of Itiati Sub-location, Konyu Location, two months ago; Mr. Charles Rurii Kabaruu of Gachuiro Sub-location, Konyu Location, two weeks ago and Mr. Charles Mwangi Wamae of Gachuiro Sub-location, Konyu Location, one month and seven days ago?

(b) Is he further aware that their relatives have not been able to see them?

(c) Why have they not been charged in court or released after such a long time?

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

(a) I am aware.

(b) I am not aware.

(c) The suspects were not charged in court but, during investigations, they were allowed to go home and be reporting to Muthaiga Police Station, but they have failed to do so. Charles Mwangi Wamae was released on 31.3.95; Ephraim Maina Kibunja was released on 28.3.95 and Mr. Charles Rurii was released on 10.4.95.

Mr. Wamae: Mr. Deputy Speaker, Sir, although I agreed yesterday that this Question could wait until today for an answer, I am disappointed by the Minister's answer. Messrs Kibunja and Wamae were picked up on 17.3.95 and 16.3.95 respectively. They were kept in Nyeri Police Station for a week and then they were driven to Nairobi. Mr. Kabaruu was arrested on 5.4.95 and kept in Karatina Police Station for more than one week and was then driven to Nairobi. Since then they have not been seen or heard of by their relatives. Will the Minister confirm whether these people are alive or not?

Mr. Kalweo: Mr. Deputy Speaker, Sir, if the hon. Member was listening to me he should have heard that I said they were released; and they were supposed to be reporting to Muthaiga Police Station which they have

failed to do. So, they are still at large. We are trying to fish them out of wherever they are hiding. I would request the hon. Member to assist us, if he knows where they are.

Mr. Orengo: Mr. Deputy Speaker, Sir, the Minister has accepted part (a) of the Question, and he knows as well as I do that the law requires that those who have been arrested on any charges must be taken to a court, unless a capital crime is involved, within 24 hours. This is a case where some of the people were kept in custody for very long periods. Would the Minister explain to the House where these innocent people - before the law they are innocent until found otherwise by a court of law - were being held by the police for more than 24 hours without a charge?

Mr. Kalweo: Mr. Deputy Speaker, Sir, these people were being held because we were trying to investigate some crime which they were alleged to have committed. In Nyeri, we have criminal case No. 236 of robbery with violence of Mr. Ephraim Maina Kibunja and the rest of the suspects were somehow connected with the crime. So, these people were brought to Nairobi for further investigations and verification of certain issues in the case. They were released to be reporting to the police but they have failed to report to the police. So, we are not keeping them.

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. The Minister did not reply to hon. Orengo's question. He was asked very clearly why these people were not produced in court within 24 hours. He has admitted that they were in police custody for more than one month!

Mr. Kalweo: Mr. Deputy Speaker, Sir, the law allows us to keep suspects for up to 14 days.

AID CUT BY GERMANY

Mr. Mak'Onyango: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that a Kshs3.0 billion cut in German aid to Kenya seriously compromises Kenya's development efforts?

(b) What steps is the Government taking to ensure that the money is secured and that no such thing occurs in future?

The Assistant Minister for Finance (Mr. arap Koech): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of the Kshs3.0 billion cut in German aid to Kenya. According to the agreed minutes during the bilateral discussion in Bonn, Germany, on 11.4.95 and 12.4.95 the Government of Germany agreed to one. provide additional technical co-operation assistance of Deutsche Marks (DM) 39 million, which is equivalent to Kshs1.3065 billion for on-going projects in the country. Two. Provide DM 10, which is equivalent to Kshs335 million for new projects. Furthermore, through a side letter the German Government agreed to provide financial co-operation funds up to an amount of DM 50 million, the equivalent of Kshs1.675 billion on a case by case basis when the Kenya Government submits to the Federal Minister of Economic Co-operation and Development acceptable development proposals.

(b) In view of the above explanation it is clear that the Government of Kenya is not compromising development efforts. In addition, this Government had been implementing far-reaching structural reforms to ensure stable and conducive macro-economic development which will enhance Kenya's development efforts across board. On the political front, the Government will continue to enhance political dialogue with its development partners so that any contentious issues can be amicably resolved. Furthermore, we appeal to all Kenyans, including Members of the Opposition, to assist in the process.

Mr. Mak'Onyango: Mr. Deputy Speaker, Sir, first of all, I wish to complain that the answer given by the Minister and that given to me are not the same. Could the Assistant Minister deny that the total package between the Kenya and German Governments totals to Kshs4.5 billion, out of which the German Government has only agreed to advance Kshs1.5 billion, leaving a balance of Kshs3 billion? Can he also deny that in so doing---

Mr. Deputy Speaker: Mr. Mak'Onyango, why do you not ask your question? Hon. Members complain that they are not allowed to ask supplementary questions. Now, if the Minister reads his reply for three minutes and an hon. Member asks one supplementary question for two minutes, that will be the end of the time allocated for that Question.

Mr. Mak'Onyango: I agree, Mr. Deputy Speaker, Sir. I am merely asking the second part of my question. Could the Assistant Minister agree that by depriving the ordinary Kenyan of this particular sum of money, we are compromising the development effort of this country?

Mr. arap Koech: Mr. Deputy Speaker, Sir, the hon. Member has given the figure of Kshs4.5 billion. I have already read what I have here, which is DM39 million and also DM10 million. I hope the hon. Member is

working out his arithmetic properly. There are other additional sums of DM28 million and DM24 million for some other projects. When you work out the total of all these and convert to the equivalent of Kenya Shillings, it adds up to more than Kshs4.5 billion. In fact, it is almost Kshs5 billion. The hon. Member has talked about DM4.5 billion, but this is approximately 5 million. It is misleading this House and the nation to state that there have been any cuts in foreign assistance from Germany.

Dr. Kituyi: Mr. Deputy Speaker, Sir, inspite of the protestations from the Assistant Minister, it is public knowledge and it is an official statement by the German Government which has not been denied by the Kenyan Government, that the country's grant for 1995/96 has been reduced by two-thirds, which is the equivalent of the money that hon. Mak'Onyango is talking about. Yesterday, a senior Minister of this Government sitting next to this Assistant Minister did complain that the Opposition was now a friend of people who are enemies of Kenya. This referred to the governments which reduced their aid to Kenya and placed political conditionalities on the aid. Could the Assistant Minister now tell us since when the German and Danish governments, which reduced aid because of political abuse, became the enemies of Kenya?

Mr. arap Koech: Mr. Deputy Speaker, Sir, I have given the right figures which is more than the hon. Member asked for.

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

Mr. Deputy Speaker: I do not think you have put a legitimate supplementary question to this Assistant Minister.

Dr. Kituyi: Mr. Deputy Speaker, Sir, let the hon. Assistant Minister attempt to answer the question as put. If he understands it, can he now give an answer to it?

Mr. arap Koech: Mr. Deputy Speaker, Sir, I think the hon. Members should distinguish between Press propaganda and the truth.

Mr. Deputy Speaker: Next Question!

CHAIRMAN OF KCC

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

- (a) Could he indicate who the Chairman of the Kenya Co-operative Creameries (KCC) is?
- (b) Under what by-law of Kenya Co-operative Creameries (KCC) was the said Chairman appointed?

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

I would like to tell the hon. Questioner and the House that under Legal Notice 1666, of 25th April, 1965, the appointment of the Chairman of KCC is done by the Minister for Co-operative Development. I would also like to tell the hon. Members that when the names were submitted to me, as the Minister concerned, I did appoint hon. Chebelyon as the Chairman of KCC.

Mr. Kirwa: Mr. Deputy Speaker, Sir, I hope the Minister will be more serious today because, the by-laws he is talking about are out-dated since they were overtaken by the by-laws which were put in place on the 17th of March, 1995. Could the Minister indicate to the House why he decided to selectively use those by-laws, by implementing some and failing to implement this particular one which says: "The Board of directors shall appoint a chairman who shall be endorsed by the Minister"? Could he explain this discrepancy to the House?

Mr. Munyi: Mr. Deputy Speaker, Sir, the Act states very clearly that the Board of directors shall submit three names to the Minister, who has the right to appoint one of those individuals whose name has been submitted.

Mr. Kirwa: Mr. Deputy Speaker, Sir, shall we allow the Minister to mislead the House? Unless the Minister has got an alternative explanation, I have clearly said that the by-laws which the Minister ought to have acted upon were the ones which were instituted on the 17th of March, 1995, and not the previous by-laws where the Minister had to be given a panel of three from which he would appoint the chairman. This time, the Board of directors was to select a chairman, who had to be endorsed by the Minister, and not the Minister to appoint a chairman from a list of three.

Mr. Munyi: Mr. Deputy Speaker, Sir, what I have told the House is very correct. The by-laws of 17th March, 1995, which Mr. Kirwa is referring to, were not approved. We used the by-laws that were put in place in April, 1965, to appoint the Chairman.

Mr. Mak'Onyango: On a point of order, Mr. Deputy Speaker, Sir. We would like to have your guidance here because the hon. Questioner has stated very clearly that the law in question provides that the Board of directors appoint the chairman for the Minister to endorse. On the other hand, the Minister is talking of old by-laws which seem to have been overtaken by events. Could we get some guidance from you on this?

Mr. Munyi: Mr. Deputy Speaker, Sir, that is what he is trying to say, but I did act in accordance with the powers conferred on me. The official Gazette states what I did.

Mr. Falana: Mr. Deputy Speaker, Sir, from what the Minister is saying, we are being treated to a lot of confusion. I have been listening very keenly. The Minister has talked of a by-law No. 1786 of 1995 and another by-law, No.1666 of 1965. Putting that aside, the hon. Questioner is talking of a by-law of 17th March, 1995. I have information that the same by-law had been used to allow them to acquire loans. Does the Minister recognise and value this by-law? He uses it on one aspect while ignoring it on the other. What is the position?

Mr. Munyi: Mr. Deputy Speaker, Sir, a proposal only becomes law when it is approved. What he has referred, to which was not approved, was a proposal.

Mr. Rotino: Mr. Deputy Speaker, Sir, could the Minister deny or confirm that the present wrangle is within the chairmanship of KCC has caused a lot of suffering to the farmers?

Mr. Munyi: Mr. Deputy Speaker, Sir, that is his own opinion. The KCC is operating smoothly.

(Applause)

Mr. Mulusya: On a point of order, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Is your point of order on that Question? Overruled!
Next Question!

IMMINENT COLLAPSE OF UNION

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

(a) Is the Minister aware that the Meru Central Co-operative Union is faced with imminent collapse following the refusal by the Commissioner of Co-operatives to implement the recommendations of the probe report on the Union prepared by the Ministry?

(b) What immediate steps is the Ministry taking to save the giant union from total collapse, given the large number of societies presently applying for withdrawal from the Union?

(c) Could the Minister make available to this House the probe report?

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

(a) A co-operative union can also be faced with management problems just like any other institutions and Meru Co-operative Union is no exception.

(b) The union is not collapsing and I am not aware of any society which has applied for withdrawal from the Union.

(c) We have discussed the probe report with hon. Mwiraria and I promised him that I would make sure that the recommendations in the report are fully implemented.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, this matter of the Meru Central Union is serious. After hearing the answer, I do not know whether to cry or pick up something and hit the Minister with.

Mr. Deputy Speaker: Order, that will be utterly out of order.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, please allow me to give the reasons for my feelings. First and foremost, over three-quarters of the Meru people depend on coffee and milk for their livelihood. Secondly, the report in question recommended, very clearly and it was read out to the farmers, that the entire management committee including the General Manager, his assistant and the Chief Accountant would be fired immediately. After that the Management Committee is back with authority from the Commissioner of Co-operatives to work until their term runs out. The Managers are also still there.

The question I am asking is this: Since the Minister in his reply, clearly said that I do not require the report because he is going to implement it. Could he assure this House that the Management Committee will be fired and that the three Managers named in the report, who were supposed to be sacked, will also be sacked? Could he give me that assurance?

Mr. Munyi: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that the services of the Chairman, Managing Director, Deputy Managing Director will be discontinued after the probe is complete.

Hon. Members: When?

Mr. Munyi: Mr. Deputy Speaker, Sir, as soon as possible.

Mr. Deputy Speaker: Next Question.

MONKEY MENACE IN KITUI

Mrs. Ngilu: Mr. Deputy 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 a serious menace of monkeys at Inyuu/Kiongwe area and other neighbouring areas in Nzambani Location, Central Division of Kitui District?

(b) Is he further aware that these monkeys are causing enormous destruction to crops, domestic animals and other property?

(c) If the answer to "a" and "b" above are in the affirmative, how much and when will the victims be compensated?

(d) What action is the Ministry taking to curb the menace once and for all?

The Assistant Minister for Tourism and Wildlife (Mr. Sing'aru): Mr. Deputy Speaker, Sir, I beg to reply:-

(a) I am aware that there is menace of monkeys at Inyuu/Kiongwe area and the neighbouring areas in Nzambani Location, Central Division of Kitui District.

(b) I am also aware that monkeys have caused destruction to crops, domestic animals and other related property.

(c) Much as I sympathise with the victims of the acts of these destructive animals, the Ministry cannot compensate for the above mentioned destruction. This is because there is no provision for compensation of destruction to crops, domestic animals or any other property as per the Wildlife (Conservation and Management) Act, Cap. 376 as amended in 1989.

(d) The warden in-charge of the areas has already despatched his capture team to the area to capture these monkeys. The warden will also beef up the ranger surveillance and animal control work in the area until a time when a permanent solution will be found.

The affected communities are requested to report such cases to the Kenya Wildlife Service staff to enable them take quick action.

Mrs. Ngilu: Mr. Deputy Speaker, Sir I wish to thank the Assistant Minister for that very truthful reply that he has given to my Question. But I would like to tell the Assistant Minister here that one of the things that people of Inyuu, Kiongwe and Nzambani do not need at this time is sympathy. What we really need is to know what the Assistant Minister will do to stop once and for all this menace. These monkeys are living heavily on the people's food and domestic animals. Now that this is planting season, the women and children have to spend all day long in their shambas chasing away these monkey.

Could he assure this House that he is going to put a Kenya Wildlife post in that area so that somebody else can be doing that and not the women who must go to work in their farms and children who must go to school?

Mr. Sing'aru: Mr. Deputy Speaker, Sir, I cannot give that promise to the hon. Member now. This is because we could do that only when the funds are available.

Mr. Deputy Speaker: Next Order!

(Several hon. Members stood up in their places)

Order! When we call for the next Order, if there are points of order about which the Chair, in accordance with our custom, has been informed in advance, normally, we do give moments for the person responsible to shoot up on a point of order. The Minister, if he has a Statement which he promised to give--- If he is not willing to give his Statement I am afraid the Chair can only remind him that he promised to give the Statement.

Hon. Members: Sunkuli! Sunkuli!

Mr. Deputy Speaker: Next Order!

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

Mr. Deputy Speaker: The only points of order that I knew were going to be raised and to which I consented to were about two Statements which I understood were to be given by the Minister of State, Office of the President. I am not entertaining any other points of order now. If the Minister responsible is not willing to give them, we will go on to the next Order.

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

Mr. Deputy Speaker: Order! Mr. Farah, we have the Adjournment Motion and if you have other things to say or documents to lay on the Table, you have got that freedom.

Mr. Shikuku: But, Mr. Deputy Speaker, Sir, I came to see you in your office!

Mr. Deputy Speaker: Order! Yes, Mr. Shikuku, you did see me in the office and I told you that I had not read the story and promised to read the story and look at the Standing Orders but you did not come back to me. Let me tell you that now that you have raised it here, having examined the matter, I feel there is no legitimate ground on which you can raise a point of order on that matter.

An Hon. Member: What matter are you talking about?

Mr. Deputy Speaker: Order! It is not a matter before the House for you to demand to know it. Next Order!

An Hon. Member: But hon. Sunkuli is here!

Mr. Deputy Speaker: Order! He does not want to read the Statement. Do you want to read the Statement, Mr. Sunkuli?

Hon. Members: Yes! Yes!

Mr. Deputy Speaker: Order! Order! With all due respect, Mr. Sunkuli, when I intimated to you--- If you are willing to give the Statment you should have given it. You should not have allowed us to get into this. Make your Statement to the House now!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, with all due respect to the Chair, I have not indicated that I am going to give a Statement. This is because if you read my comments in yesterday's HANSARD, you will find that I said that if hon. Farah insists on this matter of passports, I was going to make a comment. I did not talk about a Statement.

Mr. Deputy Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE KENYA REVENUE AUTHORITY BILL

(Clauses 2, 3, 4 and 5 agreed to)

Clause 6(2)

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 6, sub-clause (2) be amended-

(a) in paragraph (a) by deleting the word "Minister" and inserting "President";

(b) by inserting immediately after paragraph (c) the following words:-

"the Permanent Secretary, Ministry of Commerce and Industry"

(c) by deleting paragraph (g) and inserting the following words:-

"four other persons with knowledge and practical experience in accountancy, commerce, law or taxation appointed by the Minister."

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, in part (a) of this amendment, the Assistant Minister is proposing that instead of the Chairman being appointed by the Minister he is going to be appointed by the President. You know that as much as I do that the President is at the moment having too many responsibilities. I do not know what reasons the Minister has to revert this Clause from the Chairman being appointed by the Minister to being appointed by the President. This is because we feel that the Chairman of this Authority should be a professional person who has been either with the Income Tax, the V.A.T Department or otherwise and who knows the functioning of these departments to be able to run this board properly.

I would also like to say Mr Temporary Deputy Chairman, Sir, that in (c) he is proposing after the coma, to include the "Permanent Secretary, Ministry of Commerce and Industry". Does that mean that we are having under (c) the Permanent Secretary in the Ministry of Finance and the Director of Fiscal and Monetary Affairs Ministry of Finance as his representative? I do not know how that insertion of the Permanent Secretary in the Ministry of Commerce and Industry comes in under (c). Can he explain this to the House?

The Assistant Minister for Finance (Mr Keah): First of all, with regard to the first amendment which is deleting "Minister" and inserting the word "President", we debated the Clause at great length. The Minister, when moving, actually did give notice of that intention and we are harmonising as far as the Government is concerned.

On (b), which is being amended by inserting after paragraph (c) the following:- "Permanent Secretary, Ministry of Commerce and Industry", the intention there is not to remove the Permanent Secretary, Ministry of Finance; it is, in fact, an addition. We are including the Permanent Secretary Ministry of Commerce and Industry as one of the board members.

The Minister or the Permanent Secretary, Ministry of Finance, remains and he comes in before the Financial Secretary purely by way of arrangement and he does not really make too much difference. The other point on "c", we are increasing the number from three to four just to increase the number from within the general public representing the taxpayers as was debated thereon.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, on (b), I do not think that is satisfactory because if indeed this is an additional board member in way of Permanent Secretary in the Ministry of Commerce and Industry, then he should have been labelled; either (d) and then the other ones moved. So, it cannot be the Permanent Secretary in the Ministry of Finance and then comma Permanent Secretary in the Ministry of Commerce--

The Temporary Deputy Chairman (Mr. Wetangula): Mr. Obwocha you are very right. The Assistant Minister!

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, that is quite correct. It will be corrected in the final production of the Bill. It is just a numbering issue which will be corrected.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, considering that this nation has been debating on decentralising the powers that appear to be over-concentrated in the "Presidency", will the Assistant Minister consider perhaps setting an example in decentralising the powers? The Presidency, already has far too much power. Could we ask the Assistant Minister, to consider instead of giving the President even more power because the Kenya Revenue Authority is a very important and very powerful Authority that we are creating, can we not ask the Assistant Minister to make it possible for the Chairman of the Kenya Revenue Authority to be appointed by this National Assembly?

Mr. Temporary Deputy Chairman, Sir, this will be a step in the right direction. It is unlikely that the whole of the National Assembly is going to appoint a person other than purely on merit. I would urge that it would be a very, very good precedence to be created in giving this august House power to appoint the chairman of such a very important institution instead of having the chairman of every important institution appointed by the President.

Mr. Temporary Deputy Chairman, Sir, on (c), may I ask the Assistant Minister to consider seeing this, although it is going to be a government authority but the taxpayers need to be very well represented and without casting any aspersions on the Minister for Finance. Again, we have seen before people that are appointed they have to be partial to the Government of the day. They have got to be KANU supporters. Could we not give the authority to appoint these four people to, for example, the Kenya Federation of Employers who can appoint one. The trade unions which represent taxpayers, they can be given the power to appoint one person and perhaps other institutions which are actually representing taxpayers themselves, so that instead of the Minister hand-picking the people to be appointed, then the appointment could be done by the taxpayers and the employers. Could the Assistant Minister not consider those suggestions favourably and in good faith? These suggestions have been made in very good faith and I will be very, very happy if the Assistant Minister can reciprocate.

The Temporary Deputy Chairman (Mr. Wetangula): Mr. Muite, we do everything here in good faith.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I am trying to persuade the Assistant Minister before he rises not to reject them merely because they have come from me or they have come from this side. I thank you.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I thank the hon. Muite for the very lengthy statement. I will be very brief. First, we have no intention of decentralising the powers of the President. This point has been deliberated at length and we will retain it as it is.

(Applause)

We are a Government and we are going to govern. Secondly, the issue of this august House appointing a chairman is certainly very welcome, but I believe the Constitution may have to be looked at afresh.

Mr. Temporary Deputy Chairman, Sir, the Minister for Finance is a man who has enough wisdom to make sure that every taxpayer is well represented as has been indicated in this particular Clause inserted by the addition of another person; a fourth one in addition to the chairman. So, there are no changes. Thank you very much.

The Temporary Deputy Chairman (Mr. Wetangula): Dr. Lwali-Oyondi, do you want to raise an issue?

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, could it not be in order for the Assistant Minister to consider adding as it is in part (g) that the "three other persons with knowledge and practical experience in accountancy, commerce, law or taxation appointed by the Minister" Could he add there "with experience in taxation?" Because this is all about taxation.

The Temporary Deputy Chairman (Mr. Wetangula): But it is there Dr. Lwali-Oyondi. What is the problem? Have you looked at the Order Paper?

Dr. Lwali-Oyondi: Oh yes! I did not look at it.

The Temporary Deputy Chairman (Mr. Wetangula): The amendment is on the Order Paper.

(Laughter)

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

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)
(Clause 6 as amended agreed to)*

(Clause 7 agreed to)

Clause 8

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I wish to draw the attention of the Assistant Minister to Clause 8. In part (d), I hope the spelling of "certification" will be corrected.

Part (f) "for any other sufficient cause the termination of the Chairman by the President". That one is a hanging statement because somebody may terminate one's chairmanship because he does not agree with him politically. That leaves a very wide margin for the people in authority to sack an officer just because, for example, he has imposed the right tax on the Minister. I think the Minister should amend this provision so that it can include "any other criminal offence", and not "any other sufficient cause-----". I am saying this because what is sufficient to the Minister or the President may not be sufficient enough to terminate somebody's terms of office in this particular aspect.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, we have no intention of making those changes as requested by the hon. Member. I am saying this because the phrase "for any other sufficient cause" is a standard phrase, which covers all the reasons he has given. If for sure a person is not in conformity with the Government policy, then obviously, that constitutes sufficient cause.

The Temporary Deputy Chairman (Mr. Wetangula): In any case, Dr. Lwali, the criminal aspect is in Clause 8 (c). Is that not so?

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

Clause 13

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 13, sub-clause (1) be amended by adding immediately after paragraph (c) the following new paragraph -

(d) such other commissioner as may be deemed necessary"

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, the Assistant Minister has not explained to this House why he intends to introduce a new Clause (d). This Bill is seeking the amalgamation of three departments and we expect the three departments to be manned by three commissioners who are specified very clearly under Clause 13 (1) (a), (b) and (c). Why do they now want another commissioner appointed whose duties are not specific? As you know, there has been a tendency in the Provincial Administration to appoint District Officer I and District Officer II, but then somebody from nowhere appoints Special District Officers and these are the people who are messing up the country. Can the Minister tell us specially---

The Temporary Deputy Chairman (Mr. Wetangula): Mr. Obwocha, you have made a very important point and I do not know why you want to distort it with unnecessary stories?

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, I would like to draw the attention of the hon. Member to page 117 of the Bill where it talks about the First Schedule, which shows the various aspects that will be covered by the Authority. Income Tax, Customs and Excise and the Value Added Tax, are all specific taxation measures. Over and above these three measures of taxation, there are other taxes which are going to be levied which do not fall under the category of the three taxation measures mentioned above. This is the area where we envisage that such other commissioner will be used.

Mr. Shikuku: Mr. Temporary Deputy Chairman, Sir, the Assistant Minister is more or less asking this House to give him a blank cheque so that he can fill in any amount he wants later. We would like to know what taxes he has in mind. If we pass this Bill the way it is, we are going to give the Minister an opportunity to levy any taxes he wants. Is this the way to treat this Parliament?

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I have clearly pointed out on page 117 the intention of this provision where other taxes have also been mentioned under the First Schedule.

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

(Clause 13 as amended agreed to)

Clause 14

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 14 be deleted and replaced by the following -

"Employees to be 14. Any Person employed by the personally liable Authority shall be personally liable for wrongful acts or omissions done or committed in the performance of his functions under this Act, if having regard to the circumstances of

the case such act or omission -

- (a) is done or committed wilfully or dishonestly by such person;
- (b) is attributable to the negligence of such person; or
- (c) is done or committed by such person in contravention of any provision of this Act or regulations made thereunder or any other written law."

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, is this not already the position in law. I am sure that the Minister has been advised by the hon. Attorney-General to move this amendment. If any employee of the Authority commits any of the acts that are specified here, is it the intention of the Minister to say that the employer shall not be vicariously liable. Is that what the Minister is trying to achieve through this amendment?

The position in law is that if any employee does any of these acts, he is, in any case, liable under the law of tort unless the Minister is trying to achieve the opposite by making the employer not liable. I do hope that the employer will be liable and that the injured person will also be able to sue the employer so that both are liable.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, the intention of this Clause is to be clear, categoric and very specific indeed. I would like to add here that hon. Muite in his contribution to the Bill did make certain suggestions and we have nearly responded to his whims. We have made it certainly clear---

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir, is the hon. Assistant Minister in order to say that they have responded to my "whims"? I made very constructive and polite suggestions and I wonder whether he really is in order to call them "whims"?

The Temporary Deputy Chairman (Mr. Wetangula): Did you say that, Mr. Keah?

The Assistant Minister for Finance (Mr. Keah): Yes, Sir, I used the word "whims" in an understanding that this was the contribution of the debate of the hon. Muite.

The Temporary Chairman (Mr. Wetangula): Yes, but certainly, hon. Muite's contributions are not whims. I think that is quite impolite and you should therefore withdraw the remark.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I have no problem; I withdraw that remark unreservedly!

Mr. Shikuku: Mr. Temporary Deputy Chairman, Sir, I wish to thank the Minister because those views were expressed by hon. Osogo and other hon. Members. We thought that the person should be liable and I now appreciate that you have made it clear that every civil servant will be liable personally!

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

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)
(Clause 14 as amended agreed to)
(Clauses 15, 16, 17, 18, 19 and 20 agreed to)*

Clause 21

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 21 be amended by adding immediately after paragraph (d) the following paragraph -
"(e) respecting the performance targets of the Authority".

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

Clause 22

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I wish to draw your attention to Clause 22 second line, where it reads and quote:-

"The Minister may determine all property except any such property as the Minister may determine which immediately before the commencement of this Act was vested in the Government for the use of the Department of Customs and Excise, Income Tax, Value Added Tax (VAT) for the purposes of the written law set out in the First Schedule shall on commencement of this Act and without further assurance vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting such property".

Now, the question of the Minister determining - on the second line - there is a possibility that a lot of

property will be lost. I am afraid of this because of what we are losing right now. There is a possibility that there will be looting of Government property. So, could it not be in order that all property that is there should be left with the Government and not to the Minister to determine whether to dispose of it or not. It is too much to leave it in the hands of the Minister. He might make use of it and possibly make them his own!

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, the Minister of the Kenya Government has been entrusted with the management of the assets of this Republic in so far as the Customs, VAT and Income Tax Departments are concerned. If he is, therefore, entrusted with the responsibility of management, then the fears that hon. Lwali has need not be there at all.

Clause 23

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, is the Minister satisfied that Clause 23 of the Bill, as a matter of law, achieves what it has set out to, namely, transfer the powers and jurisdiction under the respective Acts to the new Authority? Is he absolutely satisfied that this legislation by reference does not leave any loopholes? Is he absolutely satisfied with the advice given to him by the hon. Attorney-General that on commencement of this Bill when it becomes law then the powers in the other three respective statutes will be vested under the new Authority?

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I am absolutely satisfied!

(Clauses 22 and 23 agreed to)

(First Schedule agreed to)

Second Schedule

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be amended in paragraph 2(1) by deleting "five" in line one and inserting "seven".

This is just to correct quorum.

(Question of the amendment proposed)

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Chairman, Sir, I had long discussion yesterday with my brother, the Assistant Minister, over this matter. I felt very strongly about the provisions in Second Schedule 3(2) that a decision is going to be made haphazardly by an Authority which is going to handle a lot of money for this country. I had informed him that I would rather this is deleted so that ordinary meeting takes place. But he did not have time to come and explain to me why he is adamant to remove Section 3(2) which reads and quote:-

"A decision may be made by the board without a meeting by circulation of the relevant papers among the members of the board and by the expression of the views of the majority of the members in writing that any member shall be entitled to require that a decision be deferred and the matter on which a decision is sought be considered at a meeting of the board".

This is a haphazard way of making decisions. Anybody reading papers might be drunk and make a decision on a very important matter. Now that the personnel provided in Section 6 have been increased to seven in case of any emergency, they can be got hold of. They are people living in Nairobi. Seven people can be got in a case of an emergency and make a decision in meeting rather than haphazardly circulating papers to allow for decision-making.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I agree that I went to great lengths with the hon. Osogo on that particular aspect which he raised. We have had plenty of discussions at the Ministry and considered the representations that he made on the Second Schedule. We appreciate that it is a good observation but nevertheless we felt that the fears that he has will be catered for by the fact that it is the majority of all the members who have to sign the minutes that are to be signed when the need arises. Experience has shown that this is a vital provision which is only used when it is only necessary. So, I would like to ask his indulgence on the matter. Not that we have ignored it, we have considered it and we thanked him

for making that observation. We have felt that it is a vital and necessary provision.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, while the Assistant Minister may insist on that fact, I do not think we can substitute a meeting of the Authority by simply circulating papers and signing them. This will encourage a lot of corruption. That as it may be, I was also drawing your attention to the same Second Schedule, the first paragraph where it states:-

"The first meeting of the Board shall be convened by the Chairman and subsequently, the Board shall meet as often as necessary for transactions of the business at such places and such times as may be decided upon by the Board but it shall meet at least once every month."

Here, the Board should have an executive officer. I do not think it is in order for the Board to decide to meet anywhere else if it is to have an office in Mombasa, Nairobi and Nakuru. It should have a proper office but not meet anywhere. In this particular Section, it would appear that the Board can choose to meet in a hotel or anywhere else and pass transactions. So, it should be in an official office and the Chairman being an executive chairman, he should be there.

Another comment I would like to put forward is on the Second Schedule (1) (3). It states:-

"The Chairman, or in his absence a member appointed by the Board to act in his place, may at any time call a special meeting upon a written request by majority of the members."

I am wondering whether a member should call a meeting and pass resolutions in the absence of the Chairman. I think that is wrong. This is a very important Authority and it should have proper organization. We either have a chairman or a deputy chairman so that we know who is meeting and not an ordinary member calling a meeting and passing very heavy resolution which will have terrible repercussions on Kenyans.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I need not deliberate any further on the issue of the meeting as raised by the hon. Osogo. I said that will only be used as a matter of a last resort. It will not be the ordinary aspects of the business of the Authority.

In so far as an official office is concerned, all I can say is that this has been noted and I am sure they will not be going to meet in Kisumu or in Mombasa but there maybe times when, as you know there is a lot of customs revenue in Mombasa, it can be necessary for the Board to meet in Mombasa, just to deliberate on matters relating to Customs. So, we cannot really tie the Authority to a specific office and say that all Board Meetings will be in that specific office. To do this will be tying the Board and which will not be fair.

Finally, in terms of the absence of the Chairman, I think this is really democracy. We will be having five members representing the taxpayers - in fact five of them - and if they feel that there is an issue which needs to be deliberated on by the Authority, they should have the right to call for such a meeting.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, what I meant was that there could be an office in, say, Kisumu or Malaba, but it should be an official office and not just having them meet in any place. As it is stated here, you can meet in any place even in your house.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I am sure the Authority, when it comes into being, will take note of hon. Dr. Lwali-Oyondi's comments.

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

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

(The Second Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its considerations of the Kenya Revenue Authority Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

**REPORT, CONSIDERATION OF
REPORT AND THIRD READING**

KENYA REVENUE AUTHORITY BILL

Mr. Wetangula: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Kenya Revenue Authority Bill and approved the same with amendments.

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

The Minister for Local Government (Mr. Ntimama) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I beg to move that the Kenya Revenue Authority Bill be now read a Third Time.

The Minister for Education (Mr. Kamotho) seconded.

(Question proposed)

Dr. Lwali-Oyondi: Mr. Deputy Speaker, Sir, now that we are passing this Bill, we hope it was intended for the progress of this country and that the authority to be set up will not turn out to be another white elephant through which money will be siphoned off. We hope that the proposed authority will not be misused to grab public funds as has been the case in the past. Too many new bodies have been formed but the results have been terrible. We have had the former Kenya Farmers Association being turned into Kenya Grain Growers Co-operative Union but the result was nil. We have the infamous petroleum levy fund and the result was nil. Recently we have had the road maintenance levy but our roads are still in a mess. So, we are just changing names but not actually achieving anything tangible. As a result there is more and more corruption. So, we hope that his Bill will not be misused to form a conduit for embezzlement of public funds.

With those few remarks, I wish to support.

Mr. Muite: I thank you, Mr. Deputy Speaker, Sir. I would like to take this opportunity during the Third Reading of this Bill to say that the honourable objectives that this Bill seeks to achieve may not be achieved unless the people who are going to be appointed as chairman and board members are men and women of integrity. We can have all the best laws or the best intentions, but which are administered by human beings. So, I do urge the Government to bear in mind that if the administration of this new Act is going to succeed it is essential that the Government does not appoint people on political considerations, because they are good Government and Kanu supporters. Let them be appointed because they are able Kenyans, men or women of integrity whose reputation, conduct and track record are above reproach. Only then shall we be able to succeed in collecting money and closing the loopholes that are in collecting in, for example, the collection of import duty. It is a fact, that at the moment a lot of tax money is lost because a lot of goods are coming into this country without people paying duty. Let us hope that these loopholes will be closed. They can only be closed if very able men and women are appointed to administer this Act.

With those few remarks, I beg to support.

Mr. Nthenge: Mr. Deputy Speaker, Sir, I want to make one point. The point I wanted to stress is that we are all responsible for taxation because we are the ones who are passing this Bill. The Ministry and the proposed authority must be very strict. Let what can be done by letter be done using a letter. What can be achieved using a volkswagen car should not be done using a Mercedes Benz car. Let us not use a Mercedes Benz

car to send somebody where he could have gone by bus. This is not personal money, which one can spend extravagantly. Government tax money should be spend meaningfully and reasonably.

Thank you, Sir.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir. First, I would like to thank hon. Members of this august House for their very vibrant contributions to this debate. It is obviously the concern of everybody and this Government that we generate enough revenue not only for operations but also for our development expenditure. I want to take this opportunity to particularly thank members of the public, especially members of the Institute of Certified Public Accountants and other people who have written their views in the Press, for their contributions have been very invaluable, indeed, towards the amendments to the Kenya Revenue Bill. I also want to thank those hon. Members who were not able to speak in this House, but who saw me outside the House and made individual contributions which I have incorporated in here.

I would also like to thank the Customs and Excise, VAT and Income Tax Departments and their Commissioners and staff who have done a commendable job in collecting revenue. We trust that, with the introduction of the proposed authority, they will be more efficient.

I would like to agree with hon. Muite that you can have all the good laws but it is really the individuals appointed to positions who live up to the expectations of this august House. This august House expects that those individuals who will be appointed to this authority will be people of integrity. It is the responsibility of every Kenyan to ensure that we are up right in our dealings in both Government affairs and our own affairs. Corruption is a two-way undertaking; this Government has set itself to eradicating corruption and I hope that every citizen will assist us in doing that. I do wish the proposed Kenya Revenue Authority every success, as I am sure that this House does wish the same.

Thank you, Sir.

(Question put and agreed to)

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

COMMUNICATION FROM THE CHAIR

DEFERMENT OF DEBATE ON BILL

Mr. Deputy Speaker: Hon. Members, the next item on the Order Paper is Order No. 8 - the Higher Education Loans Board Bill. It is at its Second Reading stage. But, in view of the time left and the fact that we have to move on with the Motion for the Adjournment, I think that it is advisable - and since in any case we will have to come back to it after a short recess - that we start straightaway with the Motion for the Adjournment. This will also have the advantage of giving many more hon. Members a chance to contribute today. So, we will move on to the Motion for the Adjournment. Yes, Prof. Saitoti.

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to move:

That this House do now adjourn until Tuesday 6th June, 1995, at 2.30 p.m.

It is my pleasure to move this Motion of adjournment because this Motion is being proposed after substantial business has been transacted in this House. Much of that business will enable wananchi whom we represent in this House to be able to get the services which are important. This time, we have been able to deliberate on the Supplementary Appropriations Bill and this should be able to provide extra income and resources to enable the Government to provide more services. Let me, at the same time, take this opportunity to commend each and every Member of this House for the contribution each of us has made in the service of our people. I do not have very much time but I want to state a few points. One of them is the fact that we are now breaking off at a time when the long rains have come. We have been waiting for them, they have come and it is important that all of us, during this recess, be able to spend it with our people and to urge our people to plant more food for self-

sufficiency. I know that there will be all kinds of questions here and there, but at the same time, we must remind our people that this country must remain self-sufficient when it comes to food.

Mr. Deputy Speaker, Sir, at the same time, let us use the time that is going to be available to us to talk to our people on matters of practical unity. Let us go out to our people and teach the virtues of unity and stability. This country will be able to develop provided that all of us grasp and, indeed, come to value the virtues of stability and, at the same time, abhor any kind of politics of hate. I think it should start with our leaders here, and I feel that all of us who are hon. Members, must be seen to be men and women who are upright, people who are able to set a good example to our own people. Let us be the first ones, in this Chamber, to abhor the vices of tribalism and hate. Let us respect each other. There was a debate here the other day when we did talk about the upholding of the dignity of this House. I still believe and subscribe to the basic fact that there is no way we are going to be respected if we do not start by respecting one another. Let us be the first ones, as hon. Shikuku has always said, to operate in this House in accordance with the rules of this House. If we go out and violate the Standing Orders, I do not think we are setting a good example. Let us understand that any game must be played according to the rules of the game. We should not be the first ones to go out and violate the Standing Orders. However much you may hate somebody because of tribal convictions or any other reasons, respect the laws and the rules governing this House.

Mr. Deputy Speaker, Sir, I want to touch on an important issue. It has to do with the issue of political reforms. I want to assure the hon. Members that the Government continues committed to the spirit of the reforms.

We have no intentions of going back, and we want to tell everybody, including the international community, that at no time have we tried to back-track. We want to consolidate every single step of reform that we make. Consolidation is more important than running very far. There are those who talk about the Constitution. I think the most important thing is for each one of us to respect whatever is written in that Constitution. But even more important, one has yet to tell me of a major country among the ones which are telling us to reform today, where the Constitution has been abrogated. What we should do is, if it becomes necessary, look at those aspects of the Constitution where amendments are required and amend them, but not abrogate the Constitution. To do so is tantamount to creating a second republic which nobody wants, except perhaps, hon. Raila Odinga. He can go to it himself.

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

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Deputy Speaker, Sir, I beg to second this Motion. I would like to thank all hon. Members who have very actively participated in debates in this House where very important Bills and Motions have been passed for the benefit of the wananchi. All hon. Members have worked quite hard and it is high time they had a change which is as good as a rest. This change is to move them from the House now, have a good recess and go to their constituencies to explain to the constituents what the Government's intentions are and what the Government is doing for the wananchi and how they can be assisted. It is also an opportunity for the Members of Parliament who have been very busy debating here on several issues to be able to tour the constituencies and see the projects that are being implemented and to assess their success and failure, and probably, also find out where they can correct the mistakes that may have caused the failures or non-completion of these projects.

Mr. Deputy Speaker, Sir, as we get back to our constituencies, we have a big problem with the youths. Many youths have no jobs. However, I am sure that if we sit together with these youths, they will tell us what they want and they may not necessarily say that they want jobs. They might say that they would like some advice on how they can sustain themselves. It is, therefore, up to us, in view of the fact that we do not have enough jobs in the country to give to these youths, to sit with the youths, plan with them and see how best we can help them to form self-help groups and, probably think up views of starting income generating projects, through which they can sustain themselves and keep themselves busy and be good law-abiding citizens of this country. As the Vice-President and the Minister for Planning and National Development has just mentioned, this, we cannot do unless we have peace and unity in the country, and this is the responsibility of all of us.

Recently, we debated here the need for hon. Members to be honourable. Bearing in mind that we are all Kenyans, we have to measure up to our being honourable by talking to the people we represent honourably and directing them in whatever they do, for the good of the country. As I said, we cannot do this unless we are peaceful.

[Mr. Deputy Speaker left the Chair]

[The Temporary Deputy Speaker

(Mr. Wetangula) took the Chair]

Some hon. Member are advocating civil disobedience. It is no use for us talking to the people we represent in the

countryside or in the towns and at the same time be lecturing them about civil disobedience which is definitely going to interrupt the development of the whole country. We should preach peace and unity and not otherwise.

With those few remarks, I beg to second.

(Question proposed)

Mr. Orengo: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to oppose this Motion.

First of all, I am opposing this Motion on account of principle that Parliamentary work, debate and timetable are not subject to statutes like the High Court which has got a timetable which is clearly stipulated by an Act of Parliament. We are going on recess when a lot of business, including Government business, has not been dealt with. There are serious Motions which have been presented for debate by the Opposition and only a few of them have been debated and by the time this Session expires, a lot of these Motions are going to die. This is all because we do not have a timetable set up by an Act of Parliament and it is high time that we had an Act of Parliament which would guarantee, not only when Parliament meets on a regular basis as long as possible, but also to make sure that this Legislature is truly independent and divorced from the Executive. I know this Motion is coming without any consultations with the Opposition. When the Government feels that they want to move a Motion of adjournment---

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misguiding this House. The issue of the adjournment was discussed in the Sessional Committee and the Opposition is represented and the decision was accepted unanimously.

An hon. Member: Yes, very good!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, very much so, but still my view still stands that the timetable for the Parliamentary business, work or schedules, should be subject to an Act of Parliament.

Towards the end of last year, His Excellency the President did promise the country that we were going to have a Constitutional Conference more or less, to discuss and agree on a new Constitution. He even made an undertaking that they were going to consult overseas lawyers to work on a new Constitution. There was even a time when the Attorney-General himself visited France and it was said that he was going there to look at the French Constitution. I do not know why he had to go all the way to France to read the French Constitution when it is available in the libraries here. If he had cared to save public money, he would have borrowed a relevant copy of that Constitution even from the University library, instead of using taxpayers' money going all the way to France to read the Constitution.

I want to say that without a constitutional reform and without an Constitution that is going to guarantee that this multi-party system works, then we are all endangered species. Even my friends on the other side, are all endangered species, if we cannot agree together and work on a new constitution.

Yesterday, there was a Magistrate who made some very irrelevant comments on---

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Orengo. You are getting out of control.

An hon. Member: But she called us names!

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Orengo! For the guidance of the House and those who are hell-bent on discussing the Chief Magistrate, Standing Order No. 73(1) reads:-

"Neither the personal conduct of the President, nor any conduct of Mr. Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the ruler or the Government or the representative in Kenya of any friendly country, shall be referred to adversely except upon a specific substantive Motion moved for that purpose."

Carry on hon. Orengo!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, in fact, I am not discussing her conduct; I am just discussing her abuse.

Mr. Temporary Deputy Speaker (Mr. Wetangula): I was giving a general guidance to the House.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am just discussing her views and she did say in her ruling, that she was making personal [Mr. Orengo] observations.

Mr. Temporary Deputy Speaker (Mr. Wetangula): Time up, Mr. Orengo!

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. With regard to that Standing

Order, I think it has been abused in this House. As you have just read, the Standing Order talks about the personal conduct of the President and Members of the Judiciary. If you stand here to discuss a judgement or a public statement which the President or a member of the Judiciary has issued, then you are not caught by Standing Order No.73(1).

(Applause)

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Murungi. I have given my ruling and if anybody transgresses, I am going to cut his speech short.

Mr. Abdulahi: Mr. Temporary Deputy Speaker, Sir, we are going on recess to serve our constituents. But I wish to notify this House that the very many bureaucracies in some Government Departments make it very difficult for some of us to serve our constituents efficiently. Our electorate send us here so that we can assist them solve their problems. We are here to serve them any time they demand our services.

Of late, there has been a lot of writings in newspapers between a section of Parliamentarians and the Immigration Department. It is alleged that this Department is discriminating against the Muslims when issuing out passports which they need to make a pilgrimage to Mecca or for other purposes.

I wish to notify the hon. Members of this House that we Muslims are required to meet the necessary conditions set by the Immigration Department. They are conditions that very few can manage to meet. When a Muslim asks for a passport, as a requirement, he is required to fill form PC.7 which should be filled only by foreigners who are claiming to be Kenya citizens and not Kenyans. I am required to fill in that form myself. Any Muslim or Somali applying for a passport is required to fill in that form.

Mr. Temporary Deputy, Sir, when a Muslim applies for a passport he is required to fill in a form called BB7 which is supposed to be completed by foreigners who are claiming to be Kenyan citizens. Any Kenyan Somali applying for a passport he is required to fill a form which is to be signed by a sub-chief, district officer and the district commissioner. After the form has been signed the applicant submits it to the Immigration Department. But it can take years before the applicant gets any response. Members of Parliament of the Muslim faith spend most of their time chasing passport application forms at the Immigration Department. Sometimes we are told that a file has gone missing for a whole year.

Mr. Temporary Deputy Speaker, Sir, no Kenyan is more Kenyan than the other. I do not accept that Christians are more Kenyan than the Muslims nor do I accept that Muslims are more Kenyan than Christians. I do not accept that Kikuyus are more Kenyan than Somalis neither do I accept that Somalis are more Kenyan than Kikuyus. In short, we are all Kenyans and we should be treated equally without any discrimination. There should be no discrimination in matters pertaining to the issue of passports. Muslims should be treated like any other Kenyans. The application forms that are required to be filled should be uniform.

Mr. Temporary Deputy Speaker, Sir, for a Muslim to get a passport he is required to submit the original copies of his parents' birth certificates; school leaving certificates for both primary and secondary school; proof of one's parents continued residence in Kenya from the colonial days---

The Temporary Deputy Speaker (Mr. Wetangula): Time up!

Mr. Shikuku: Ahsante sana, Bw. Naibu Spika wa Muda. Mimi ningependa kusema mambo matatu. Sisi kama Wabunge ni lazima tuseme ukweli kila wakati. Hatutakiwi kusema mambo ya kupotosha. Sikuwa hapa Jumanne iliyopita. Siku hiyo mhe. Nyachae alitoa Taarifa hapa ambayo haikuwa ya kweli. Aliliambia Bunge hili kwamba kampuni yake iliagiza kutoka ng'ambo tani 10,500 za mahindi. Lakini ukiangalia katika records za Kenya Ports Authority utaona kwamba yeye aliagiza tani 20,500 za mahindi.

The Assistant Minister for Foreign Affairs and International Co-operation (Dr. Manduku): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to personalise this issue?

The Temporary Deputy Speaker (Mr. Wetangula): He is perfectly in order to comment on a document that is a property of this House.

Mr. Shikuku: Bw. Naibu Spika wa Muda, ukweli hautapingwa. Mimi bado sijamaliza. Ukweli ni kwamba mhe. Nyachae aliagiza tani 20,500 za mahindi. Isitoshe, yeye hakuliambia Bunge hili kwamba yeye hakulipa kiasi cha Kshs.79,513,350 kama ushuru kwa Serikali. Yeye aliendelea kusema kwamba eti kulikuwa na upungufu wa mahindi. Yeye aliyaleta mahindi hayo mnamo tarehe 1.4.94. Sisi wakulima huanza kupeleka mahindi kwa NCPB kuanzia mwezi wa Desemba, Januari, Februari hadi Aprili. Upungufu huo wa mahindi ulitokea wakati gani?

Yafaa wananchi wafahamu kwamba maadui wao ni watu wakubwa. Wameagiza sukari bila kulipa ushuru. Ushuru huo ni kiasi cha Kshs.5 bilioni. Ushuru ambao haukulipwa kutokana na uagizaji wa mahindi ni Kshs.2.4 bilioni. Katika Bunge hili tuna watu ambao wamewanyang'anya wananchi kiasi cha Kshs.137 milioni

ambazo ni ushuru. Pia kampuni ambayo inaitwa Premier Flour Mills iliagiza sukari bila kulipa ushuru wa kiasi cha Kshs.58,180,500. Kiasi cha ushuru ambacho makampuni haya mawili hayakulipa ni Kshs.137,663,850. Kampuni ya Kabansora ni ya mhe. Nyachae nayo Premier Flour Mills ni mhe. Biwott. Acheni kucheza na Mbunge wa Butere! Wakubwa ndio wanawamaliza wananchi. Wanatuambia tufanye Harambee hali wao wanaiba kodi ya wananchi. Hawa ni wezi!

Mr. Biwott: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House by saying that I imported maize when I am selling my own maize? He should withdraw or else substantiate.

Mr. Shikuku: Mimi sikusema kwamba mhe. Biwott aliagiza mahindi; nilisema aliagiza sukari. Yeye ni mmoja wa wakurugenzi wa hiyo kampuni.

Mr. Biwott: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead the House by saying that I as Mr. Biwott imported that sugar? If the sugar was imported by that company, could he Table his evidence?

(Mr. Shikuku laid the documents on the Table)

The Assistant Minister, Office of the President (Mr. Sunkuli): Thank you, Mr. Temporary Deputy Speaker, Sir.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, you will realise that this is a timed debate and every Member has only five minutes to speak. Let us avoid unnecessary sensationalization of debate and unnecessary points of order and unnecessary acrimony so that we can hear each other in the dignity and honour that we have been clamouring for.

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

The Temporary Deputy Speaker (Mr. Wetangula): What is your point of order? I have just said I do not want points of order.

Mr. Gitonga: Is it in order for hon. Biwott to insult hon. Shikuku by telling him to shut up? Is that Parliamentary language.

The Temporary Deputy Speaker (Mr. Wetangula): I did not hear that. Carry on, Mr. Sunkuli!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, in support of this Motion of Adjournment, I would like to say that several hon. Members over this short Session have made a number of remarks especially about two matters that I would like to comment on.

The first matter which was referred to by the hon. Farah of Lagdera touches on this question of passports. Mr. Temporary Deputy Speaker, Sir, the Office of the President has always been willing to give passports to all its citizen. But there is an argument that have been put forward by hon. Farah and a few other persons who may not be in this House, that passports should be given to persons indiscriminately. This cannot happen. A passport is a document that is given to a Kenyan citizen so that he can be able to be received by the countries that he is visiting with all the respect that a Kenyan ought to be accorded to.

Mr. Temporary Deputy Speaker, Sir, it is really a pity that a number of Kenyans have been forging passports of late and that these passports that have been forged have actually spoiled the name of the Kenya Passport abroad. We have arrested a number of Kenyans who have actually forged these passports and there is a long list of these persons. I would like to table one of this list because it is a very long list of people. This list contains a number of Kenyans who have been arrested, charged in the courts of Kenya for having forged their passports.

Mr. Temporary Deputy Speaker, Sir, I wish to table that list and urge the hon. Members to advice their constituents to carefully look into this question of forging our passports so that the image of the Kenyan Passport does not become destroyed.

(Mr. Sunkuli laid the document on the Table)

I am very surprised that nowadays if you land at Heathrow Airport the Kenyan passport that used to be a very valuable document is becoming a suspect one because of persons within our own country who are, in fact, forging the passport. There is a huge amount of sale going on in Eastleigh particularly touching on Somali residents who are trading in these passports. We are receiving a number of complaints of persons who are claiming that their

passports are lost and they are demanding a replacement of these passports. This is supported by the fact that there are so many passports that are not genuine within our country and outside by persons who are bearing our passports. I think that this matter should be addressed by the hon. Members, mainly from the Somalis so that they can help the Government to tighten this particular loophole because it is becoming very dangerous.

Mr. Temporary Deputy Speaker, Sir, the second matter which has been commented on by hon. Members is on the Constitution of Kenya. The Government is prepared to have the Constitution amended, but we must always understand that the basis of this Republic is the current Constitution and that what we are going to have must be a clear analysis of the present Constitution and upon the present Constitution to see what kind of Constitution within the framework of the present Constitution can operate in order to facilitate a truly multi-party Kenya.

Mr. Temporary Deputy Speaker, Sir, sometimes hon. Members speak as if we are going to throw away the current Constitution. I would like to say that the Government is going to take the initiative, eventually, of having the Constitution of Kenya amended. The groundwork of this Constitution must be done thoroughly because an amendment of the Constitution is not like an amendment of any other piece of law.

Mr. Temporary Deputy Speaker, Sir, quite a number of laws in this country also should be amended of course. As I keep on saying in this House, the law relating to marriage needs to be amalgamated.

With those few words I beg to support.

Mr. Kibaki: Thank you, Mr. Temporary Deputy Speaker, Sir. In contributing to this Motion, I may start where the hon Assistant Minister has stopped. Mr. Temporary Deputy Speaker, Sir, it was the President of Kenya himself, who in his New Year message, which was very welcome, promised Kenyans that there will be a Constitutional Conference, and that he was calling on experts from other parts of the world. Everybody welcomed it but now, we are in May and we have not yet started on Constitutional amendment.

Secondly, Mr. Temporary Deputy Speaker, Sir, a promise from that kind of source is taken very seriously by Kenyans. So, all I am saying is that, we should begin.

The other point, Mr. Temporary Deputy Speaker---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order Mr. Temporary Deputy Speaker, Sir. I do not intend to take the hon. Member's time, but is he in order to mislead the House that the President promised a Constitutional Conference, when no such thing was promised.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, as I told you they are only trying to take my time. The second point that I want to make is that, as we go into this recess, the Government has to stop the harassment of leaders. We cannot continue to have harassment of people who are elected by the public of Kenya. When a Member of Parliament is harassed by this Government this Government looks absolutely primitive in the eyes of Kenyans. It must be a very primitive Government which refuses to recognise an elected person for what he is. He is elected to represent his people yet he is mistreated. Even chiefs can harass a Member of Parliament. We are downgrading this House and we are making our institutions meaningless. We must strengthen the institutions. It is the institutions which make the nation. So, we hope that during this recess, the Government is not going to make it their usual time for harassment of Members of Parliament.

Thirdly, Mr. Temporary Deputy Speaker, Sir, there was an agreement last year between the Presidents of East Africa, and we were told that Kenyans, Ugandans and Tanzanians were going to restore to them greater freedom of movement, trade, enjoyment of freedom we want to enjoy and that the East African Community was being gradually revitalised and renewed. As I understand it, we have not began that process purely because some of the Governments have fallen back on very childish nonsense for not appointing those people who should be appointed to man the Secretariat at Arusha. Everything is ready at Arusha but the actual persons who are to be nominated by the three countries have not been nominated. Therefore, we can not begin on the great promise which was given by three Heads of State. It is a shame. We cannot waste six months waiting for unknown reasons and as we check these reasons it turns out they are purely personal quarrels between some individuals and not policy matters of the nation. Please, we appeal to these three Heads of State to consider that what they promised East Africans is far greater than their own personal quarrels between themselves or their personal dislikes. We want the East African Community revived. We want what was promised done. We want the Secretariat working at Arusha and above all let us make the free trade and movement of people a reality, because when it was promised, we all welcomed it. So, we want to see it.

Finally, Mr. Temporary Deputy Speaker, Sir, let me say this, we want this Government to stop harassing the farmers. We, the farmers, produce milk for this nation, but we have not been paid for six months. After we elected directors who should represent us in Kenya Co-operative Creameries (KCC), the fat Minister for Co-operatives Development went and dreamed and restored people who have been rejected. It is a disgrace for the Minister to grow fatter doing mischief.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, it is very very mischievous because we had chosen directors and those who have been rejected get reappointed. We want the people we elected. I am demanding that co-operatives be given their right to choose directors and particularly their chairman and their vice-chairman.

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

Mr. Biwott: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to debate on this Motion for the Adjournment. First of all, I would like to say that we now come to the end of our First Session in this Seventh Parliament which has been very fruitful. We have managed to pass Bills that will have very far reaching impact on our economy. For example, we have just passed the Appropriation Supplementary Bill which will no doubt authorize money to be spent on development in various constituencies. It is, therefore, important for hon. Members to be given the opportunity to visit their constituencies in the course of the recess.

Mr. Temporary Deputy Speaker, Sir, we have also passed the Kenya Revenue Authority Bill, which is a very important Bill and I hope that this Bill, once it becomes law, will go a long way to streamline taxation measures in this country so that money that is due to the State will be collected effectively. It is my hope that once collected, this money will be used appropriately for the purposes of enhancing the economic development of this country. As we all know our basic responsibility is to solve the problems affecting the people of this nation, namely, ignorance, disease and poverty. These three major problems are still in our midst today and this Government needs to make a lot of effort to eradicate these problems.

Mr. Temporary Deputy Speaker, Sir, our responsibility is to address ourselves to these problems instead of engaging in useless talk and arguments that cannot assist anybody. It is the accountability and integrity of every individual leader in this country that is at stake. For this reason, I hope every hon. Member in this House will show by deed that they are accountable and responsible for everything they say. They must endeavour to fulfil the promises that they gave to their electorates when contesting for the seats they now hold in this House. It is almost three years now since we were elected in this House and I hope that every hon. Member makes enough effort to assist his constituents in order to come back to this House next year.

Mr. Temporary Deputy Speaker, Sir, accountability and responsibility is very important.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member on the Floor says that he hopes that we are going to come back to this House next year as if there are going to be elections at the end of this year. What really does he mean by saying so?

Mr. Biwott: Mr. Temporary Deputy Speaker, Sir, the hon. Member knows that he has no chance whatsoever of coming back to this House after the 1997 elections. I was hoping that he was listening to some of my advice so as to be able to struggle back to this House next time. I was saying that all leaders must be responsible and accountable for whatever they say or do and must learn to tell the truth. They must also learn to get away from the paranoia where nobody can talk without invoking the name of hon. Biwott. Mr. Biwott is a clean man who follows the laws of this country to the letter.

Hon. Members: Question! Question! Question!

Mr. Biwott: It is unfortunate that an hon. Member with so much experience can stand up in this House and say that a company belonging to Mr. Biwott imported sugar without paying duty. I would like to say that I do not do such things. The company he talked about - and I would like him to assist me - is called Premium Ltd. Let him prove to this House that I own that company.

An Hon. Member: He is an expert in coverups!

Mr. Biwott: I have with me here the document that he laid on the Table to support his claim which says the name of the company is "Hon. Biwott and Company Ltd" and said that this was the company that imported the sugar he is talking about. He should not run away from the responsibility of proving beyond any reasonable doubt that I own this company. In fact, the hon. Member ought to be disciplined for misleading this House by Tabling a document in this House which is absolutely false. He has got to learn how to behave in this House so that we can trust him.

With those few remarks, I beg to support.

Mrs. Asiyu: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to debate on the Adjournment Motion. When he was moving this Motion, His Excellency the Vice-President, he did ask hon. Members to go back home and advise the farmers to work hard on their farms. However, there are very many problems that are making it impossible for farmers to produce enough food for this

country. For example, the cotton seed that has been given to the farmers is a very bad seed although the Cotton Research Station in Kibos is telling us that any seed that germinates is good seed. Last year the farmers did not produce any cotton because the cotton seeds that they planted were the wrong type of seeds. This year, they have been advised to go to the cotton ginnery to buy seeds for themselves. However, these seeds are varieties of cotton grown in all parts of East Africa. Some of them are from Uganda while others are from Tanzania and Kenya and we do not know what the farmers are supposed to do. I am, therefore, asking the Minister for Agriculture to make a statement as soon as possible regarding the cotton seed problem, so that the cotton farmers may know what seed to plant.

Mr. Temporary Deputy Speaker, Sir, today, the pathetic situation of our roads in this country, especially in Karachuonyo is making it impossible, not only for farmers, but also for fishermen as well as businessmen, to carry out any activities during this period. I would like therefore, to call upon the Minister for Agriculture to---

(Loud consultations)

Mr. Ruhiu: On a point of order, Mr. Temporary Deputy Speaker, Sir. We can hardly hear the hon. Gracious Lady because of the noise that is being generated by hon. Members, particularly from where hon. Kamwithi Munyi and Biwott are!

(Loud Consultations)

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. The contribution by the hon. Member for Karachuonyo is very important. Could you please ask hon. Members to consult silently?

The Temporary Deputy Speaker (Mr. Wetangula): Order hon. Members! I agree with hon. Obwocha entirely. There is far too much noise in the House. Can we hear the hon. Gracious Lady in silence?

Mrs. Asiyu: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me. I was saying that the pathetic situation of roads in many parts of the rural areas is making it impossible for businessmen as well as fishermen and farmers to carry out their activities during the rainy season. I am, therefore, asking the Ministry of Public Works and Housing to at least construct three very important roads in my constituency, namely, Road D219 that goes through Nyakongo-Kanam-Kadiege-Homa-Bay. This road serves the whole divisional headquarters and I would, therefore, ask the Ministry to consider improving this road. There is also another road, namely, E213 and E1018.

Mr. Temporary Deputy Speaker, Sir, there are very many challenges that face this nation and I think we need a lot of goodwill from all leaders in this country in order to carry out the challenges that lay ahead of us. There is not one single party that can carry out the immense challenges that face this country. We have one very pathetic issue regarding child abuse and rape in this country. When one reads in the newspapers about incidents where children are used to provide cheap labour in houses and farms and where young girls have been sexually abused through rape, one becomes extremely worried about these things. When we are told that certain poor parents prefer to pay school fees for their sons and not daughters regardless of how brilliant their daughters might be, this also becomes a matter of grave concern to us. I think the Ministry of Education should come up now and give more consideration to girls who would like to get scholarship and bursaries to enable them to continue with their education, particularly where very brilliant girls, whose parents cannot afford to pay school fees, are identified.

With those few remarks, I beg to support.

Hon. Members: Hon. Kamwithi Munyi!

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! I want to assure you that those who want to hear hon. Kamwithi Munyi will definitely hear him!

(Applause)

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to support this Motion. It has come at the right time because it will give us an opportunity to interact with those who elected us and to see the problems, first-hand, that they are encountering during this critical period of planting.

Mr. Temporary Deputy Speaker, Sir, first of all, I would like to appeal to the Ministry of Finance. Now that the Supplementary Appropriation Bill has been passed, they should make Exchequer Issues available quickly

to those whom money is due so that that money is used, starting with NCPB. They need that money in order to buy inputs and be able to plant so that the planting season is not lost.

Mr. Temporary Deputy Speaker, Sir, I would also appeal to the Treasury to release money to various Government Departments that need to use that money, particularly for fuel. Wananchi, whenever they go for service, are told to fuel the vehicle first. It becomes very difficult for a mwananchi to know whether it is true that vehicle needs to be fuelled because there is no money from Government side or whether the fellow asking for the vehicle to be fuelled wants something else. In fact, that system is bad because it encourages corruption. So, any money voted for the police, land officers and other various Government offices in connection with fuel should be released immediately in order to cut down on the sort of corruption that could be encouraged through that channel.

Mr. Temporary Deputy Speaker, Sir, the Prisons Department has a lot of people, particularly in my area, who are imprisoned from outside. These people are supposed to go and work, but instead of doing that, they have opted to give something small to those who administer them so that they just stay at home instead of doing some valuable work for this country. I would like to appeal to the Prisons Department - I am glad that the Minister is here - so that those people are released to chiefs and other administration officials to be able to work on the roads. Now that the rain season is here, they can help repair the bad roads to enable them to be useful instead of sitting idle.

Right now, there is a road that I want them to work on between Eastern Matope(?) and Musukuru. I have availed used tractor tyres to enable stones to be broken more easily, but there is no labour. Wananchi are only trying, but they would do better if they were assisted by those who are supposed to be in prison but working from outside.

While on that point, Sir, I would also like to draw the attention of the Minister for Home Affairs and National Heritage, I have seen that they are still chaining prisoners or suspects to prisons officers. This is very unfair because during these days of AIDS and so on, even those officers look as if they are prisoners since they are also chained to those fellows when escorting them to courts. Time has come when we should find some alternatives so that we do not have to chain a prisoner to--

The Minister for Home Affairs and National Heritage (Mr. Lotodo): On a point of information, Mr. Temporary Deputy Speaker, Sir. We do not "chain" prisoners to warders, but we "handcuff" them!

(Laughter)

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Mr. Temporary Deputy Speaker, Sir, thank you very much for that information. To a layman, a chain and handcuff are the same thing! But something could be done here to make sure that the dignity of those officers is maintained.

Finally, Sir, I hope that this recess will be used by those who administer this august House to improve our compounds. If you look at the gardens around this august House, I am sure pretty soon snakes will be raiding us! It does not look nice for a whole National Assembly to have the compounds being as bushy as they are at the moment.

With those few remarks, Sir, I support the Motion.

Mr. Gitonga: Mr. Temporary Deputy Speaker, Sir, allow me to take this opportunity to thank you for giving me the chance to contribute to this Motion.

Mr. Temporary Deputy Speaker, Sir, recess, I believe, is a time when hon. Members should have an opportunity to consult with their electors on matters of development. But I personally go on this recess a very sad man because a citizen of this country and a member of my constituency has been murdered in cold blood. This man, Mr. Bernard Kahumbi, a senior police officer - in fact, a Superintendent of Police - has been murdered under circumstances that are very suspicious.

I have been to see the family of this man, Mr. Bernard Kahumbi, and the family is very suspicious and believes that the only crime that Kahumbi committed to deserve his death is because he is a Kikuyu and he failed to arrest hon. Gatabaki.

Mr. Temporary Deputy Speaker, Sir, this is a very serious matter and that is why I said that I go on this recess a very sad man. In Lari right now, people are not ready to discuss any matters affecting development because of the pain due to the death of this man. I know it has been said and I have also heard from some of the Members on the other side of the House that Mr. Kahumbi was being accused of being a Ford (A) activist. May I say now that I personally did not know Kahumbi as such, and I have never even had an opportunity to take a cup of tea---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary

Deputy Speaker, Sir. The hon. Member is misleading the House by claiming that the man who died and he is insinuating that the Government is, in fact, behind that. This is utter nonsense and not true!

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Sunkuli! The use of the word "nonsense" is unparliamentary and you have to withdraw it.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, I withdraw the word "nonsense" and state that that is a gross misrepresentation of the facts and, in fact, it is a very flimsy assertion.

Mr. Gitonga: Mr. Temporary Deputy Speaker, I am very sad because this Assistant Minister does not understand what he is talking about. I personally said that I did go to Lari to visit the family and the family believes very strongly that - I also have no doubts about it - the only crime this man committed is because he failed to arrest hon. Gatabaki. I repeat that!

Mr. Ruhiu: On a point of order, Mr. Temporary Deputy Speaker, Sir, this man, for failing to nab hon. Gatabaki was butchered at Nyayo House "butchery" and dumped there.

An hon. Member: Yes, at the torture chambers!

Hon. Members: Shame! Shame!

The Assistant Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, the hon. Member for Embakasi has categorically stated that the deceased actually met his death in Nyayo House. I would like this hon. Member either to substantiate that fact or to withdraw it. For how long are we going to entertain this kind of tribalistic talk?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Ruhiu you have made a very categorical statement. It is the concern of this House to protect the life of every Kenyan. You have stated that the man was butchered at Nyayo House.

An hon. Member: It is Nyayo Butchery.

The Temporary Deputy Speaker (Mr. Wetangula): Whatever it is. Your colleague has demanded a substantiation and you have to do that.

Mr. Ruhiu: I am going to substantiate that. I am going to state here that today it is Kahumbi, tomorrow it is you, hon. Sunkuli, and you will be killed. All I am saying is this; This man failed to arrest hon. Gatabaki and as such, he was suspended for a few days, interrogated, tortured and eventually taken to Nyayo Butchery where he was butchered and dumped at Ngarariga Flyover.

(Applause)

The Minister for Local Government (Mr. Ntimama): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to support this Motion. I really want to say that we are all in this House anxious that someday we will have an opportunity to discuss and deliberate on the Constitution of the land. This is because the Constitution of Kenya is not dead, it is alive and it is continuous.

Mr. Temporary Deputy Speaker, Sir, I do not know why some hon. Members in this House are itching so much about getting this Constitution amended or rewritten when, as a matter of fact, some hon. Members in this House are the people who pushed this Unitary Constitution down our throats without having been discussed by this House and by the people themselves. I do not know what is itching them. Maybe they now want to modify it and make it a more stronger Constitution for some people to start ruling and suppressing, oppressing other people's desire, or something. That Unitary Constitution somehow is doing that in some areas today. It has given way to the expansion of other people reminiscent to the expansion of the Colonial powers sometimes back when they came to this land stampeding on the rights of other people. Probably some of these people who are so anxious to bring this Constitution want to repeat that while strengthening the possibility of some ethnic groups going out to be suppressor and build black colonies when the white colonies have left this land. I want to say that, as a matter of fact, the Constitution definitely is going to be re-written and reviewed but the Constitution is supposed to take everybody else's views. If it is going to be pushed down the throats of the people, then we are going to have problems in this country.

Look at what is happening right now. We have many Non Government Organizations (NGOs) and churches in this land. I am sure the hon. Members opposite here have actually been supporting them so that they take part in the re-writing of the new Constitution of this country. Which are these churches? Which are these NGO's? If you really examine them properly, they are probably coming from one ethnic group and this is a way of trying to make sure that the representatives of the people do not get time to represent their people. The churches have a job to do. This country---

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Minister in order to mislead this House by claiming that those pushing for a new Constitutional order come from one ethnic group when his Excellency the President, hon. Mwai Kibaki, Hon. Paul Muite and hon. Dr. Kituyi do not come from the same ethnic group and we all want the Constitution changed?

The Minister for Local Government (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I did not say that the Constitution should not be re-written, but I am always surprised that some hon. Members are itching a bit too much than other people. We can wait until time comes because we have plenty of time to sit down and agree among ourselves to write this Constitution. What I am saying is that the churches have no business in writing the Constitution of this country. Non-Governmental Organizations have no business in writing the Constitution of this country. The churches themselves are full of scandals and they actually act and project themselves as political parties. If you look at the bishops and most of the clergy today, they belong to one or two ethnic groups and that is going to be unfair to us. We are not going to accept a situation of sitting down and having the churches or the Law Society of Kenya which is 78 or 90 per cent Kikuyus come and be responsible to write our Constitution. I want to say very very clearly---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for the hon. Minister to pour such venom and hatred? Is it in order for him to suggest that 90 per cent of the members of the Law Society of Kenya are Kikuyus when there are Maasais who are members of the Law Society of Kenya and when he knows that it is not true?

The Minister for Local Government (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I am speaking the truth. Unless these things are changed---

The Temporary Deputy Speaker (Mr. Wetangula): Hon. ole Ntimama, your time is up. I call upon hon. Prof. Anyang' Nyong'o.

Prof. Anyang' Nyong'o: Mr. Temporary Deputy Speaker, Sir, I beg to contribute to the Motion on Adjournment.

I would like to call upon the Government, since I have a very short time, to pay attention to certain emergency situations in the country. One of the most important emergency situation I want to draw the Government's attention to, is the current flooding in Kano and Nyakach plains. The Government knows that for a long time there has been a plan to harness the waters of the River Nyando and to ensure that the plains of Kano, which are very rich in terms of agricultural production, are used in the interests of the economic development of this country. It is indeed very shameful that we should waste such a potential resource just because we are reluctant to put in the necessary capital investment which at the present cost would be not more than Kshs. 700 million dollars to ensure that the Kano Plains are productive and to ensure that those plains become a granary in grain and horticultural production in our nation.

The second point I wanted to make is the question of the NHIF together with the NSSF. These are two of the most important sources of savings in this country, but they have been grossly misused. We have an instance in this country whereby nursing homes submit costs to be recovered from the NHIF without actually having patients in those nursing homes.

Mr. Temporary Deputy Speaker, Sir, it would be important for the Government to insist that before a nursing home gets the costs recovered it must employ a doctor. The nursing homes should not only recover costs in terms of the number of beds occupied in any one month; instead they should recover from the NHIF doctors that are recognised by the NHIF as being employed by those homes. This will avoid the current fraud which most people are engaged in at the moment, and which makes the insurance scheme rather expensive for ordinary citizens and not be in service for the interests of people. Hospital insurance should also be liberalised, precisely because the NHIF, as a state body, enjoys a certain kind of privilege. I think that is one of the reasons why it has not worked efficiently. But I know for certain that studies have been done - and they are in the possession of the Government - on how to improve the services of the NHIF.

The third point I want to make is that, I think, it is rather primitive and excessive for the police to punish printers whenever they disapprove of certain publications. To begin with, it is wrong to gag the Press. It does not augur well for our pronounced commitment to democracy in our Constitution. It is even worse to go further and damage printing presses whenever the Government is not pleased with what a particular printing press is publishing. I think this is double punishment and it should be discouraged and banished forthwith.

Finally, I would like to talk about the use and misuse of chiefs and assistant chiefs. As we are going into recess, these people are bound to be given instructions to be excessively repressive on Opposition Members of Parliament and ordinary Kenyans. I plead with the Government - and I have done this many times in this House - that the misuse of local administrators called chiefs and assistant chiefs is something which is very shameful to

this nation.

In conclusion, if magistrate Kidullah wants a platform to make a public speech she should be given a permit---

The Temporary Deputy Speaker (Mr. Wetangula): Order, Prof. Anyang'-Nyong'o! The Chair had ruled much earlier before you came in that I am not going to allow the Chief Magistrate to be a subject of discussion without a substantive Motion in accordance with Standing Order No. 73. As a matter of fact, hon. Shikuku wanted to rise on a point of order after Question Time and the Chair declined to give him the opportunity.

The Minister for Co-operative Development (Mr. Munyi): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First, I would like to appeal to all hon. Members in this House to maintain peace, love and unity for the sake of our nation. When the world looks at Africa and sees countries like Rwanda, Burundi, Somalia and other countries they say that it is very unfortunate that these countries got Independence. I want to tell hon. Members that history should teach us in Africa to love one another. It is wrong for some of us to be telling donors not to assist us. Most of the people who are doing this are in the Opposition.

Even one hon. Member is aware who did development in his constituency. The hon. Member knows Alliance Girls and Alliance Boys schools were put up by his Excellency the President. He should be thankful for that.

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

The Minister for Co-operative Development (Mr. Munyi): I do not want it. The hon. Member also knows what the President did in Bungoma where he comes from! We in the Opposition should show the world what is good for Kenya---

(Prolonged applause)

Mr. arap Kirwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has made a very serious statement. I do not know when the hon. Munyi crossed to the Opposition. Can he put the record straight. He has said "We the Opposition---!".

The Minister for Co-operative Development (Mr. Munyi): Mr. Speaker, Sir, I am appealing to hon. Members in the Opposition to do what KANU is doing. I announced in this House that the Kenya Co-operative Creameries (KCC) will pay farmers. In fact, the payment has already been done.

I would like us in Kenya to be an example to other countries of the world. This is because multi-party system has worked very well in Kenya. Since it has succeeded we should ask who has made this success possible. It is the President of the ruling party, KANU. He has been preaching peace, love and unity and showing it practically. But Members of the Opposition do not want to appreciate this fact. However, we will continue preaching this gospel because we do not want trouble in our own country.

With those few remarks I wish---

The Temporary Deputy Speaker (Mr. Wetangula): Time up!

Mr. N.M. Nyagah: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the Motion for the Adjournment. I would like to wish everybody a good recess and hope that we shall all meet here again when we come back. In the past, we have always lost one Member of Parliament and I hope that this time, that shall not be the case.

Mr. Temporary Deputy Speaker, Sir, a few things that have been said by Members of the Opposition should be noted with concern. As leaders, we must watch our public utterances that we make all the time. We must meet the expectations of the people who elected us. They elected us because we are mature, wise and able to lead them. We must not let them down through some of our utterances. I thought some of the things that hon. Munyi would say would be about the current wrangling in KANU where the Provincial Administration has been involved in helping to reconcile the warring factions. I must once again air my dissatisfaction with the appointment of the Provincial Commissioner, Eastern Province, to perform such tasks. The PC has a lot of work to do within his own province and he should not be restricted to just worrying about the affairs of KANU. If, indeed, this is right, how come the other Provincial Commissioners have not been used by the various parties that have got their own wrangles? I know that I put this Question to the Minister and I was answered, but I would like to plead and urge my father to have a vision. KANU is not always right. In this case, the PC has no business ensuring that the wrangles in KANU are solved. But I would like to assure them that the seats that are vacant in Embu will all be taken by the Opposition. That is guaranteed!

Mr. Temporary Deputy Speaker, Sir, I would like to talk about access by the Opposition during this time

of the by-election. In the past, we have had problems with being given the opportunity to get to the voters. The most recent example is the experience of my own party Chairman, Mr. Kibaki, when he visited Nyandarua. The area was cordoned by KANU activists and the Provincial Administration. At least, when it comes to these campaigns, we must have level playing ground. The people have decided which way they want to go. For instance, in Kipipiri, unless God comes down from heaven, there is no way, you, KANU, can get it. Forget it! Leave it to us. I also assure KANU that in Machakos Town and Changamwe, victory is on our side, and KANU might as well forget about it.

My next point is in reference to this very absurd thing that happened in Parliament the other day. The late Sir Humphrey Slade did indicate as to what the precincts of Parliament are. I was looking at the HANSARD the other day, and I found out that he did indicate that the precincts of Parliament refers to all the area that falls within the outer wall. But this does not seem to have sunk in this Government of the day. When they came to arrest Gatabaki here, it was okay for them to park their cars outside Parliament, but I do not think the policemen had any business locating themselves within the precincts of Parliament, in the Ministers' car park. On that day, there were very many policemen loitering all over the place, including the kitchen, the lounge and even the toilets. But I would like to congratulate the Opposition, who managed to become the Government of the day and whisked hon. Gatabaki out.

Mr. Mulusya: On a point of information, Mr. Temporary Deputy Speaker, Sir. On that day, the policemen were even in the Mausoleum, where the late President Kenyatta is buried. They were pushing the buttons to see whether hon. Gatabaki was inside!

(Laughter)

Mr. N.M. Nyagah: Thank you for that important information.

Mr. Temporary Deputy Speaker, Sir, I also urge the Government to ensure that an inquest is done to ascertain the cause of death of the late Bernard Kahumbi who was killed under the so-called mysterious circumstances, as has been reported by his own Member of Parliament. I think whether we say one was killed or not, he was killed by KANU.

The Minister of State, Office of the President (Mr. Kones): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Adjournment Motion. Now that we are adjourning for a month, we have important business back home, to go and talk to our people and try to help them in various development projects. All of us have one country to look after, regardless of the parties we belong to. I think it is absurd to see certain Members of this House who would like to perpetually and permanently harass the Government. The Members of the Opposition have organised themselves and formed a syndicate to continuously harass the Government.

(Continued applause from the Opposition side)

The Temporary Deputy Speaker (Mr. Wetangula): Order! The applause becomes a nuisance when it goes on for too long.

The Minister of State, Office of the President (Mr. Kones): Mr. Temporary Deputy Speaker, Sir, when the Members of the Opposition organise themselves like that, we will have a troubled country, and when we get a troubled country, no development goes on. When an hon. Member of Parliament is asked by the police to go and record a statement, he does not have to be escorted by 20 Members of Parliament. In such circumstances, they will arouse the curiosity and excitement from members of the public and from all sorts of quarters. Therefore, the Government has got to move into action, and the whole thing will become a circus. All we are asking is that, when a Member of Parliament is asked to make a statement, regardless of which party he comes from, he should go to the police and make that statement. Hon. Gatabaki is here with us today after recording a statement and being taken to court, where he was released on bond. There is nothing wrong in the Government asking somebody to make a statement. What you are hearing today is just total malice and a lot of fabricated stories, intended to tarnish the good image of the Government. We have heard hon. Gitonga and hon. Ruhii making malicious statements against the Government. Hon. Ruhii has categorically ---

(Hon. Ruhii interjected)

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Ruhii, it is disgraceful to make such

threats to your colleague. You do recall that you made certain statement which your colleague is responding to in his capacity as the Minister of State in the Office of the President. I do not see why you should be agitated about it.

The Minister of State, Office of the President (Mr. Kones): Mr. Temporary Deputy Speaker, Sir, in any case, whatever threat he gives me does not get into me.

I would like to categorically state in here that the death or murder of the Superintendent of Police is a big concern of the Government. No Government organised for the butchering of this police officer. It is wrong for anybody to come here with no facts and start insinuating wrong motives on the Government. If the hon. Members of Parliament have got any information relating to the murder of this police officer, they should go to the police and make a statement. You cannot allow a situation where people come here and make sweeping statements, thinking that they can get away with it.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to make my contribution to this Motion of adjournment. As we go on this recess, I would like to take the opportunity to make--

(Loud consultations)

Mr. Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! Shall we hear your colleague in silence?

Mrs. Ngilu: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to take the opportunity to touch on one or two issues that concern my constituency. Kitui town falls under my constituency and a portion of my constituency also falls under the Kitui County Council. These two local authorities are engaged in very dubious and illegal activities in terms of revenue collection and I wonder whether the Minister for Local Government, who is equally dubious in his activities, aware about this matter. If he is aware, what is he doing about it? For instance, the hawkers who are mostly women and young boys operating around the bus park are being charged over KShs.4,000 per year! The majority of these hawkers sell sweets, chewing gums, cassava, yams and sugarcane. Surely, if we are to empower women economically and keep these young boys away from some of the criminal activities, should we go on frustrating their efforts and initiatives?

Mr. Temporary Deputy Speaker, Sir, as if that is not enough from the collection that they make, these local authorities do not even provide toilet facilities, garbage collectors and even water, yet they continue day in day out collecting illegal revenue from these hawkers. The Kitui Council has erected an illegal road block at Kwa Vonza market, whose sole purpose is to extort money from micro-commodity traders. These traders are now unable to transport their goods from Kitui to Machakos and the neighbouring constituencies. As a result, a lot of people who used to carry out their small businesses have stopped doing so. Is the Minister aware of this and is he doing anything about it or is he involved in the racked? I believe he is!

Mr. Temporary Deputy Speaker, Sir, I wish to point out that while also these local authorities are engaged in all these anti-people activities, two misfits masquerading as politicians from the district have continued to refuse to pay rates to Kitui Municipal Council. What they did was to put a lot of pressure on the former Mayor of Kitui Town until he resigned so that they could put their own puppet to make sure that they do not pay rates.

An hon. Member: Sabotage.

Mrs. Ngilu: This has to be seriously looked into and action needs to be taken.

Mr. Temporary Deputy Speaker, Sir, last but not least, I sincerely wish to express my gratitude and appreciation to the Office of the President. The officer-in-charge of Provincial Administration must be commended for responding to my people's call and agreeing to transfer the former Kitui District Commissioner as a result of his anti-development activities and corruption.

With those few remarks, I wish the Kenya Revenue Authority all the best.

The Assistant Minister for Reclamation, Regional and Water Development (Mr. Ligale): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Motion on Adjournment.

I want to make two or three points. Firstly, as we go into recess, I want to sincerely appeal to all of us on both sides of the House, in our utterances, to remember that Kenyans out there want peace and development. Let us not go out and make utterances that are going to incite our people. We should not make statements, like His Excellency the Vice-President and Minister for Planning and National Development said which are irresponsible. We should understand that we are all geared towards peace.

It is our joint responsibility to ensure that there is peace in Kenya and we must say things that are constructive or things that are going to help our people to develop. We may take it for granted that it only

happens in the neighbouring countries and that it cannot come to us. All we need to do is to rock the boat or push the people a little more than we have done now and that peace would burst and that can lead to a lot of chaos. To bring back that peace into the country is much more difficult. So, I sincerely appeal to all the leaders and we are the pinnacle of the leadership in the country to exercise maximum restraint to ensure that we are constructive in our utterances.

Mr. Temporary Deputy Speaker, Sir, we have had enough of clashes in parts of this country. We do not want any revival of the so-called "tribal clashes" anywhere in this country.

(Applause)

And I very sincerely hope that whatever we do or say as leaders, regardless of wherever the incitement may have come from, exercise maximum restraint to avoid any of that recurring. I want also to say that as leaders, we must be able to communicate with our people with the local leadership, including the local authorities. I think the local authorities in this country, particularly the councillors, have been very much maligned. We have been very quick to point out the weaknesses of the local authorities and councillors, but we do not appreciate the vital role they play. Councillors are an important ingredient of the leadership of this country. Without them, we cannot be able to promote the kind of democracy that we have been talking about. I would like to appeal to my colleague, the Minister for Local Government, to try and look at the plight of the councillors.

Mr. Temporary Deputy Speaker, Sir, recently we got a rise in our own allowances and we can respond better to the requirements of our people. I also know that when a Motion was moved here that the councillors' remunerations be paid from the Exchequer, it was not passed. But I still sincerely believe that that matter should be given a second thought. It needs to be addressed again so that those councillors can get better terms of service. I know that a number of local authorities cannot afford to pay high allowances to councillors than they are doing at the moment because they do not have a proper financial base. But I believe that that matter can be addressed---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead that there was a Motion brought here regarding the councillors' remunerations and we did not pass it?

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): Mr. Temporary Deputy Speaker, Sir, I would like the Ministry of Local Government to address the issue of allowances for our councillors.

The Temporary Deputy Speaker (Mr. Wetangula): Order! I am notified that there is a Motion of that kind pending.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): Mr. Temporary Deputy Speaker, Sir, in talking about local authorities, I would like to sincerely say that the standards of services given by our local authorities have gone very low, particularly here in Nairobi. Even the crime rate has gone up.

Mr. Farah: Thank you very much, Mr. Temporary Deputy Speaker, Sir. Hon. Sunkuli made reference to my statement on the Immigration Department and I did not interrupt him because I wanted the House to get the full facts. The Government or the Opposition cannot thrive on populist hypocrisy in any way with a constant barrage of distortions. I have a list of the names of 57 people who bought Kenyan passports and were arrested. It also shows the people who sold them the passports. Out of these 57 names, 49 of them are names of non-Somalis. Some of the names are: Richard Ochieng Menya who sold passports to Somali refugees. When I talk about passports for Somalis in Kenya, I am talking about Kenyan Somalis. The other names are Christine Mutio, Daniel Njeru, Victor Wainaina, David Otuke, Henry Kirimi, Thomas Ijoro, Mary Nyambura Sanford, and so on. The list is here on the Table for the whole Parliament to see.

(Mr. Farah laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, all I am saying is that when a Kenyan Somali applies for a passport, he is supposed to supply the following; the originals of yours and your parents, birth certificates, the originals of yours and your parent's Somali screening verification cards; the originals of yours and your parent's national identity cards; your primary and secondary school leaving certificates; proof of your parent's continued residence in Kenya from colonial days. This should be in the form of Poll Tax receipts or any other colonial documents at that time; the full names and current addresses of your paternal and maternal uncles and photocopies of their national identity cards and Somali screening verification cards; full names and photocopies of identity

cards and Somali screening verification cards in respect of your brothers and sisters and also their current addresses.

I am quoting a letter here and I am laying it on the Table. It is written by the Principal Immigration Officer to a Somali who applied for a passport. The screening exercise affected less than 10 per cent of the Kenyan population; the Kenyan Somali population. It was carried out only in urban centres and stopped. We all have these relatives. That pastoral and nomadic community of ours is in the bush and none of them has a screening certificate but they are supposed to go and get those certificates. When all this is done, for those who can do it, what happens is that you are told "Your file is lost." Your passport minus your photograph is sold to a Somali from Somalia or any other person. There are only two Somalis in the Immigration Department. We have been having consultations with the Principal Immigration Officer telling him, "If you could trust a Somali with the supreme security structure in this country and have him as the Chief of General Staff, you have no problem trusting two senior Somali officers to be doing the screening here or in any other Government Department." They refused to do that because when you do that, you seal the loopholes that enables them to engage in corrupt practices. If the Minister cares about this country as much as we do, he should institute criminal investigations and arrest those involved. The Principal Immigration Officer has admitted the collapse of that institution. He says Somalis are engaging in corruption but that is not the way civil servants should act. If somebody comes and tries to corrupt you, arrest him and take him to court and jail him. Civil servants should not be allowed to make political statements in the country. Let us all take these matters seriously. The persons being discriminated against are Kenyans. We have Luhyas in Kenya and in Uganda; Tesos in Kenya and also in Uganda; Maasai in Kenya and also Maasai in Tanzania. Why single out the Somalis for discrimination? Why not strengthen border controls so that nothing is left to corruption?

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Ahsante sana, Bw. Naibu Spika wa Muda. Ningependa kuiunga mkono Hoja hii ili twende likizoni tukawasaidie ndugu zetu huko mashambani. Baraza la kupambana na njaa hapa nchini limetayarisha matembezi na ningewashauri Wabunge wajandikishe kwa wingi ili kushiriki katika matembezi hayo na kuwasaidia watu wetu. Wabunge wana marafiki kila mahali na wanaweza kuchangisha pesa nyingi sana ili wakulima wa nchi hii waweze kufaidika. Chama cha Freedom from Hunger Council chapaswa kupanua mipango yake kuwasaidia wakulima kama vile kuwapatia vifaa vya kufyeka misitu. Tunakishukuru chama hicho kwa kutoa mbegu kwa wakulima wakati huu. Yafaa wakulima wapewe vifaa vya kufyeka misitu na kustawisha mashamba makubwa.

Mikopo ni haba sana na katika sehemu yangu ya Witu kuna misitu mikubwa. Mashamba hayawezi kustawishwa na mikopo ya Kshs.50,000/- au KShs.100,000/-. Kwa hivyo, yafaa kwa wakati huu, Wabunge wajitolee na kuchanga pesa za kutosha kukisaidia chama cha Freedom from Hunger Council ili nacho kiweze kusaidia mipango ya kuwapatia wakulima vifaa kuwawezesha kukata misitu mikubwa.

Wakati huu Wakenya wengi wameenda hajj na tunawaombea heri na baraka ili watuletee baraka za hajj ya mwaka huu. Mimi nawatakia Waislamu wote na wengine ambao si Waislamu idd njema.

Bw. Naibu Spika wa Muda, ingawa vyama vya ushirika viko vingi, lakini tonaomba vyama vya ushirika viweze kuweka vikwazo zaidi ili kusaidia wananchi kwa kustawisha hivi viama via ushirika. Katika Sehemu yangu nasikitika sana kwa sababu vyama vya ushirika vimefifia kabisa lakini siwezi kuwalaumu wananchi kwa sababu makosa makubwa ni ya yule ofisa ambaye yuko huko. Wananchi wako tayali, na wakipata mafunzo ya kutosha vyama vya ushirika vya uvuvi katika sehemu yangu vitaimalika,, ukulima utakuwa mzuri na hata biashara ya chumvi itaweza kustawi.

Na kwa hayo machache, Bw. Naibu Spika wa Muda, naunga mkono tuende likizo.

Dr. Kituyi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me a chance also to say one or two things about a Motion that I wish to oppose very strongly. This House reconvened just a month ago after more than three months recess. Our batteries are still very much charged and I believe there is a lot of urgent business of the nation that needs our attention. The fact that there has been tradition that we break off around this time is not good enough reason for us to forget the reality that there is a lot of work out there that needs us to continue being in Parliament. Having said that, I want to turn to some of the more critical matters which some of my colleagues have broached in their brief remarks.

Mr. Temporary Deputy Speaker, Sir, everybody in this country knows that in the course of every recess, the instrument of State violence go into top gear in the harassment of citizens of this country, in their unjustifiable arrest and malicious prosecution of hon. Members of Parliament from the Opposition, and once Parliament reopens, you see a lot of decline in this crisis. Today, as we talk here, I put it to this august National Assembly that a lot of Members of Parliament from the Opposition are in the pipeline for arrest. We know it has been inevitable as the coming of darkness after light that the instruments of harassments are perfected for use when Parliament is not meeting. Unlike a certain hon. Member of the Government side who had worries about

Opposition Members of Parliament escorting their colleagues who are being arrested, I want to call upon my progressive colleagues in Opposition to be on stand-by because it is as inevitable as ever that we are going to need your solidarity, escort and to come and console our families when the inevitable arrest occurs.

Mr. Temporary Deputy Speaker, Sir, hon. Members will remember that there was something called FERA and FEMU by this Government and it was very clearly argued here that the notion that a Luo guerrilla could start a movement in the name invoking the days of a Kikuyu hero and mobilise exclusively Bukusu soldiers was a very cheap method of organising the facade of a guerrilla movement. You have all witnessed that in the recent past this guerrilla phenomenon has disappeared. It is as sure as hell that once Parliament is not meeting, we are going to start reading again about young men who are arrested and tortured under the claim that they belong to FERA or FEMU.

Mr. Temporary Deputy Speaker, Sir, I want to say this very clearly that we have been neglecting the dignity of Parliament. When we come here and speak like hon. gentlemen, hon. Members of Parliament, we talk about national reconciliation, national unity and as soon as Parliament goes on recess, hon. Members of the KANU Government shade their honour. Even some who cannot make a statement in this House, all of a sudden, they are making a statement, once they are spewing out vitriol against the Opposition politicians. We want to say that you have the liberty to bring any issue into the National Assembly, but if you listen to what some people like hon. Bishop Tanui or someone else, you will read about him when the Parliament is on recess but not when Parliament is sitting. You will hear the kind of negative things said about the Opposition. "Why don't you say those things here?" Face us here and we will reply you. Why do you take these issues outside the House and speak about violence before innocent wananchi? If this Government wants to be respected, this Government has to speak with one voice before us and speak with same voice before the electorate out there. If this Government is to be respected, it must tell donors that we are going to implement the following reforms and continue to make that policy. It is ridiculous for the Government to sit down with donors and say, "Okay, we have been trying to make progress on the following conditions, but you should understand that these objective conditions will be made better later". The next day they are taken to the radio abusing those who are saying, "stick to the reforms that you have promised, show consistency in the implementation of promised initiation of Constitutional reforms".

Mr. Temporary Deputy Speaker, Sir, the matter of Constitutional reforms is very important to this country and everybody seems to say that. It is not an amendment of the Constitution but it is the need that Kenyans now find a great expectation as a caucus for all representative of the people and start expressing what they believe is important. It is not a model or a framework Constitution we follow. To mystify a critical matter of the Constitution, it is to create a structure and make only those who understand the operations of the structure participate in the dialogue. What we need now is to go to the grounds and start asking the people what are the essence that they want to see reflected in a new instrument of their liberty.

This matter cannot be treated like the privilege of the Government that, when it pleases certain people in Government, they will announce now, "we have started the Constitution reform process". They will announce now, we have imported expatriates to do it for us. We are talking about the rights of Kenyans to participate in choosing their agenda, the representatives and what methods are best suited to them regardless of the thinking of any individual whether in the Government or Opposition, what is best for them to be a Constitutional order for this country which can eventually come to the National Assembly for ratification. Constitution should never be used as an excuse to spew out tribal hatred like what hon. ole Ntimama did here. That is irresponsible and unjustifiable.

With those remarks, I beg to oppose.

Mr. Kirwa: Thank you for giving me this opportunity, Mr. Temporary Deputy Speaker, Sir, to contribute to this Motion of Adjournment. I would like to thank the Mover of the Motion His Excellency the Vice-President and Minister for Planning and National Development for having ably moved this particular Motion.

The issue, Mr. Temporary Deputy Speaker, Sir, that we want to tackle as hon. Members of this particular National Assembly is the situation that is now getting out of hand. While other hon. Members have talked about food situation in the country, I would like the Ministries responsible for food production to take care of what they are doing. I have in mind the shameless behaviour of the hon. Minister for Co-operative Development--

(Applause from the Opposition)

who has the audacity to tell the world, and this particular National Assembly, that everything is alright about the KCC

Mr. Temporary Deputy Speaker, Sir, if the Minister is not informed, a lot is wrong about Kenya Co-operative Creameries (KCC). It is high time that we left the issues of co-operative movements to the cooperators

themselves. Let us avoid any political patronage in KCC. We are not saying it because we have interested persons in that particular organisation but we want the management of that organisation to be streamlined to run well for the farmers to earn a living. That is the message we are telling the Minister for Co-operatives Development. We are not telling him to impose some particular persons on the organisation.

Mr. Temporary Deputy Speaker, Sir, I would want the Minister for Agriculture, Livestock Development and Marketing to tell the world that, in case he has lost the coordination of the Ministry, he should give up, because, for how long are we going to be told that one arm of the Government says, "I have no responsibility over the seeds", "I have no responsibility on imposing variation tax on maize", while we are witnessing that, for the last one year, more than KShs.2 billion went down the drain by people not paying taxes on the maize imported?

Mr. Temporary Deputy Speaker, Sir, there is more than KShs.2 billion which has not been paid to farmers. This is an issue that the Government must consider seriously because we are not going to take kindly, a situation where one arm of the Government contradicts the other. Therefore, we want to know from this Government what is their policy regarding the co-ordination of agricultural activities in this country. We want the Minister to understand the problems affecting farmers in this country.

Mr. Temporary Deputy Speaker, Sir, while the Secunder of the Motion advised us to tour our constituencies during the recess to explain the various Government policies regarding agriculture to the farmers, I do not know what we are going to tell the farmers regarding lack of payment for their milk and maize money. What are we going to tell the farmers regarding the importation of maize, while their maize is still in the stores? As we know, the importation of maize into this country has destroyed the maize market in this country.

It is important for hon. Members of this House to realize that the best thing to do is to be independent. We have witnessed in this Assembly, certain issues being tackled along personal lines. I would be very grateful if every hon. Member who stands to speak in this House could have an independent mind instead of relying on other people or defending another person for the sake of defending him. If we are really hon. Members of this House, we should be careful about what we say in and outside this House.

Having said that, I would like to say something about the Constitutional reform that many hon. Members have been talking about. As long as we are looking at these constitutional reforms as an issue to remove ourselves from a certain trap, we are not going to get very far. My humble opinion, as far as these Constitutional reforms are concerned, is that we should divorce ourselves from the constitution.

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, may I first of all say that I express the hope that the encouraging talk we had this afternoon from some of my hon. colleagues from the Government side, demonstrates that they are committed to political and constitutional reforms. Therefore, I express the hope that those sentiments were not being uttered simply because of the July meeting in Paris. What we are looking for is a time-table of events regarding the change of the constitution. We would like to know when this Constitutional reform will be undertaken. We also would like to know the nature of the commission, the participants and the involvement of all the Kenyans, including the opposition and the churches. I am saying so because all the churches in Kenya today are constituted by Kenyans. Therefore, if the economy of this nation is going to recover, we really must take very seriously, political and constitutional reforms in this country. We must move away from mere rhetoric and actually get on with the business of these reforms.

Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Motion for the Adjournment because I believe that there is a lot to be discussed by this August Assembly. One very important issue that should be discussed is to persuade this Government to respect the sanctity of human lives. I was perhaps one of the last person to talk to Senior Superintendent Bernard Kahumbi. He was commanding the police who brocaded this Parliament and I spoke to him on Wednesday last week at 9.30 p.m. He was also the person who was commanding the operation at the house of the hon. Gatabaki. The late Bernard did not die of stab wounds. He had bullet wounds in his neck, head and shoulders.

Mr. Temporary Deputy Speaker, Sir, if the Government is fearing to say that the late Bernard Kahumbi who served this Government with distinction was a good police officer, I would like to say that I was there at hon. Gatabaki's house and I know he did not assist the Opposition in any manner. He was, in fact, demanding entry into the house. However, just because he happens to come from the same ethnic community with hon. Gatabaki, he was murdered. If he was not murdered by this Government, I call on the Government to support a Motion for a Parliamentary Select Committee to investigate this very heinous crime. I am saying this because Human Rights Group is too secretive in their investigations. How comes that when a matter that touches on the hon. Member for Kerio South comes up, a life of a Kenyan must be lost? We know that Mr. Gatabaki wrote about the late Ouko and just because this gentleman was commanding that operation, he had to be murdered. How many more lives of Kenyans must we lost before we can begin to respect the sanctity of human live? I say with confidence that this

Government was behind the death of the late Bernard Kahumbi. This man left behind some very young children because he was only 48 years and a time now has come for this Government to start respecting human lives. During the trial of Koigi on treason charges, one of the key witnesses was murdered in Nyayo House and up to now, no one has ever been prosecuted.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, it is most unfortunate that after serving this Government faithfully, he was murdered because this Government believes that the Opposition did not have the ability to organize for Mr. Gatabaki to go out of this Parliament. I would like to say here that it is the Opposition that organized for the escape of hon. Gatabaki from Parliament buildings on that fateful night and not the late Bernard. So, the Government has killed this innocent man as he was and his innocent blood is going to haunt us always.

Mr. Deputy Speaker, Sir, we also know that Sydney Quintai was sacked from the K.T.N. for covering the raid on Gatabaki's house. So, while this Government talks about respect for political reform, their conduct points to the contrary. The P.C.I.O. Nairobi, Mr. Gathondu, just because he happens to be from a certain ethnic community, was demoted and transferred to Mombasa for purportedly having helped us in the Mwangaza Trust. This Government is not serious in anything it says and nobody seems to have any confidence in it anymore.

With those few remarks, I beg to oppose the Motion.

The Deputy Speaker: Hon. Members, I would like to exercise my rights and powers under Standing Orders of this House by putting the question for a second time since it is not clear to me which side the vote has gone.

Mr. Deputy Speaker: Order! Order hon. Members! In accordance with the Standing Orders of this House, since it is not clear yet regarding which side the vote has gone and due to the fact that I am not prepared to burst my eardrums for a third time, I order that the House goes on to a Division.

(Applause)

DIVISION

(Question put and the House divided)

(Question tied by 51 voted to 51)

AYES: Messrs. Achuka, Ali, Angatia, Badawy, Biwott, Chepkok, Cheserek, Criticos, Falana, Godana, Kaino, Keah, Kiluta, Kirwa, Koech, Kones, Ligale, Lotodo P.L, Lotodo J.D, Manduku, Masinde, Maundu, Mbela, Mcharo, Dr. Misoi, Messrs. Momanyi, Morogo, Muchilwa, Mudavadi, Mulinge, Muoki, Musyoka, Nang'ole, Ndilinge, Ntimama, Dr. Onyonka, Messrs. Osogo, Oyondi, Rai, Sankori, Shabaan, Sunkuli, Tanui, Wako, Walji, Wawire, Kariuki, Moiben, Ndotto, Otieno, Wetang'ula,

ABSTENTIONS: One

Tellers of the Ayes: Messrs. Sunkuli and Nyagah.

NOES: Messrs. Achieng', Achola, Akumu, Aluoch, Busolo, Gatabaki, Gitau, Gitonga, Icharia, Kairu, Kibaki, Kimani, Kinyua, Dr. Kituyi, Dr. Lwali-Oyondi, Messrs. Mak'onyango, Maore, Mathenge, Mbeo, Michuki, Mohamed Farah, Muite, Mukora, Mulusya, Mungai, Munyasia, Murungi, Mutahi, Mutani, Mutere, Mwangi, Mwaura, Mwiraria, Ndicho, P.N. Ndwiga, G.I. Ndwiga, Ngilu, Nyagah, Nyanja, Prof. Nyong'o, Messrs. Obwocha, Odinga, Ogeka, Ogur, Ojode, Omino, Orengo, Ouma, Ruhui, Shikuku, Wamae.

ABSTENTIONS: 1

Tellers of Noes: Messrs. Ojode and Falana

(Applause)

Mr. Deputy Speaker: Order! Order! Order, hon. Members! I would rather hon. Members did not applaud so loudly!

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: I am not going to allow any point of order at this juncture. Order! Order hon. Shikuku!

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order hon. Shikuku! I am ordering you out of the Chamber for the remaining part of the day.

Mr. Shikuku: But the Bar is still closed.

Mr. Deputy Speaker: Yes, I know, but you will have to proceed and leave the Chamber to stand behind the Bar. That means you will not be in the Chamber according to the ruling of the Chair.

(Mr. Shikuku withdrew from the Chamber)

Mr. Deputy Speaker: Hon. Members, I really pity some of my colleagues in this House. It is important for us to try and learn from each other even though some of us have been very slow to learn. There is nothing that I can do outside the rules of this House under any sequence of events. I swore to uphold the Standing Orders of this House when I accepted to take up the office of the Deputy Speaker of this House, and I will continue to do so without fear or favour. I must say that I do not see why hon. Members, including some very educated ones, should anticipate the decision of the Chair on this matter. Therefore, I beg of hon. Members to be patient up to the end.

I think it is important at this juncture, to remind the hon. Members of the rules of our Standing Orders. I would like to quote two of the rules, namely, Rule No.57 and No. 58 of the Standing Orders. Rule 57 says:-

"Every Member, other than the substantive Speaker or the Attorney-General, shall be entitled to vote in a Division, even though he is in the Chair".

(Applause)

Order! Order! I would rather hon. Members did not applaud. I am just quoting what this particular Standing Order says.

Rule No.58 of the Standing Order says:-

"Whenever there is an equality of votes on any question not requiring a special majority, Mr.

Speaker (including any other Member in the Chair) shall have a casting vote.

Mr. Orenge: On a point of order, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, Mr. Orenge! For Heavens sake, why do you not have some patience?

The results of the Division, as already announced, was 51 for Ayes and 51 for Noes, with one abstention. I am now announcing to the House that in accordance with the provisions of the above rules of procedure, I intend to preserve the *status quo* by abstaining from exercising my casting vote.

(Loud applause)

Mr. Deputy Speaker: The Motion is therefore, defeated.

(Very loud applause)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for interruption of business and the House is, therefore, adjourned until Tuesday, 9th May, 1995 at 2.30 p.m.

(Wild cheers)

The House rose at 7.05 p.m.