

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd June, 2004

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

RETIREMENT OF POLICE OFFICERS

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

(a) Under what circumstances were 57 senior police officers retired and or dismissed by the Commissioner of Police?

(b) What procedures were followed in effecting the retirements and dismissals?

Mr. Deputy Speaker: Mr. Cheboi is not here? We will leave his Question until the end then.

Next Question by Mr. Mukiri!

RESETTLEMENT OF MOLO

TRIBAL CLASH VICTIMS

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

How much money does the Government intend to set aside to resettle tribal clash victims in Molo in the year beginning 1st July, 2004 and ending 30th June, 2005?

Mr. Deputy Speaker: Mr. Mukiri is not here? We will leave his Question until the end then.

Next Question by Mr. Waithaka!

BENEFICIARIES OF OPEC FUND FOR

INTERNATIONAL DEVELOPMENT

(Mr. Waithaka) to ask the Minister for Finance:-

(a) Under what terms and conditions was OPEC Fund for International Development given and released to the Kenya Government?

(b) How was the money received under this Fund to reach the intended beneficiaries?

(c) Is the Minister aware that most farmers who received this loan through Kenya Commercial Finance Corporation were unable to repay the loan due to high interest rates and their pieces of land are being auctioned by the bank?

(d) What remedial steps is the Ministry taking to assist the farmers out of this mess?

Mr. Deputy Speaker: Mr. Waithaka is not here? We will leave his Question until the end then. Next Question by Mr. Ngoyoni!

CLOSURE OF LAISAMIS POSTAL SERVICE

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that the only postal service in Laisamis Centre closed down two

weeks ago?

(b) Could he inform the House the reasons behind the closure of this important service?

(c) What immediate plans does the Minister have to re-open the service to end the suffering of the people?

The Assistant Minister for Transport and Communications (Mr. Ligale): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the post office in Laisamis was closed down in July, 1999.

(b) The Laisamis post office was for many years accommodated at the District Officer's office but the offices were burnt down early in 1999, forcing closure of the post office. In April, 1999, the post office was re-opened at a private premise at a rent of Kshs3,000 per month. However, after only three months of operation, the landlord demanded an enhanced monthly rent of Kshs14,000. The Postal Corporation could not sustain the rent since as at June, 1998, it was generating only an annual revenue of Kshs65,459 against an expenditure of Kshs599,289.

(c) The Postal Corporation of Kenya, in March, 2003, received communication from the District Officer, Laisamis, to the effect that the administration offices had been reconstructed. The officer has indicated willingness to accommodate the post office. The Postal Corporation of Kenya is working on the logistics and will, therefore, commence operations on or before 30th June, 2004.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, the last bit of what the Assistant Minister has said appears to have some little truth. I do not have the written answer, and so I think I can only rely on what I have heard from him. The DO's office was burnt a long time ago, and it was put up within two months. Therefore, it is not right for the Assistant Minister to say that the postal services were discontinued because there was no place where the post office could be accommodated. Secondly---

Mr. Deputy Speaker: Mr. Ngoyoni, please, ask your Question!

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, my question is: There are so many users of that important service in that particular area, for example, secondary schools, the DO, police, Catholic Mission, hospital and so many others. Could the Assistant Minister undertake to immediately resume these services?

Mr. Ligale: Mr. Deputy Speaker, Sir I have just given an undertaking in my written reply that the Postal Corporation should be in Laisamis up and working on or before 30th June. I do not know what more commitment I can give, more than that.

Mr. Mwenje: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that the renting of private premises cost the Postal Corporation Kenya over Kshs500,000 every month. Nobody can understand what that expenditure is composed of if Postal Corporation of Kenya is only undertaking collection of letters *et cetera*. Could the Assistant Minister tell us what that expenditure of Postal Corporation of Kenya consists of and why it cannot be able to reduce it to the minimum?

Mr. Ligale: Mr. Deputy Speaker, Sir, to run an office does include not only paying of salaries, but also paying of rent, power, water and other utilities.

Mr. Poghio: Mr. Deputy Speaker, Sir, it is very interesting to note that the Assistant Minister is moaning about rent which is just Ksh3,000 a month. It should not be the case that the Postal Corporation is struggling to pay higher rents. In fact, I think they should be offering certain rates in rural areas, which are much better to attract people to allow their facilities to be used as post offices.

Mr. Deputy Speaker: Mr. Poghio, what was your question?

Mr. Poghio: Mr. Deputy Speaker, Sir, could the Assistant Minister use his office to encourage higher rents, rather than actually trying to run away from premises just because of rent?

Mr. Ligale: Mr. Deputy Speaker, I have, in fact, indicated that for a long time, the Postal Corporation of Kenya was providing this service and only receiving an annual income of about Kshs55,000 against an expenditure of over Kshs500,000. So, it has been sustaining it.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, I am satisfied that by the end of June, 2004, those services will resume. So, I take his word.

REPAIR OF NYARAGO BRIDGE

(Mr. Omamba) to ask the Minister for Roads, Public Works and Housing:-

(a) Is the Minister aware that Nyarago Bridge in Uriri Constituency has been swept away by floods and all the activities have come to a standstill?

(b) What urgent steps is the Ministry taking to repair and restore this bridge to enable the people of Uriri Constituency continue with their normal life?

Mr. Deputy Speaker: Is Mr. Omamba present? He is not in the House, so we will leave his Question until the end. I will once again go through the Questions by Private Notice.

Mr. Cheboi: Mr. Deputy Speaker, Sir, may I ask Question---

Mr. Deputy Speaker: Mr. Cheboi, can you have the courtesy of apologising to this House since you were late?

Mr. Cheboi: Mr. Deputy Speaker, Sir, the traffic jam on the roads is too heavy.

Mr. Deputy Speaker: Now, Mr. Cheboi, it is common courtesy and a practice of this House that when a Question has been called and an hon. Member is not there, but he subsequently appears, he should apologise. Mr. Cheboi, do you apologise to the House?

Mr. Cheboi: Mr. Deputy Speaker, Sir, yes, I do apologise. One thousand apologies.

(Laughter)

RETIREMENT OF POLICE OFFICERS

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

(a) Under what circumstances were 57 senior police officers retired and/or dismissed by the Commissioner of Police?

(b) What procedures were followed in effecting the retirements and dismissals?

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

(a) None of the 57 police officers has been dismissed from the public service. They were all retired under reorganisation of office in line with the reform agenda. The Government has embarked on the reorganisation of the police force for provision of better services.

(b) The Constitution of Kenya, Section 107, mandates the Public Service Commission (PSC), to appoint, discipline and remove officers from office. Accordingly, 37 officers of the rank of Superintendent of Police and above, were retired by the PSC, and 20 officers below the rank of Superintendent were retired by the Commissioner of Police under delegated power.

Mr. Cheboi: Mr. Deputy Speaker, Sir, this is the same answer the Assistant Minister gave last week, and he had promised to improve on it. We understand that gazetted officers cannot be sacked or retired by the Commissioner of Police. Could the Assistant Minister tell us when the PSC met; what the reasons for dismissal of these officers were, and if at all they were given a chance to be heard.

Mr. Tarus: Mr. Deputy Speaker, Sir, I cannot state specifically the date the PSC met, but the Commissioner of Police made recommendations which he forwarded to the PSC.

Mr. Poghiso: On a point of order, Mr. Deputy Speaker, Sir. This is a very serious case of misleading the House. Is the Assistant Minister in order to tell this House that, being in charge of the police force and even the PSC, he does not know when the PSC met?

Mr. Deputy Speaker: Mr. Tarus, indeed, to the best of my knowledge, and given my

experience as a long-serving former public officer, Section 106 of the Constitution of Kenya gives to the PSC independence to act within its powers and nobody should interfere with it. Section 107, which you referred to, provides that it is the PSC that makes the decision to retire senior public officers, particularly those whose powers the Commission has not delegated to Accounting Officers. Now, Mr. Poghiso is asking: Under what authority did the Commissioner of Police retire these officers? And if it is the PSC, the House wants to know the details, for instance, when the PSC met. There are certain procedures that must be followed. You do not just wake up one morning to say, "57 officers, go home."

Mr. Tarus: Mr. Deputy Speaker, Sir, I have perused through the records. The reason why I did not answer this Question last week was basically because of some of these facts. I confirmed, however, that the PSC communicated its approval on the retirement of the 57 police officers.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, about the sacking of one of the senior police officers---

Mr. Deputy Speaker: Order, Archbishop Ondiek! We are dealing with 57 people here. Are you singling out one?

(Loud consultations)

Archbishop Ondiek: Mr. Deputy Speaker, Sir, some of the police officers who were sacked were doing their lawful job.

Hon. Members: All of them!

Mr. Deputy Speaker: Let Archbishop Ondiek continue.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, for example, when a person decides to go and invade somebody's farm and, in the event, bring commotion and try to incite members of the public; and then a police officer takes action to protect members of the public; and property belonging to them; and then, the next day, the same police officer is sacked simply because a certain hon. Member of Parliament or Minister says somewhere that: "You will know I am the boss;" could the Assistant Minister tell us why such a lawful officer was sacked for doing lawful work?

Mr. Tarus: Mr. Deputy Speaker, Sir, definitely, the sacking of that particular officer is not related to that particular action.

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

Mr. Deputy Speaker: What is it, Mr. Sungu?

Mr. Sungu: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House that this officer who had a very exemplary record of service to this country was not sacked because of political reasons, when we know for sure, and it is common knowledge, that an Assistant Minister in the Office of the President was actually the one involved in inciting members of public to invade private property and, in fact, promised to take action against the police officer?

Mr. Tarus: Mr. Deputy Speaker, Sir, I have the records myself. He does not have them himself.

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, I think that there is a very fundamental issue here which is being glossed over. We are concerned about the independence of our institutions and more so the PSC. The Commissioner of Police, as the Assistant Minister has admitted, does not have the power to dismiss any officer above the rank of a Superintendent. The announcement was actually made by the Commissioner of Police himself and not by the PSC. We know that under the PSC regulations, if an officer has to be dismissed, he will be asked to show course why he should not be retired or dismissed. Could the Assistant Minister tell this House whether, indeed, those

procedures were complied with or not? Was this a universal decision by the Commissioner of Police, exercising powers that he does not have?

(Applause)

Mr. Sungu: High-handedness!

Mr. Tarus: Mr. Deputy Speaker, Sir, I said earlier that these officers were retired in line with the ongoing exercise of reorganising the police force.

Mr. Deputy Speaker: But, Mr. Tarus, Mr. Kariuki asked--- Please, let us be serious here. Mr. Kariuki asked whether the procedure to retire people was followed. He asked you whether "show course" letters were addressed to the sacked officers by the PSC, so that a decision could have been reached at. Is that not what Mr. Kariuki asked? Mr. Tarus, could you, please, address yourself to that question?

Mr. Tarus: Mr. Deputy Speaker, Sir, yes, I have understood what the hon. Member has asked. We actually followed the normal procedure to terminate the services of those particular officers. However, the Commissioner of Police was satisfied with the provisions of law related to the reform process which started---

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. Since the magnitude of this Question is quite important, would I be in order to seek your guidance whether it is not desirable to defer it, so that the Assistant Minister can come up with a proper answer?

Mr. Deputy Speaker: Yes, I am inclined to agree because it is not just possible to wish away a matter in this manner. Could the Assistant Minister come here again to answer this Question, and particularly address the issue raised on whether "show cause" letters were given to the sacked officers? Before you reach a decision to retire someone, there must be a reason; for example, poor performance. Therefore, you should write a "show cause" letter to a person and ask him to respond. Thereafter, a decision by the PSC to retire or to retain the person in question can be reached at.

The Question is, therefore, deferred so that the Assistant Minister can bring a proper answer.

Mr. Sungu: Mr. Deputy Speaker, Sir, I would like to appeal to the Assistant Minister to bring the minutes of the Public Service Commission (PSC) meeting that authorized this illegal thing.

Mr. Deputy Speaker: Order, Mr. Sungu! What is important is that this is a constitutional issue. The mandate to retire public officers is vested on the PSC, which is a creature of the Constitution, and the powers vested upon the PSC are clearly set out in Clauses No.106 and 107. Therefore, Mr. Tarus, if you are satisfied with those conditions, then bring an answer to this House on Tuesday, 8th June, 2004, in the afternoon. I want to give you more time so that you can really do some research on this issue. But I do not think this House can go that far as to ask for the minutes of the PSC meeting. So, Mr. Sungu you are out of order!

(Question deferred)

Next Question by Mr. Mukiri!

Mr. Mukiri: Thank you, Mr. Deputy Speaker, Sir, I wish to apologize for coming late.

RESETTLEMENT OF MOLO
TRIBAL CLASH VICTIMS

Mr. Mukiri: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following

Question by Private Notice.

How much money does the Government intend to set aside to resettle tribal clash victims in Molo in the year beginning 1st July, 2004, and ending 30th June, 2004?

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

Due to constrained budgetary demands, the Office of the President has not set aside funds specifically for the resettlement of victims of tribal clashes in Molo in the coming financial year of 2004/2005. However, the Government is still laying emphasis on peace-building, conflict reduction and resolution at the community level where the clashes did take place, in order to enhance sustainable peaceful co-existence. The issue of funds may only arise after the Government has put into place the modalities for the resettlement programme.

Mr. Mukiri: Mr. Deputy Speaker, Sir, that reply is a big joke. Last year, there was a Motion regarding the same problem and the Government supported the Motion. After that, there was another answer which was given to a Question which was almost similar to my Question, and the Minister said that there was something which was being done towards resettling these people. Now, the Assistant Minister is saying that they do not have funds and they do not intend to set up a fund to resettle these people. Can the Assistant Minister tell me why the Government is not willing to resettle the tribal clash victims because it is a question of--

Mr. Deputy Speaker: Order, Mr. Mukiri! You have asked your question, so let the Assistant Minister answer it.

Mr. Tarus: Mr. Deputy Speaker, Sir, I have stated that due to lack of adequate resources, it has not been possible to plan for the resettlement of the victims of tribal clashes. However, we have said that for the time being, the Government is laying emphasis on peace-building and co-existence of various communities, so that we can see whether it is possible for them to return to their farms. **Ms.**

Mbarire: Mr. Deputy Speaker, Sir, I remember that one of the promises that the Government made to the peasants when we went to the Rift Valley Province is that it would resettle them.

(Applause)

I know for sure that they are still waiting to be resettled, and the Government has done nothing about the resettlement of squatters!

I was in Egerton University when those people were being evicted, and that was over ten years ago! Is this Government serious? Are they serious about resettling those victims?

(Applause)

Mr. Tarus: Mr. Deputy Speaker, Sir, the Government has always been serious. It is important to consider the resettlement of those victims, but on the basis of the availability of resources and land. In the Office of the President, we do not dwell on the issues of land. In any case, this Question should have been directed to the Ministry of Lands and Settlements because they know whether land is available in Kenya or not.

Mr. Munya: On a point of order, Mr. Deputy Speaker, Sir. I am surprised to hear the Assistant Minister talking about land. This issue is about land clash victims who owned land which they had bought, and they have title deeds. So, the issue of land does not arise. We want to know from the Assistant Minister if there is a timetable for resettlement, because we passed a Motion in this House, and that Motion has to be implemented by the Government. Alternatively, they should tell us

clearly that they are not interested in resettling the victims!

Mr. Deputy Speaker: Mr. Munya, that is a very good question. It is not a point of order, but in the public interest, I would ask the Assistant Minister to answer it.

(Applause)

Mr. Tarus: Mr. Deputy Speaker, Sir, we do not have a timetable for the resettlement of the land clash victims, in view of the background that I have given because we do not have the financial resources to plan for that particular exercise.

Mr. Serut: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister saying that they do not have resources, whereas we know that resettlement is going on. If you go through the newspapers today, you will learn that resettlement is going on in Trans Nzoia. This is being done by the Office of the President which has delegated powers to the district commissioners.

Mr. Deputy Speaker, Sir, could the Assistant Minister use the same method that he is using in Kitalale Phase III, to remove genuine squatters from their land and putting there people who are politically correct, to resettle the victims of Molo?

Mr. Tarus: Mr. Deputy Speaker, Sir, although that question is not related to Molo, I want to say that the issue of Kitalale was started by the last regime, and they know who those "politically correct" people were at that time, not now.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to disobey the provisions of a resolution of this House that they would resettle these victims? The resolution of this House should have been implemented by now, yet he is coming here to change it. Is he really in order? Could he tell us whether they are going to implement the resolution of this House?

Mr. Tarus: Sir, we have not disobeyed the resolution of this House, but I wish we had land and resources; we would actually have resettled them.

Mr. Deputy Speaker: Last question on this issue by Mr. Mukiri!

Mr. Mukiri: Mr. Deputy Speaker, Sir, I have a lot of respect for the family of the late Mr. Wamalwa. But you saw the Government going all the way to breach constitutional provisions in order to accommodate only one family. We are not asking for a lot of money. For starters, we can do with about Kshs34 million, which is equivalent to the amount given to one family. Could the Assistant Minister promise, like he promised last year, to set aside at least Kshs50 million in the coming Budget to resettle these victims?

Mr. Tarus: Mr. Deputy Speaker, Sir, we can consider that if the financial base of the Government improves.

BENEFICIARIES OF OPEC FUND FOR
INTERNATIONAL DEVELOPMENT

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

(a) Under what terms and conditions was OPEC Fund for International Development given and released to the Kenyan Government?

(b) How was the money received under this Fund to reach the intended beneficiaries?

(c) Is the Minister aware that most farmers who received this loan through the Kenya Commercial Finance Corporation were unable to repay the loan due to high interest rates and their pieces of land are being auctioned by the bank?

(d) What remedial steps is the Ministry taking to assist the farmers out of this mess?

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, we got this Question

rather late, and although I have a reply which I drafted this morning, I have not had opportunity to give it to Mr. Waithaka. I had asked him whether he would be willing to allow me to reply to the Question later, and we have agreed on Tuesday next week.

Mr. Deputy Speaker: Very well! That is okay, Mr. Waithaka. The Question is deferred until Tuesday next week.

(Question deferred)

REPAIR OF NYARAGO BRIDGE

(Mr. Omamba) to ask the Minister for Roads, Public Works and Housing.

(a) Is the Minister aware that Nyarago Bridge in Uriri Constituency has been swept away by floods and all activities have come to a standstill?

(b) What urgent steps is the Ministry taking to repair and restore this bridge to enable the people of Uriri Constituency continue with their normal life?

Mr. Deputy Speaker: Mr. Omamba is still not here?

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Question No.079

ILLEGAL ACQUISITION/SALE OF NATURE HOUSE

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

(a) whether he is aware of the illegal acquisition and sale of Nature House, L.R No.209/674, which is the property of the Union of Kenya Civil Servants; and,

(b) what measures the Government is taking to salvage the property and return it to its rightful owners.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, may I seek the indulgence of the House to defer this Question. It is supposed to be answered by my colleague. We shall be able to answer it in the afternoon.

Mr. Deputy Speaker: We cannot defer the Question to this afternoon because the Order Paper for the afternoon has already been prepared.

Mr. Omingo: On a point of order, Mr. Deputy Speaker, Sir. You appreciate that there is collective responsibility. A Minister is a Minister. Is the House going to be taken round in circles? When hon. Members are not here to ask Questions, their Questions are dropped, and yet Ministers can sit and seek for Questions to be deferred. Could the Chair explain some of these issues to the House?

Mr. Deputy Speakers: Mr. Tarus, what is the reason why we cannot have an answer to this Question?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, the Question touches on the Public Service and I have not had a chance to discuss it with my colleague. May I, kindly, request that the Question be deferred to tomorrow?

Mr. Deputy Speaker: That is all right. We will defer it to tomorrow afternoon.

Mr. Poghiso: On a point of order, Mr. Deputy Speaker, Sir. I would like to seek the guidance of the Chair on where this Question really belongs. It looks to me that the Question should

have been put to the Minister for Lands and Settlement.

Mr. Deputy Speaker: I think it was rightly put there because the Directorate of Personnel Management is under the Office of the President. It is correctly put. So, let us have it answered tomorrow afternoon.

(Question deferred)

Question No.151

IRREGULAR RELEASE OF *CHANG'AA*
-FERRYING VEHICLE

Mr. Keter asked the Minister of State, Office of the President, under what circumstances the Administration Police at Sosiot AP Camp released vehicle KAB 101K (Toyota Pick-Up) carrying chang'aa on 1st October, 2002, at 9.00 p.m.

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

No vehicle carrying chang'aa was arrested and released by Administration Police officers as alleged.

Mr. Keter: Mr. Deputy Speaker, Sir, this is a sad day for me. The written answer is bogus because it is unsigned. I spotted the registration number of the vehicle, KAB 101K, a white Pick-Up, which was carrying chang'aa. A District Officer's Land Rover, full of Administration Police officers, was chasing this vehicle, and at the gate of Kabianga High School, which is not far from my house, the Administration Police officers shot at the tyres of the vehicle, deflating two of them. Five gunshots were heard. After that, people came out and took the registration number of the vehicle. I inquired at the police station and the person in charge of the station told me that they were investigating the case.

The Assistant Minister has said that no vehicle was arrested carrying chang'aa. The vehicle was not arrested because the occupants paid the policemen to release it. It took them about three hours at the scene because two tyres were deflated. I would like to seek the indulgence of the House to defer this Question for me to bring the documents to prove to the Assistant Minister that there was a vehicle carrying chang'aa.

Mr. Deputy Speaker: Mr. Tarus, in view of what Mr. Keter has said, what do you have to say?

Mr. Tarus: Mr. Deputy Speaker, Sir, the hon. Member has a clear picture of what happened. It is true that Administration Police (AP) officers chased a vehicle whose load is not stated in my answer. So, I would be grateful if the hon. Member can come up with the facts. I do not mind the Question being deferred for him to bring the facts he wants to.

Mr. Deputy Speaker: Very well! I think I mentioned here last year that the problem is that when these crimes are committed, the Office of the President asks the same people who committed those crimes to give replies. Obviously, they give replies which are favourable to themselves. This is the biggest problem which we have to face. Therefore, the Question is deferred at the request of Mr. Keter, and with the concurrence of the Assistant Minister, for evidence to be adduced. Mr. Keter, until when do you want the Question to be deferred?

Mr. Keter: Mr. Deputy Speaker, Sir, I want it deferred until Tuesday, next week.

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. Just to add on that, Mr. Keter has said that some bullets were fired on that day. Could the Assistant Minister tell us whether those bullets were accounted for? He should also tell us how many bullets were fired.

Mr. Deputy Speaker: That is a good point of order by Mr. Osundwa. The Assistant Minister

should also do some homework, in view of the information Mr. Keter has provided, so that when Mr. Keter comes here on Tuesday, there will be sufficient evidence.

Mr. Poghisio: On a point of order, Mr. Deputy Speaker, Sir. The Question was quite emotional and so was the answer. In the process of asking the Question, Mr. Keter referred to the written answer as **[Mr. Poghisio]**

bogus. Is the Chair satisfied that, that was parliamentary language?

Mr. Deputy Speaker: I think Mr. Keter said that the written answer was not signed and that is why he referred to it as bogus. Is it signed? I will not defend it because it is not signed.

Hon. Members: It is bogus!

(Laughter)

Tarus: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to refer to the written answer as bogus? I have a signed copy of the answer.

Mr. Deputy Speaker: To stop this argument, you could say it is not authentic because it is not signed. The matter ends there.

(Question deferred)

Question No.027

IMPLEMENTATION OF KOECH REPORT

Mr. Deputy Speaker: There has been an agreement between the Minister for Education, Science and Technology and Mr. Obwocha to defer the Question.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, you can defer the Question to a later date.

Mr. Deputy Speaker: The Question will be deferred to Tuesday next week.

(Question deferred)

Question No.163

RE-OPENING OF VILLAGE POLYTECHNICS IN WAJIR EAST CONSTITUENCY

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

(a) whether he is aware that there are no functioning vocational training institutes in Wajir District; and,

(b) what plans the Ministry has to re-open Wajir, Habaswein and Griftu village polytechnics, and provide adequate staffing, equipment and promote their status to enable students enrol in large numbers for various vocational skills.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, I would like to apologise because I do not have that answer. I was actually out of town and the Minister is in Mombasa. Could you defer this Question, please? I was not in town, and the Question only came to me this morning. I am sorry.

Mr. Bifwoli: On a point of order, Mr. Deputy Speaker, Sir. Is this Question under the Ministry of Education, Science and Technology or under the Ministry of Labour and Human Resource Development?

Mr. Deputy Speaker: I agree. In fact, I want to confirm to the House that on 20th May, this

Question was transferred to the Ministry of Labour and Human Resource Development. Therefore, it will be answered by the Minister for Labour and Human Resource Development when it appears on the Order Paper. The Question is transferred. Thank you very much, Mr. Bifwoli.

(Question deferred)

Question No.093

IMPLEMENTATION OF REP IN
BAHARI CONSTITUENCY

Mr. Khamisi asked the Minister for Energy when the people of Bandara Salama, Kidutani, Ziani, Kizingo and Katikirieni in Chonyi Division, Bahari Constituency, will be supplied with electricity under the Rural Electrification Programme.

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

It is a Government policy that implementation of Rural Electrification Programmes be on the basis of project priority ranking from the respective District Development Committees. In this regard, the people of Bandara Salama, Kidutani, Ziani, Kizingo and Katikirieni in Chonyi Division will be considered for electricity supply, among others in the country, on the basis of priority ranking by the Kwale DDC subject to availability of funds.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I am quite saddened because this Assistant Minister does not know where Bahari Constituency is, although it is one of the most high-profile constituencies in this country. I wish to inform him that, in fact, Bahari is not in Kwale but in Kilifi District. However, only yesterday, the President announced that 223 rural electrification schemes were under way. Could the Assistant Minister tell this House whether this area is one of them?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, first of all, I personally campaigned for the hon. Member, and I even went to his home during the last General Elections. It is unfortunate that he cannot even remember. However, the President promised that the projects are coming up. We shall be in a position to also consider Bahari Constituency. Mid this month, we are also going to issue a letter to all the DDCs to upgrade the list in order of priority. I would like to urge the hon. Member to follow up with the DDC, because there are some projects that have been ranked by other hon. Members of Parliament, and they are not comfortable with them. I would like to ask hon. Members to go back to their constituencies or districts mid this month so that they can update the profile once again. We shall rely on what will be given to us.

Ms. Mwau: Mr. Deputy Speaker, Sir, the issue of groups which have contributed money for rural electrification throughout the country has been going on for a long time. I would like the Assistant Minister to tell this House what criteria is going to be used to select those groups that are going to benefit from the rural electrification that the President promised Kenyans yesterday.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have indicated here that we are going to send out the relevant letters to DDCs and what we require the hon. Members to do is to go and look for the projects that have paid money for rural electrification, and rank them on priority basis. However, the Ministry has been very categorical that if it feels that it would not be able to undertake some of those projects, we shall have no alternative but to refund the money.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, in the current Budget, which is going to run out at the end of this month, there was an allocation of about Kshs700 million which was supposed to be shared among constituencies for rural electrification. Could the Assistant Minister tell us what they did with that money and which constituencies benefited out of that money?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, you will agree with me that I cannot provide the list

right now. However, the Ministry delayed to implement the projects due to lack of materials. We received the supplies last month, and I would like to assure the hon. Members that we are still undertaking those projects. Money has been set aside, and those projects meant to be implemented this year will be implemented.

Mr. Omondi: Mr. Deputy Speaker, Sir, I would like to request the Minister if he could consider allowing the CDF to use the funds to purchase the transformers and enhance the distribution of electricity in all those areas.

Hon. Members: No, no! They are different accounts!

Mr. Deputy Speaker: Order, hon. Members!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the hon. Members have already answered the question for me. It is not possible since those are different accounts.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I would like to know what criteria was used to select the 227 projects which have been announced by the Government, because Coast Province has been ignored in the selection.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we look at the geographical location, the availability of the grid, population and the power grid. At the same time, we consider projects prioritised by the District Development Committee (DDC).

Archbishop Ondiek: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister seems to be misleading the House because, last year, the Minister promised that they had identified a contractor to start the projects and the funds were allocated. Up to now, the Assistant Minister is still telling the House that the materials are not there. When they were awarding the contract, were they aware that the materials were not available?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the contract we issue out is just for labour. However, the Ministry is responsible for supplying the materials to the contractors and, therefore, we are in order.

Mr. Deputy Speaker: Next Question!

Question No.144

IMPLEMENTATION OF REP IN
KIBWEZI CONSTITUENCY

Mr. Ndile is not in? We shall come to that Question later on!

Question No.089

TERMINATION OF EASTLANDS
TENANT-PURCHASE SCHEME

Mr. Ndolo asked the Minister for Roads, Public Works and Housing whether he could explain how the tenant-purchase scheme of Government houses in Eastlands was terminated.

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

There has never been existence of any tenant-purchase scheme of Government houses in Eastlands.

Mr. Ndolo: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer, although I do not have a written reply. This scheme was in place ten to 20 years ago, and the houses are still there. Everybody knows about it.

Mr. Deputy Speaker: Which ones now?

Mr. Ndolo: Mr. Deputy Speaker, Sir, the Government houses in Buru Buru which were on the tenant-purchase scheme under the National Housing Corporation (NHC). Up to now, some of the tenants are paying for those houses. We are talking about the interest rates which have gone up since that time, and the banks are stealing from those people. Could the Assistant Minister tell the House whether the Government has any plans to help those tenants who have been paying for those houses for the past 20 years? They are now paying three times more than what they were supposed to pay.

Eng. Toro: Mr. Deputy Speaker, Sir, the hon. Member is confusing the schemes which were undertaken by the Nairobi City Council with those undertaken directly by the Government. The only mortgage schemes undertaken by the Government in the Eastlands part of Nairobi are the ones for Race Course Road and the Kariobangi Civil Servants Mortgage Housing Schemes. The other mortgage schemes were undertaken by the Nairobi City Council, which is a separate entity. The National Housing Corporation (NHC) may have undertaken some of the mortgage schemes. The NHC is, however, not directly under the Government because it is a parastatal.

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

Mr. Deputy Speaker: Prof Olweny, if you have a question, please, stand up and catch my eye. Do you have a point of order or a question?

Prof. Olweny: Mr. Deputy Speaker, Sir, it is a question.

Mr. Deputy Speaker: Mr. Sasura, please, ask your question.

Mr. Sasura: Mr. Deputy Speaker, Sir, in the year 2001, prior to the general elections, there was the issue of sale of Government houses in Rubia, parts of Kileleshwa and even Southlands Estates. During the pre-election political marriage between the various parties that comprise the NARC, the Government, and specifically the current Minister for Roads, Public Works and Housing, said that the KANU Government had sold the houses for about Kshs8 billion to raise money for campaigns. He said that immediately the NARC Government came into power, it would recover the money. Last year, the same Minister stood in this House and said that those houses would be purchased by civil servants who are living in them. Some of the civil servants paid 10 per cent of the advertised price and have not been refunded the money. Could the Assistant Minister now tell us the position regarding the sale of the houses, because the civil servants living in them have paid 10 per cent of the price of the houses? The issue needs to be resolved.

Mr. Deputy Speaker: Mr. Sasura, you have exceeded the time allowed for one to ask a question.

Eng. Toro: Mr. Deputy Speaker, I request you to ask hon. Sasura not to point at me with one finger but with two fingers. I am in the NARC Government and do not belong to KANU.

The issue hon. Sasura has raised is different from the actual Question. However, the issue of sale of Government houses has been revisited and those people who had paid 10 per cent of the price were requested to go and get their money back. Some chose to get the refund, but there are others who have not gone for it as they wait for a new Government decision on the way forward. The matter is being sorted out. Once the Government finally makes a decision on the matter of the houses to be sold and the strategic Government houses that have to be retained by the Government for its officers, everybody will be advised accordingly. Those who paid deposits will be free to purchase the houses.

Mr. Akaranga: Mr. Deputy Speaker, Sir, this is a very important Question to the people of Kenya. Housing in Nairobi, which is a big city, is a problem. Commercial banks have ignored the Banking Act by increasing the interest rates whenever they want and imposing other charges on their customers. People who purchased houses under the Buru Buru Housing Scheme currently have huge balances, which are more than the initial amount they borrowed. Could the Assistant Minister look into this issue so that the Government can find a way of sorting it out? There are many employees who would like to own houses.

Eng. Toro: Mr. Deputy Speaker, Sir, the Sessional Paper on housing policy has been tabled in this House. It is to be discussed. Hon. Members will be free to give their views and

recommendations on how they would like the housing policy to be implemented in the country. From there, we shall take care of the sentiments raised by hon. Akaranga and others. The next development plan for the housing policy in Kenya will not start until the Sessional Paper has been discussed in this House and the way forward suggested by hon. Members.

Mr. Ndolo: Mr. Deputy Speaker, Sir, the Ministry is not taking care of the Government houses. Their doors are broken; they are not painted, and are like "dead" houses. Could the Assistant Minister ensure that the houses are painted, so that the people staying in them live in good houses?

Eng. Toro: Mr. Deputy Speaker, for the improved maintenance which this Government has initiated, we are allocating funds for maintenance of Government houses. The houses had been neglected by the former regime.

I would like to assure hon. Members that all the necessary repairs will be carried out.

Question No.157

OPENING OF KIPSINGE/
SIGORIAM DISPENSARIES

Mr. Deputy Speaker: Is Mr. Kimeto no here? Next Question by Prof. Olweny.

Question No.124

EXPENDITURE ON SUGAR-CANE
TISSUE CULTURE PROJECT

Prof. Olweny asked the Minister for Agriculture:-

- (a) how much money was spent on the sugar-cane tissue culture project that was undertaken by KARI and the Kenya Sugar Authority, now Kenya Sugar Board;
- (b) which company was contracted to undertake the project; and,
- (c) what the project has achieved.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Deputy Speaker, Sir, I am very sorry that I do not have an answer to this Question. I request that we defer it to tomorrow.

Prof. Olweny: Mr. Deputy Speaker, Sir, I have a written answer which is signed by the Assistant Minister. If he does not have a copy of it, I am willing to give him my copy, so that he can read it to the House.

Mr. Deputy Speaker: I also have a written answer with me. Mr. Assistant Minister, please answer the Question.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Deputy Speaker, Sir, I, Joe Nyagah, do not have the written answer. This is an interesting Question which I would like to answer properly. It would be most unfortunate for you to order me to answer it, because I will just read out an answer but will not be able to help this House. I would like to help this House. Could you, therefore, defer it to tomorrow?

Mr. Deputy Speaker: Order, hon. Members! I agree with the Assistant Minister. Sometimes we waste time arguing over matters which are obvious. The Assistant Minister has not yet been given an answer. The Chair has it and Prof. Olweny has it as well. However, if we give it to the Assistant Minister, he will just read it and will not have sufficient information. It is better that we ask him to come prepared tomorrow and answer this Question.

Mr. Bahari: On a point of order, Mr. Deputy Speaker, Sir. What we are seeing in this House today is lack of coordination on the part of the Government. There is lack of seriousness too. Will this House be subjected to the inefficiency of this Government when it is supposed to be supreme?

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, all the Questions that have been asked this morning have been answered. Ministers are present. It is, in fact, hon. Members who are not here to ask Questions!

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

Mr. Deputy Speaker: Order, hon. Members! Mr. Omingo, you will have to go out. The Chair has ruled that the Question has been deferred until tomorrow afternoon.

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

Mr. Deputy Speaker: Prof. Olweny, observe the rules of the House. Once the Chair rules on a matter, it is over.

(Question deferred)

Question No.062

BOREHOLE FOR NYAMIRA
DISTRICT HOSPITAL

Mr. Mwanicha asked the Minister for Water Resources Management and Development:-

(a) whether she is aware that Kshs1.5 million was paid to a contractor for drilling a borehole for Nyamira District Hospital but no water was obtained; and,

(b) what step she is taking to ensure that such money is spent only when it is confirmed that water will be obtained from such drilling.

The Assistant Minister for Water Resources Management and Development (Mr. Munyes): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Kshs1.5 million was paid by the Ministry of Health to a drilling contractor to drill a borehole at the Nyamira District Hospital. The borehole did not have adequate yield for economic exploitation.

(b) I have instructed groundwater experts in my Ministry to ensure that appropriate groundwater investigations are conducted using the most modern equipment and methods before authorization for drilling boreholes is issued. However, it is important to note that, at present, there is no known groundwater investigation technology worldwide which can give 100 per cent certainty in prediction of groundwater potential with regard to quantity.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, money was spent to drill a borehole that never produced any water. Could I ask the Assistant Minister whether there was no water from this borehole because the Ministry of Water Resources Management and Development had no sufficient information?

Mr. Munyes: Mr. Deputy Speaker, Sir, these are issues of science. Worldwide, investigations on ground water will not be 100 percent correct. In this particular case, we did hydrological and geological surveys and pump testing for this particular borehole. This operation was supposed to take 72 hours, but we only achieved 40 hours and the yield was not enough. We took all steps. Science is something we try and in some cases get good results while in others we do not succeed.

Prof. Olweny: Mr. Deputy Speaker, Sir, is the Assistant Minister satisfied with the cost of drilling boreholes in this country? Whenever his officers are mobilised to drill a borehole, it costs at least Kshs1.5 million? Is the cost fair?

Mr. Munyes: That is fair, Mr. Deputy Speaker, Sir. It is between Kshs1.5 million to Kshs2 million. We have tried it even under the current regime and found it is the right amount.

Mr. Salat: Mr. Deputy Speaker, Sir, since it cost the Government Kshs1.5 million to drill the borehole, is it not cheaper for the Ministry to use the army to drill boreholes, because it would only cost them Kshs450,000 instead of spending Kshs1.5 million?

Mr. Munyes: Mr. Deputy Speaker, Sir, as you know that is not under my docket, but the information is that Kshs450,000 is the amount needed in sinking a borehole. We need to equip that borehole with the pumps. So, the cost actually goes up to Kshs1.5 million.

Capt. Nakitare: Mr. Deputy Speaker, Sir, I am a farmer, I have sunk boreholes and know the rates. I have used Joe Sensing machines to determine where water is. Is the Assistant Minister in order to tell this House that there are no machines in this country that can determine where water can be found?

Mr. Munyes: Mr. Deputy Speaker, Sir, I never said there are no machines. It is a question of accuracy. In some places you get accurate data while in others you do not get.

Mr. Omingo: Mr. Deputy Speaker, Sir, mine is an issue of propriety. When you sign a contract, are you saying that you will give the contractor the money whether he provides water or not? What is your benefit? Is there no exit clause for the Government? Does the Assistant Minister just give money to contractors, who could be politically-correct? What is the fall-back position for the Government in case it does not get water?

Mr. Munyes: Mr. Deputy Speaker, Sir, that is a very good question. The tradition has been that we try to give all the money which the contractor will spend on mobilising machinery and sinking the borehole. You have to pay that cost. The tradition has been that we pay before delivery of service.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, the decision to sink the borehole was in realisation of the dire need for water for this hospital. This water was never obtained. What is the Assistant Minister doing to supply the hospital with water because it has no water?

Mr. Munyes: Mr. Deputy Speaker, Sir, that issue was resolved after my Ministry rehabilitated Nyamira Water Supply through the *El Nino* Emergency Programme. We have actually augmented the borehole water and water supply has now resumed.

Mr. Mwanicha: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House that the issue was resolved when I was there this weekend and found that the water tank is leaking? There is no water at the hospital. Is he in order to mislead the House?

Mr. Deputy Speaker: Order, Mr. Mwanicha. I think the Assistant Minister said that there is water now. That is the issue. I do not want to help the Assistant Minister, but you have stood on a point of order.

Mr. Munyes: Mr. Deputy Speaker, Sir, my Ministry has done a lot for Nyamira Water Supply. If it is the tank that is leaking, then we will tackle that.

Mr. Deputy Speaker: For the second time, Mr. Ndile's Question?

Question No.144

IMPLEMENTATION OF REP
IN KIBWEZI CONSTITUENCY

Mr. Deputy Speaker: Is Mr. Ndile not here?

Mr. Mganga: On a point of order, Mr. Deputy Speaker, Sir. It is possible that Mr. Ndile is away because of the tragedy that befell his driver and bodyguard. Could we ask that the Question be deferred?

Mr. Deputy Speaker: Yes. I think it is proper that we defer this Question generally without fixing a date. It is deferred generally owing to the information just received.

(Question deferred)

Mr. Deputy Speaker: For the second time, Mr. Kimeto's Question?

Question No.157

OPENING OF KIPSINGE/
SIGORIAM DISPENSARIES

Mr. Deputy Speaker: Mr. Kimeto is not here? The Question is dropped.

(Question dropped)

Mr. Deputy Speaker: I think the Minister for Health is right. She is saying that this time it is not a Minister who is causing the problem; it is an hon. Member. I think hon. Members should also watch out so that they do not blame the Government side when they are also not performing. That is the end of Question Time.

POINT OF ORDER

REVIVAL OF KENYA
MEAT COMMISSION

Mr. Wario: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to seek the indulgence of the Chair. Two weeks ago, I demanded a Ministerial Statement from the Minister for Livestock and Fisheries Development concerning the revival of the Kenya Meat Commission. The following week, I rose again to remind him of the same. I am asking the Chair today to instruct this Minister to come with this Ministerial Statement at a given date.

Mr. Deputy Speaker: Yes, indeed. This matter has gone on for a long time. Are you now asking for a fixed date?

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

Mr. Deputy Speaker: The Clerk of the National Assembly should remind the Minister that Mr. Wario has been asking for this Ministerial Statement and we want it tomorrow afternoon. We have been waiting for it for two weeks now.

Next Order.

MOTION

INTRODUCTION OF TOBACCO
CONTROL BILL

Mr. Sungu: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, being aware that it is internationally accepted that tobacco and tobacco products are a danger to health, and being cognisant of the fact that tobacco manufacturing firms reap huge profits which do not benefit ordinary Kenyans, this House do grant leave to introduce a Bill entitled **the Tobacco Control Bill** to provide for litigation/compensation to the victims of tobacco smoking.

Mr. Deputy Speaker, Sir, as I begin to move this Motion, I would like to appeal to hon. Members to give me a hearing. I want to congratulate the Ninth Parliament for being proactive and exercising its functions correctly. These are the oversight and law-making functions.

Mr. Deputy Speaker, Sir, to fully understand this Motion, I would like to address this problem as it stands today. About 25 per cent of the single most avoidable causes of chronic ill health and premature deaths in developed countries are as a result of tobacco smoking. The effect is highly being felt in these countries and mortality rate is also on the increase. It is estimated that deaths caused by usage of tobacco products in the world has been increasing from about three million people in 1990, to approximately 10 million in the year 2020. These figures only represent adult deaths. With the increasing involvement of our youth in tobacco smoking, this problem is bound to increase. The health of this nation is at stake. That is why I have come to the Floor of this House to request for leave of

Parliament to introduce a Bill to provide for legislation to control this industry.

Mr. Deputy Speaker, Sir, let me take this opportunity to mention in passing some of the effects of tobacco smoking. First of all, nicotine addiction is a major problem. There is evidence that there is increasing addiction to nicotine which is the underlying cause of continued tobacco smoking. Once someone starts smoking, it is difficult for him or her to stop. This has been proven the world over. Nicotine has effects on the brain, and the problem is worse on the youth. Dependence on nicotine becomes unstoppable.

Mr. Deputy Speaker, Sir, let me just mention some of the diseases related to tobacco smoking. These diseases are caused largely or entirely as a result of smoking. For example, chronic pulmonary disease, vascular diseases, several forms of cancer, bronchitis, disability and premature death. When one of my colleagues seconds this Motion, he will go into these diseases in detail because he is a qualified medical practitioner.

On the effects of tobacco smoking in pregnant women, there are adverse outcomes which are obvious, and have been proven medically. These include miscarriage, reduced birth rate, child deaths and Sudden Infant Death Syndrome (SIDS). From the medical point of view, the list is endless. Therefore, the avoidance of smoking would eliminate at least one-third of cancer related diseases, and approximately one-sixth of other causes of deaths related to smoking. The net effect, and this must be seen in retrospect to our Budget, is that there are increased health costs. The most important thing is that this problem is preventable and action can be taken as I will highlight.

The Government should establish a reasonable standard of assessment of health effects of tobacco smoking. It must be accepted that the use of tobacco and tobacco products are a danger to health. There must be some standards of disclosure on the nature and magnitude of hazards of smoking. There ought to be specific regulations to be complied with by industries in this sector. Awareness and recognition of the problem by the public and the Government is important.

Mr. Deputy Speaker, Sir, may I now apprise this House of the current situation on tobacco usage as it exists today. Kenya spends approximately Kshs18 billion treating tobacco related diseases. Approximately 400,000 pupils aged between 13 years and 15 years are smokers. In the next 30 years, tobacco will kill more people in Kenya than malaria, tuberculosis, HIV/AIDS pandemic and road accidents, all combined. The number of people who died as a result of tobacco related diseases in 2002 was 4.9 billion. This means that in the next 30 years, there will be an increase in the mortality rate in Kenya and yet, the Government has not taken any action. It is sad. During the Eighth Parliament, the then Minister for Health, Prof. Ongeru published a Bill, which was brought to this House, but it was never discussed. Why? This honourable Ninth Parliament, of which I am proud to be a Member; will achieve a lot for this country. I think the Government through the Ministry of Health, is not silent. I understand that the Ministry of Health is now working on the Tobacco Free Initiative (TFI), instigated by the World Health Organisation (WHO) only recently. This was put in place last year. Unfortunately, this initiative has been delayed. We need to address the question: Why is the Government taking no action? Is it due to the influence of the tobacco producers? Is it because the Government is held at ransom due to taxes paid by these multinational companies? The entire Government is at stake here, it is not just the Ministry of Health. Even the Ministry of Agriculture is affected because of the tobacco growers who fall under this Ministry. The Ministry of Finance is affected because it controls the taxes since the tobacco smokers and industry players pay some significant taxes to this country. Even the Ministry of Environment, Natural Resources and Wildlife is also concerned with this matter. The Ministry of Labour and Human Resources Development is also concerned because there is an element of employment involved. The Ministry of Tourism, Information and Broadcasting is also involved because there is the question of advertising and misinformation by the players in this industry. Even the Ministry of Trade and Industry and the Ministry of Planning and National Development are also involved. All these ministries, if they have not taken any action, from the time this Government was given the mandate by the people of this country to rule and make laws for the benefit of this country, then it is time for the Ninth Parliament to act to protect Kenyans.

As I said, I am very proud to be a Member of this House because we have been very pro-active. We have proved that we are working for the people of this country, for example, through the Constituency Development Fund (CDF) and other laws that have been made for the benefit of Kenyans. This Parliament has been very vibrant in the protection of the ordinary Kenyan. Although this Parliament has, in fact, exercised effectively its oversight role on Government expenditure through the Public Accounts Committee (PAC) and the Public Investments Committee (PIC), the law making role has been relegated to the periphery. The net result is that, currently there are no laws to protect the consumers and the citizens of this country with regard to tobacco usage. There is no provision for litigation or compensation to victims of tobacco smoking.

Mr. Deputy Speaker, Sir, I would like to remind all stakeholders in this industry that we will not bring a Bill here that will exclude them. We will take cognisance of the interests of all stakeholders in this industry. We will need to consult them, so that we can come up with legislation which is acceptable to the entire industry and to protect Kenyans. We will take into account the interests of the tobacco growers. I know the chairman of the Kenya Tobacco Growers Association (KTGA) who is here, is listening to what I am saying. The Ministry of Health is a major stakeholder and we will listen to them. As Parliament, we will also listen to other health organisations such as the WHO. We will also listen to tobacco producers to hear their side of the story. We have an organisation called the Kenya Tobacco Initiative, led by Prof. Odhiambo of the University of Nairobi. We will also listen to them. Since tobacco and nicotine are also drugs, we shall also listen to Mr. Kaguthi of the National Campaign Against Drug Abuse (NACADA) at the Office of the Vice-President and Ministry of Home Affairs, so that we can take cognisance of all aspects of the problem as it is in Kenya. The major thing is that there is an information gap that must be addressed. There is a lot of mis-information by the producers. For example, tobacco advertising targets the youth, children and sports. In many countries, that has been banned. We know that this Government banned tobacco smoking in public places. But that is not enough. We need to provide a legal framework within which that law could be enforced. We must have a means of enforcement through a legal framework that we want to put in place through this law.

Mr. Deputy Speaker, Sir, as I move, let me now brief hon. Members on the WHO Framework Convention on Tobacco Control in passing. That is because I know other hon. Members will address that issue. That convention was open for signature up to 29th June, 2004, which is just around the corner. Although it was put in place in May, 2003 and adopted at the 56th World Health Assembly, this Government belatedly signed that agreement recently. I believe the Minister for Health, when she responds, will tell us when that signing was done. But the most important thing about that convention is not to dictate to Kenya. I, personally, abhor any situation where we are dictated to from outside. That is why Parliament must take action. The objective of that convention was to implement minimum control measures. The framework provides for the activation of all areas of governance that have direct impact on public health. We must now marry science, economics, legislation and litigation. We must also have a multi-sectoral approach, which is now common in governance. We must also seek Kenyan national solutions in tandem with global solutions, as provided for under the World Health Framework Convention on Tobacco Control. That is because that problem cuts across national boundaries.

Mr. Deputy Speaker, Sir, I want to appeal to this honourable House that Kenya must not be left behind. On 30th May, 2004, there was a WHO anti-tobacco festival that was celebrated in both Migori and Kuria, which are the principal tobacco producing areas in this Republic. That was an international thing that was also celebrated in Nigeria on 31st May, 2004. There is a demand for the reduction of tobacco through prevention and cessation of tobacco smoking, but not to stop it completely. On 31st May, 2004, the World No-Smoking Day was observed in Nairobi by Kenyans. I want to appeal to this honourable House to look at this Motion fairly and in a level-headed manner. Let us not say that we are dictating to anybody. I want to tell the Minister for Health that this Motion is, in fact, meant to compliment her efforts at the Ministry. I also want to tell the producers, growers

and all stakeholders that this Motion is not meant to provide control without consultation. We will sit down as Parliament and consult. Let Parliament own this process, so that we can play our role of law making in this country.

With those few remarks, I beg to move and request Dr. Ali to second the Motion.

Dr. Ali: Mr. Deputy Speaker, Sir, I wish to second the Motion outlawing tobacco in this country. Mine is not just to reduce the use of tobacco, but to outlaw it completely. As Mr. Sungu has already said, tobacco is the main cause of death all over the world. He has mentioned the adverse effects of smoking. In pregnancies, tobacco causes premature birth and reduces birth rates. Usage of tobacco also causes still-births and many more side-effects. When you talk about diseases caused by tobacco, you can mention lung diseases, chronic lung cancer and bronchitis. When we talk about lung cancer, you can imagine what happens to people whose lungs do not function. They continue smoking, cannot breath and die faster than usual. Smoking also causes something called ethyisma, that is the darkening of the lungs. Someone cannot breath and, therefore, ends up dying very fast. Smoking also causes throat infections. It can kill people and cause severe mental and physical disabilities. Smoking also causes mouth cancer, throat cancer, tongue cancer and all the cancers associated with the Gastro-Intestinal Tract (GIT), that is from the lips to the colon. How can you advise your children or your people to continue taking that dangerous thing? Smoking is very serious and could even cause vascular cancers, leading to the amputation of your limbs. You cannot walk or use your hands because it causes gangrene in the lower extremities. How do you allow such a thing in a country that is so poor? Smoking also causes hormonal problems. It causes impotence and infertility. How do you allow such a thing?

Mr. Deputy Speaker, Sir, there is a survey that was done by Mr. Kaguthi's team. He is doing a very good job and he should be encouraged and supported. Prevalence of tobacco use by students in Kenya is over 20 per cent. The risk of tobacco use is higher in people who have money and who are educated. So, the prevalence of use of tobacco in youth increases with affluence and you, hon. Members, are part and parcel of that. You are supposed to be the affluent people in the community and, if your people have used tobacco more than others, you know what will happen later.

Mr. Deputy Speaker, Sir, the other issue is that tobacco is the gate-way of many other dangerous substances. From tobacco, you graduate to bhang, then to heroin and, in between, you start chewing *miraa* and taking alcohol. Where are you? In the long run, that is a wasted young person. According to the World Bank and WHO, tobacco killed 4.9 million in 2002. By 2030, that figure is expected to rise to 10 million. It is common knowledge that 70 per cent of that 10 million will come from the third world. That is the poor people who do not have anything. We are already dying of hunger and other diseases! We will be finished by the use of tobacco. That is very dangerous and very serious. By the year 2030, the number of deaths caused by tobacco will be higher than deaths from malaria, road traffic accidents, childhood diseases, HIV/AIDS and tuberculosis, all combined. Recently, we were told that there were factories that were being opened here. Those are the ones that are here to kill us. Tobacco manufacturers use denials, deceit and obscene language. The advertisement for 'Sportsman' cigarette shows people on horse-backs or people playing football. What will a young man of 14, 15 or 16 years think? He wants to join the team. The advertisement for 'Embassy' cigarettes shows a young man and a lady relaxing at a camping site and one of the young man's legs is between the lady's legs under a table. That is obscenity. These are the things they are encouraging, which is dangerous. A poor person like me can be influenced by these pictures. That is dangerous. That is the language of deceit, obscenity and denials. We should not encourage it.

Mr. Deputy Speaker, Sir, tobacco manufacturers use one language when they are talking to the public and another language in their boardrooms. Which is that language? Money, money, greed and nothing else! They do not care whether they kill, they do not care what happens to the people of this poor nation. These are people who should be discouraged. We do not want their Kshs10 million, Kshs50 million or Kshs500 million now. Let us stay with our hunger and we can be sure that we will live longer. We should not be cheated by multinationals who want to steal from us. We are told that

for every one Dollar tobacco brings, it takes away three Dollars. So, if they are going to invest US\$7 million in Kenya today, then in the long run, we are going to lose US\$21 million. So, tobacco is not useful to us in every sense of the word.

Mr. Deputy Speaker, Sir, tobacco companies were chased away from their Western homelands. For example, the one that will be opening soon was chased from the USA. In Europe, it could not get any space and it has now relocated here and they are saying they will invest Kshs500 million to kill us for the next 500 years. Why can they not invest their money in their country? In the West, nobody smokes a cigarette in public places. You are not even allowed to smoke a cigarette in your sitting room if you are staying with other people. Even when you want to smoke on the streets, you have to move aside. But here, it is fashionable for people to smoke in bars and cafes. What will happen to those non-smokers who you are killing everyday? And our Government is just sitting and watching. The only warning that is written on the cigarette packets is that "cigarette smoking is dangerous to your health." It is not just dangerous; cigarette smoking kills! So, why not say it as it is? In South Africa in the last five years, because of increasing taxes and reduced advertisement for cigarettes, smokers have reduced by 50 per cent. If these people have all the money they can spend, why do we not charge them? If one packet of cigarettes costs Kshs20, add a tax of Kshs20 so that the ordinary Kenyan cannot afford to buy a packet of cigarettes per day, but will only manage to smoke one piece of cigarette per day and that will help this country.

Mr. Deputy Speaker, Sir, as I have already stated, with all these problems, we need to support the World Health Organisation (WHO) convention on tobacco control. I urge the Government to domesticate that convention so that Kenyans are safer in the long run.

With those remarks, I beg to second.

(Question proposed)

Mr. Weya: Thank you, Mr. Deputy Speaker, Sir. As we all know, on cigarette packets, there is an indication that "Cigarette smoking is harmful to your health." Like alcohol, anything consumed in high quantities is dangerous to the human body.

Mr. Deputy Speaker, Sir, you have heard my colleague, Dr. Ali, saying that cigarette smoking kills. We all know that cigarette smoking kills and it is important for us to regulate some aspects in cigarette smoking like they do in other parts of the world. But we have to be very careful on how we do this. We cannot say that we want to compensate somebody who knows that what he is taking is harmful to his health. For example, there is a Bill that is coming to the House where we are asking for people who are killed by wild animals to be compensated. Somebody walks to a game park and is eaten by a lion and he wants to be compensated!

Mr. Deputy Speaker, Sir, the British American Tobacco, Kenya (BAT) pays taxes amounting to Kshs6 billion every year. It is the second highest tax payer in this country. We also know that cigarette companies also---

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. I know the hon. Member is talking for tobacco growers, but could he declare his interest with respect to BAT before he proceeds?

Mr. Deputy Speaker: Mr. Weya, what interest do you have?

Mr. Weya: Mr. Deputy Speaker, Sir, BAT is one of the biggest companies that manufacture tobacco.

Mr. Sungu: And you used to work there!

(Laughter)

Mr. Deputy Speaker: Order! Mr. Sungu, I think you should allow Mr. Weya to give a contrary view if he has any. Please, be tolerant to other people's views.

Mr. Weya: Mr. Deputy Speaker, Sir, hon. Sungu does not know that I am supporting the

Motion, but I am saying that tobacco smoking has to be regulated in a way that is possible and not by saying that people who smoke cigarettes should be compensated by the company that manufactures the cigarettes they are smoking.

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir. Why is the hon. Member misleading us when he knows that the parent company of BAT is compensating those people who smoke in the USA and the UK?

Mr. Deputy Speaker: I want Mr. Weya to be given time to say what he wants to say and since you have already made your contributions, someone else can rebut whatever you have said. Mr. Weya, continue uninterrupted now.

Mr. Weya: Thank you, Mr. Deputy Speaker, Sir, for protecting me from my fellow colleagues who have become quite hostile to me.

Mr. Deputy Speaker, Sir, I agree with my fellow colleagues that in other countries there are places where smokers can smoke their cigarettes just like alcohol is consumed in bars in this country. The British American Tobacco Company Limited (BAT) and other cigarette manufacturing companies do not advertise that cigarettes should not be sold to people who are under the age of 18. It is the responsibility of this Government to ensure that cigarettes are not sold to people under the age of 18.

Mr. Deputy Speaker, Sir, smoking is dangerous. It has to be regulated in a way that is enforceable. We cannot say that one cannot smoke in his or her own house. Everybody has an opportunity to choose what he or she wants to do as long as he or she is over the age of 18 years. We know that the consumption of *chang'aa* is illegal in this country. Therefore, we cannot regulate its consumption even if it is in the rural areas where people cannot afford other drinks like beer which is quite expensive. So, you can imagine what can happen if cigarettes were banned. It will now become an illegal trade where there will not be any regulations. Consumption of tobacco products will now be hazardous to the consumers themselves because many of them will not be regulated to acceptable standards. The Government should be involved in ensuring that cigarettes from factories are made in a way that consumers who want to use them can do so in a less hazardous way. You can imagine the hazard posed if cigarettes were produced everywhere, for example, in people's households and gardens. It will be very dangerous to consumers.

Mr. Deputy Speaker, Sir, tobacco manufacturing companies spend some of their earnings on the consumers of this country. For example, various tobacco manufacturing companies are involved in afforestation and the *jua kali* industry which is helping many Kenyans. This industry has 60,000 farmers who are earning income on a day-to-day basis by growing tobacco. It also employs up to 800,000 people who benefit from it directly or indirectly.

The tobacco industry is the second highest tax paying industry in this country. Taxes collected from the sale of tobacco and its products are used to improve infrastructure in this country. We also use the same to undertake various projects in this country. We have also seen these companies putting up health centres, schools and drilling boreholes for our people. Therefore, cigarettes should be regulated in a way that is enforceable. In buildings, for example, we should have special places where people are allowed to smoke. We should also have special places in cafeterias where non-smokers and smokers can sit together. We should allow people to have a choice. I think, we, as leaders, should not force people to do certain things. If we start forcing them to do certain things, then we will cease to be leaders. We should give our people freedom of choice in whatever they want to do.

Mr. Deputy Speaker, Sir, I also would like to add that there has been no proof that cigarette smoking causes deaths. It is factual. There have been very many court cases in Europe and America where people have taken cigarette manufacturing companies to court and tried to prove that cigarette smoking kills through, for example, cancer. However, there is no evidence to this effect. If any medical practitioner can go ahead and prove the evidence to this effect, he should do so.

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

[Mr. Deputy Speaker left the Chair]

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

Ms. Mbarire: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this very important Motion by Mr. Sungu. This is a Motion that we needed as early as yesterday.

Mr. Temporary Deputy Speaker, Sir, I want to focus specifically on the effects of tobacco use on young people in this country. According to statistics, about 400,000 pupils use tobacco and its products in this country. Out of this figure, 160,000 of them are girls. Looking at this statistics, it worries even the most profit-minded business person in this country. It should even worry the Government more because the future of the most productive sector of this country is actually in trouble. We are seeing young people getting tobacco related diseases at very young ages.

I have gone round Government buildings. The first thing you see at the entrance of these buildings is a notice which says: "This is a tobacco-free zone." However, what is worrying is that as much as Government buildings are tobacco-free zones, the same Government is encouraging tobacco investors to push more tobacco products into our country. This is very ironical! What we have now is that overseas countries have realised that the third world is the best place to bring a killer-disease. The third world countries have become the place to bring in investors with the intention of "killing" its citizens. In the West, the same investors have been denied a chance to invest there because their product is a health hazard. Therefore, we need not allow them to invest in this country. It does not matter how much money they are bringing here. This is because, for every dollar they invest here, the Ministry of Health will spend three times that amount in treating tobacco related diseases. We need to put our priorities right.

I know that The NARC Government promised to create 500,000 job opportunities a year. However, even if we created 10,000 jobs out of a single investment in the tobacco industry, how much money will the Ministry of Health spend treating illnesses related to tobacco?

Mr. Temporary Deputy Speaker, Sir, we know that the risks in this industry are many. For example, in tobacco farming, the chemicals used are hazardous and dangerous to the farmers. We also know that the farmers who grow tobacco, and I stand to be corrected, still live below poverty level. Despite the high profits that these companies are making, the tobacco farmers are very poor. So, of what value is growing of tobacco in our farms?

The workers in the tobacco factories face a lot of problems. These companies have protective clothing and devices to protect the workers because they understand the danger of tobacco. However, they do not protect the consumer of that tobacco. I understand that at Heathrow Airport, there is a very big billboard which says: "For every packet of cigarettes you export to Asia or Africa, you will get two free packets." Why is this so? They are giving these incentives because in the West, they have said "no" to tobacco. I think we need to put in place stringent rules and laws that will ensure that it becomes extremely difficult for them to operate. We must tax them heavily. In addition, they must compensate those people that suffer from tobacco related diseases.

Mr. Temporary Deputy Speaker, Sir, the other problem is not just with the smoker. My concern is the second-hand smoker. Here, I am focusing on the effects of tobacco on young children and pregnant women. Tobacco has dangerous effects on unborn babies. Sometimes babies are born under-weight. In addition, abortion may occur if an expectant mothers uses tobacco products. There should be strict rules on smoking in public places and even in homes. There should be strict rules on smoking in public places and even in the homes because fathers do not know the dangers they expose their children and spouses to when they smoke in their houses. Therefore, I would like it to be clear that you cannot smoke in public places.

Mr. Temporary Deputy Speaker, Sir, smoking among young children has caused many problems. One of these problems is the increase in crime rate in schools because children must go out of their way to look for money to buy cigarettes. We have seen many cases of smokers in schools

stealing money from other students to go and buy cigarettes. We also know that some of these students steal money from their parents to buy cigarettes. We also know that cigarette smoking leads to poor performance among smokers in schools. The other major danger of cigarette smoking is that it makes children who are smokers vulnerable to the use of other substances. Children who smoke cigarettes start smoking bhang, chewing *miraa*, and sniffing cocaine and heroine. As I debate this Motion, I would like to see stern action being taken against the suppliers of these substances. We want to see a proper monitoring system of the people who supply cigarettes and other substances to students in every school. Such suppliers should serve life imprisonment. This is because what they do obviously leads our children to the grave.

The social effects of tobacco are many. We know that many a times the bread-winners in homes are forced to spend most of the money on cigarettes and other substances. Therefore, their income is not meaningful because they do not provide for the needs of the family. We need to look at that aspect because it has great effect especially on women. We should do away with the companies which put profits before life. We should do away with the companies which think that profit is more important than life. It does not matter how many trees they plant in the name of conserving our environment. All we know is that the same trees are cut down so that the farmers can use them. So, we should not be blinded by the small things which do not count on the life of the people of Kenya at the end of the day.

Mr. Temporary Deputy Speaker, Sir, I urge the Government to support the World Health Organisation Framework on the Convention on Tobacco Control. We must make Kenya a tobacco-free country. We do not want to just see billboards which prohibit cigarette smoking in Ministries. We want to see even in border entry points and our airports very big billboards which say: "You are now in a tobacco-free country" so that we can help our country and make sure that the children of this country grow in a healthy State.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to support the Motion.

Mr. Dahir: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to oppose this Motion. I oppose it because---

Mr. M. Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member declare his interest in the tobacco industry?

(Applause)

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, Mr. Sungu should have declared his interest first and not me. All I am saying is that I rise to oppose this Motion. The reason why I oppose it is very clear.

*(The microphone at the Dispatch
Box fell on the Table)*

The Temporary Deputy Speaker (Mr. Poghisio): Could somebody else help him fix the microphone? Mr. Dahir, put it on the Table so that somebody else can come and help you fix it.

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, I rise here to oppose---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Dahir! This is a matter of procedure. If there is any interest to declare, it is always good for the hon. Member to declare it before proceeding.

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, I have no special role in the tobacco industry and I have nothing to declare. I rise here to oppose this Motion just like any other hon. Member and I have a right to do so. I cannot be intimidated by anyone to declare my interest in the tobacco industry!

The Temporary Deputy Speaker (Mr. Poghisio): Order now! Mr. M. Kariuki, you seem to

know something which we do not know.

Mr. M. Kariuki: Yes, Mr. Temporary Deputy Speaker, Sir. In fact, the hon. Member is a distributor of Mastermind Tobacco (K) Ltd.

(Applause)

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, could the hon. Member---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Let the two of you not start arguing. Mr. Dahir, just state your position, we take your word and we move on.

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, I am not a distributor of Mastermind Tobacco (K) Ltd. I would like to state that clearly. If the hon. Member has any evidence, he should substantiate.

This is a very sad day for Kenya---

The Temporary Deputy Speaker (Mr. Poghisio): Order now! Mr. M. Kariuki, you started this and you must take responsibility!

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I asked the hon. Member to declare his interest on the tobacco industry. The information I had is that he is a distributor of Mastermind Tobacco (K) Ltd. or he is associated with a distributor of that particular company.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. M. Kariuki, you have made a very serious statement. As a matter of fact, you have not made such a statement before. If your position is that you are unable to substantiate what you have said, or you do not have documentary evidence--

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker. If I may assist!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Sungu! There is no point of assistance here. Mr. M. Kariuki, if you do not have concrete information, and since you are responsible for the accuracy of what you say in this House---

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am not used to making wild allegations. The hon. Member had informed Mr. Sungu that he is, in fact, a distributor of Mastermind Tobacco (K) Ltd., and Mr. Sungu can bear me witness in that regard. Mr. Sungu was informed by the hon. Member that he is a distributor of Mastermind Tobacco (K) Ltd.

The Temporary Deputy Speaker (Mr. Poghisio): Order! You cannot do that.

Hon. Members: Yes!

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! What are you making this House to be? Mr. M. Kariuki, I have not known you to make wild statements, but this morning you have made such a statement. The hon. Member who is here has said that he is not a distributor of that company. Because it was second-hand information, I want you to clear yourself by first of all withdrawing what you have said and apologising to the House and then allow Mr. Sungu to solve his problems later on. Do not take over his problems.

Mr. M. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to withdraw my remarks because I have no direct evidence. But Mr. Sungu told me that.

The Temporary Deputy Speaker (Mr. Poghisio): It is up to me to give him that chance to tell us that and not you!

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker. May I just explain. It is not in bad taste. There is nothing wrong with declaring interest because the hon. Member told me that he has an interest in this matter. Therefore, he can declare that interest. It is proper to inform Parliament if he has an interest in the industry. I am not imputing improper motive against the hon. Member at all. He is entitled to oppose or support the Motion, but he must declare his interest. That is what I am saying. He told me that.

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, at no time did I contact Mr. Sungu implying that I have an interest in the tobacco industry. He must withdraw his remarks.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! I think something is coming out of this and it is becoming very serious to the Chair. Mr. Dahir, are you saying that at no time did you contact Mr. Sungu? You do not have to answer me now. There must be something going on. If we take this matter lightly, we will make a circus out of this House. Our Standing Orders allow you, if you have an interest to come here and say that you are interested in this Bill in such and such a manner, and then you proceed to support or oppose it. You are supposed to declare that interest and it is not an offence to do that. But to come here and say that Mr. Dahir talked to you personally, and now he is saying that he did not even contact you--- What is becoming of this? I do not want to take your time neither do I want any more of this exchange but we must begin taking the affairs of this House seriously to the extent that nobody should begin introducing sideshows when we are supposed to deal with a very important Motion like this one. Mr. Sungu, do you have anything more to say?

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I appeal to the hon. Member not to take it in bad faith. It is proper to declare any interest he may be having in the Motion. I have proof, because he contacted me. I have said on the Floor of this House that we will consider the interests of the players in the industry. We will talk to all the stakeholders. There is nothing wrong with him talking to me about this Motion. I do not see why he is denying. Even this morning, he talked to me about it in this Chamber. Even the members of the Fourth Estate saw him talk to me. So, there is nothing wrong. There is no improper motive or bad intentions. He just needs to put it in the proper perspective---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, Mr. Sungu! You have made your point.

Proceed, Mr. Dahir!

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, it is true that I contacted Mr. Sungu this morning, but I told him clearly that I will oppose this Motion as he went round seeking the support of hon. Members.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Dahir, there is nothing wrong in you contacting Mr. Sungu. You are a public figure and everybody would know if you have an interest in this Motion. So, you can declare your interest or decline to declare it. Nobody wants to push you on that one. Just know that the rules of this House allow you to declare your interest, if any.

Mr. Dahir: Mr. Temporary Deputy Speaker, Sir, there is no interest I am declaring. I am not a cigarette distributor.

Mr. Temporary Deputy Speaker, Sir, I rise to oppose the Motion. This Motion has generated a lot of interest in this House and amongst members of the public. It is wrong for us to make draconian laws like the one proposed by Mr. Sungu. You remember that, recently, there was the issue of the constitution---

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

The Temporary Deputy Speaker (Mr. Poghisio): What is it, Dr. Khalwale? Mr. Dahir has hardly said anything.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, Mr. Dahir is a very staunch Muslim, and he is using very strong negative language against this Motion, which has got a very big value in terms of health. Is he in order to contradict his own faith using the Floor of this House?

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Khalwale, that is a very good argument. It is not a point of order.

Proceed, Mr. Dahir!

Mr. Dahir: Thank you very much for your protection, Mr. Temporary Deputy Speaker, Sir. I think Mr. Sungu has groomed some hon. Members to rise on points of order, so that they may waste my time.

Mr. Temporary Deputy Speaker, Sir, you remember that, recently, we passed the

Constituency Development Fund, and we appointed its membership, so that money can be disbursed to the constituencies. The hon. Members, who spoke in support of this Motion, made reference to the health hazards associated with tobacco smoking. They never made reference to the economy of this country. As leaders, we should always see the need to revive the economy of this country. We must take that aspect as our first agenda and stop politicking.

I oppose this Motion, because the British American Tobacco (BAT) and Mastermind Tobacco pay a lot of money to the Government as Excise Duty. Every month, Mastermind Tobacco pays Kshs100 millions shillings to the Government as Excise Duty, without mentioning the revenue collected through the Value Added Tax (VAT) and other taxes. In one year, the company generates for the Government about Kshs1.2 billion. This is the money we want disbursed to our constituencies. If we make legislations that will impact negatively on tobacco farmers and manufacturers, we will indirectly be ruining our economy.

Mr. Temporary Deputy Speaker, Sir, the so-called development partners would not like to hear that our economy is growing. They would not like to hear that Kenya is paying her debts promptly. For example, when our development partners realised that we were doing so well in the horticultural industry, they introduced a condition known as the maximum pesticide residue. This condition was meant to create roadblocks for exporters of horticultural products. Consequently, our horticultural products exports declined and this affected the performance of our economy.

When we talk about the growth of the economy of this country, we rely heavily on tobacco manufacturers, who pay a lot of taxes to the Government. It is common knowledge that cigarette smoking is harmful to health. However, that fact is clearly stated on cigarette packets. The consumers of the products make an informed choice. They are fully aware of the risks associated with cigarette smoking. Nobody forces them to smoke. There are so many diseases in Kenya; like HIV/AIDS, which is a very serious health problem. However, some legislators do not talk about it. They say that tobacco smoking causes cancer, which, as Mr. Weya said, they cannot prove. As I said, our development partners would not be happy to see our economy doing well. These are some of the road blocks they would want put in place to ensure that our economy does not do well. So, if we continue bringing Motions on sectors like tobacco, we will not be able to achieve our economic objectives.

Mr. Temporary Deputy Speaker, Sir, as you are aware, tobacco is the second-biggest source of Government revenue in terms of taxation. The Government gets Kshs6 billion annually from the BAT. Mastermind Tobacco contributes about Kshs2 billion. These are huge amounts. If we pass this Motion, it will create a lot of problems to our economy. We need to support our economy. I will, therefore, ask hon. Members to oppose this Motion, so that our economy can improve.

Thank you very much.

Mr. Wario: Ahsante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi ili nichangie Hoja hii. Ninaona aibu kwamba Waheshimiwa Wabunge wanasimama hapa na kuunga mkono Hoja hii. Ukuzaji tumbaku katika nchi hii una madhara mengi. Athari za ukuzaji na matumizi ya tumbaku zinajulikana na hata wale ambao hawajasoma. Matumizi ya tumbaku yanadhuru afya na mazingira yetu. Uvutaji sigara unasababisha ugonjwa wa mapafu na ugonjwa wa moyo. Hata akina mama huavya mimba kwa sababu ya uvutaji sigara. Hiyo ndiyo sababu Wizara ya Afya imeandika juu ya pakiti ya sigara: "Uvutaji sigara unadhuru afya yako."

Nimeteuliwa na wakazi wa Bura ili nije hapa nitunge sheria ambazo zitawalinda na kuhifadhi jamii zao. Kwa sababu za kibiashara, nikisema kwamba ninaunga mkono Hoja hii, wakazi wa Bura wataona kwamba mimi ni mnafiki. Matumizi ya bidhaa za tumbaku ni tisho kwa nchi hii. Kwa hivyo, ningependa kuchukua fursa hii kumuunga mkono Bw. Sungu.

The Temporary Deputy Speaker (Mr. Poghishio): Unamuunga mkono?

Mr. Wario: Ninamuunga mkono Bw. Sungu, Bw. Naibu Spika wa Muda. Siwezi kupinga Hoja hii. Nikipinga Hoja kama hii, wakazi wa Bura watanifikiraje? Sijali ni nani ameleta Hoja au

Mswada katika Bunge hili. Ikiwa Hoja au Mswada huo utaleta sheria itakayowafaa wale walioniteua, au Wakenya kwa jumla, nitakuwa wa kwanza kuunga mkono. Nilizungumzia athari ya sigara na maradhi mbali mbali. Pia, upandaji wa mmea huo ni tisho kwa mazingara ya nchi ya Kenya. Mbegu ya tumbako ina haribu rotuba ya ardhi na tusipoipinga, itakuwa ni tisho kwa mazao ya chakula.

Bw. Naibu Spika wa Muda, makampuni makubwa ya tumbako yametoka huko kwao kwa sababu yamepigwa marufuku. Huko, watu wamesoma na kufanya utafiti mbali mbali na kuona madhara ya tumbako. Lakini, kwa vile wanaona Wakenya na Waafrika ni maskini, wanaleta pesa zao huku tunaendelea kuzungumza yaliozungumzwa na wengine hapa! Nawaomba Waheshimiwa Wabunge kwamba, hata kama nchi yetu ni maskini, hata kama watu wetu ni maskini, tusikubali hizo kampuni kubwa kuja kufanya utumwa kwa watu wetu! Mtu anaandikwa kazi na kupewa pesa nyingi, halafu watoto wako wanaendelea kuumia! Kwa nini? Eti kwa sababu, Bunge haliwezi kusimama na kupinga sheria kama hizo.

Bw. Naibu Spika wa Muda, namwambia, Bw. Sungu: "Ahsante kwa kuleta Hoja kama hii. Hata kama Hoja hii itaanguka, nitakuwa kati ya wale watasimama na kuunga mkono!" Wamezungumzia Kshs6 bilioni! Kshs6 bilioni za maradhi. Kshs6 bilioni za kuua watu wetu. Huo si msaada! Ikiwa tutapata pesa za kujenga nchi, zisilete athari kwa Wakenya. Lakini sote tunajua kwamba leo tutapewa Kshs6 bilioni na baada ya mwaka mmoja, tutatumia Kshs18 bilioni kutibu maradhi yaliyoletwa na Kshs6 bilioni. Afadhali hayo makampuni yakae na hiyo Kshs6 bilioni.

Bw. Naibu Spika wa Muda, natoka sehemu kame ya nchi hii. Hapa, tunazungumzia Wakenya 60,000 wanaolima tumbako. Ikiwa mashamba hayo yatalimwa pamba, kahawa au majani chai, wakulima watapata athari gani? Lakini leo hii, licha ya Wakenya wengi kulima mmea huo, faida inaende kwa yale makampuni makubwa. Wale wakulima hata leo ni maskini.

Bw. Naibu Spika wa Muda, wanaotaka kuchangia Hoja hii ni wengi. Namshukuru Bw. Sungu kwa kuleta Hoja hii.

Kwa hayo machache, naunga mkono.

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

The Temporary Deputy Speaker (Mr. Poghisio): I think we will just have to take the challenge of gender.

Prof. Maathai, please, proceed!

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion and, in so doing, would like to say that I almost want to cry for my country and my people. One reason why we are discussing this Motion, as the previous speaker has said, is because we are a poor country. We are being treated as a poor country. Since we are, indeed, perceived as poor people, we are expected to welcome a tobacco company to invest in tobacco, a drug that threatens the health of our people in this country. Indeed, as one hon. Member has said, we prefer money to the lives of our people. Those companies pay taxes and create jobs and, as a result, we are prepared to sacrifice the health of our people, in order to benefit from the money that they can give us immediately. In their own countries, their own people have said "no", to the kind of money that they give. Indeed, they are now being made to pay a lot of money as compensation for the damage to the health of individuals in their own countries.

Mr. Temporary Deputy Speaker, Sir, I also want to cry because, when our people were enslaved several centuries ago and taken to America, it was mainly to go and work in tobacco plantations. That was common in the southern states of the United States of America (USA). It is, therefore, very sad that the same companies that took Africans to work in tobacco plantations in the

southern states of USA, are now coming back to Africa to finish the few who were left by killing them slowly. The question here is: "Are we prepared to protect our people or to make money?" For me, it is not just the issue of tobacco, but drugs in general. We know that, throughout the country or the world, drugs have been used. Sometimes, drugs are good because they suppress diseases. But some drugs are stimulants. Some drugs, such as tea or coffee have caffeine, which creates a good stimulant. We use them everyday. But, we also know that some drugs, when concentrated, become dangerous to our health. We know that tobacco was originally used as a stimulant. It was used casually, just like we use alcohol, in our traditional ceremonies. But when those drugs are concentrated for commercial purposes, like what happened to tobacco when it was converted into a sexy cigarette and promoted world-wide, it becomes very dangerous to our health.

I would like to refer to the fact that, in this country, we have a drug problem. We have become a country where anybody can come in with drugs and dump them. We should also accept the fact that, our children are currently in danger, as a result of the drugs that have been dumped in this country. We have made it so easy for people to bring in drugs in this country! There are countries in this world where, if you are caught trafficking drugs, you will be hanged. Yet, in this country, we know of people who peddle drugs and they are not even arrested. We just continue talking through the National Campaign Against Drug Abuse (NACADA) about the fact that, our children are even smoking hard drugs in schools. We have not seen anybody being arrested. That is because drugs are usually not dealt by poor people. The poor people are only victims of drugs. It is usually the rich and the politically powerful who peddle drugs! They peddle drugs to poor people who consume them. You will not find those who have been mentioned in drugs-related investigations or their children using drugs. However, it is our children in primary and high schools who are now consuming drugs at an alarming rate. I fear that, just like we went to sleep over the issue of HIV/AIDS and waited for almost 20 years to wake up to the fact that we had a problem, we might do the same with drugs. As you know, the first person to die of HIV/AIDS in Kenya died in 1984. We knew it was HIV/AIDS and yet, we did not wake up until the year 2000, to accept that we had a huge problem in our hands. I feel that, even with drugs, we are taking our time and, maybe, not until half the number of our children will be falling down in our schools, shall we wake up to the fact that, we have a problem with drugs in this country.

It is, therefore, a matter of great concern that we should be talking about the possibility of allowing drugs and tobacco to be legalised, when they have been accepted as serious drugs in other countries. We must oppose that and tell the tobacco companies to look for other kinds of businesses to make money. There are many areas where they can invest their money. But they most not invest their money in the business of killing our people.

Mr. Temporary Deputy Speaker, Sir, I want to mention, very quickly, the fact that within the environment where tobacco is grown, blue gum trees are also grown there. These trees have literally depleted water in the areas where they are grown. Many of our indigenous trees and vegetation have been cleared so that eucalyptus trees can be planted because they are used for the curing of tobacco. So, tobacco is very dangerous to the environment.

Mr. Temporary Deputy Speaker, Sir, I want also to mention, very quickly, the fact that at the moment there is a debate on abortion in this country and we know that many of these unwanted pregnancies actually happen because people are under the influence of drugs. I think it is pretentious and hypocritical for us to demonstrate a concern for abortion when we are tolerant about drug abuse in this country. If we really want to put our morals and values right, then we must vehemently oppose all kinds of drugs. We cannot say we are not tolerant towards tobacco while we ignore the other drugs. All these are drugs and as long as we show tolerance to drugs, I actually find it hypocritical to be crying out over abortions and such things.

Mr. Temporary Deputy Speaker, Sir, I think we, as hon. Members of Parliament, have a special responsibility to protect our people from being misused. The Americans have been talking

about weapons of mass destruction and when I sometimes look into the drug issue in this country, I sometimes ask myself: Is there a hidden agenda somewhere by some people, countries, individuals and maybe some groups of really trying to destroy our people? This is because when I look around at the children, young men and old men, I see that we are being targeted with drugs from every side. I cannot help thinking that there is somebody somewhere who is really working very carefully and subtly for the destruction of our people and yet we just sit here. Because we are very concerned about jobs and the economy, we are prepared to allow this country to become a truly drugged country.

Mr. Temporary Deputy Speaker, Sir, our President has been talking about the fact that so many of our people are drunkards. Alcohol is a drug and once we are tolerant about one drug, we become very tolerant about others. If you watch the message on the television about the warning on tobacco, for example, it is almost a passing cloud. It cannot compare with the drama with which tobacco is being advertised and I have never seen an advertisement of a person falling all over, urinating all over himself and looking like a half-mad person. They are usually these young, beautiful, handsome, successful men and women who are projected.

With these few remarks, I beg to support.

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mrs. Kilimo): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to add my voice to this Motion that has come at the right time.

To start with, I would like to say how sad I am that some few years ago Mastermind Tobacco and BAT were fighting over the tobacco growing areas and our then Government divided our country into tobacco growing areas. It was a ticket to bad health for the people in those areas considering that the people who grow tobacco also suffer the same consequences as tobacco smokers.

A previous speaker spoke about Kshs6 billion being invested here. Considering that studies have shown that for every one shilling that is earned from tobacco, three shillings is used to treat tobacco-related ailments--- So, if you multiply this Kshs6 billion by three times, it will come to Kshs18 billion. If you subtract the Kshs6 billion which they say they are giving us, the balance remaining will be Kshs12 billion negative. So, it is not even an investment. Instead they are taking some money from us.

Mr. Temporary Deputy Speaker, Sir, studies have also shown that tobacco contains various chemicals, 400 of which are known to cause cancer unlike what my colleague has just stated. He should go out and see for himself. Smoking is like romancing with a killer. There are many Kenyans whose limbs have been amputated because of tobacco-related ailments such as cancer. When you are exposed, at a young age, to cancer you eventually start developing tumours.

It is sad to note that 58 per cent of smokers in our country are youths. If you want to know, and I challenge my fellow colleagues, the effects of tobacco and other drugs, just visit some of the rehabilitation institutions. I visited one along Chiromo Lane. You will see how youths have been wasted by drugs. They look at you in a bizarre way as if they do not know what is happening around the world. That could be your child if not your brother.

Mr. Temporary Deputy Speaker, Sir, tobacco growing is viewed as an investment, but can we not grow other crops that can give us money? Men have wasted a lot of their money in smoking. In fact, in our up country, 67 per cent of the smokers are men. Considering the bad economy, many women are not employed in good-paying jobs. So, the bread winner, who are mostly men, waste much of their money on smoking tobacco and later on treating the tobacco-related diseases. In up country, women are also increasingly taking tobacco. About 32 per cent of smokers in upcountry are women. This is very sad considering that women who smoke could easily miscarry.

Tobacco is a drug and when it is abused, slowly by slowly, its consumer gets used to it. Eventually he or she will want to smoke something harder than tobacco. This leads to the use of harder drugs. Of late you have heard and read in the media about increased cases of rape in our

country. Studies have shown that people who commit these heinous offences are normally under the influence of drugs. They start as smokers and gradually graduate to the use of harder stuff like bhang. These drugs corrupt the mind of an individual.

Companies that sell cigarettes in the name of investments lure our people. They take advantage of our poverty. When our people want to plant crops, they give out free seeds, free insecticides and even give school fees to poor families that cannot afford to pay school fees. Tobacco growing is hazardous to the communities living around those areas where it is grown. Since our water systems are not well established and the water is not well treated, when it rains, the chemicals used on the tobacco plantations run down into our rivers. The water is drunk by man and livestock. The effects of tobacco then become a cycle. Whether you smoke or not, there is chance that you will be affected by tobacco through the water you drink.

Mr. Temporary Deputy Speaker, Sir, I wish that all the Members of Parliament and everyone else in the country could support the World Health Organisation (WHO) Framework on the Convention on Tobacco. I would like to suggest that, apart from tobacco being an income-generating crop for our economy, we should have stiffer penalties against the tobacco companies who advertise in an enticing way in very strategic places; for example, the use slogans such as "Smooth all the way" and so on. Is coughing really smooth? Coughing is the after-effect of smoking tobacco. These companies lure our youths by giving the impression that when you smoke you look nice and, in fact, fashionable. It is not fashionable at all to smoke when, at the end of it all, it leads to death.

Mr. Temporary Deputy Speaker, Sir, I wish to support this Motion. I also want to inform all Kenyans, especially parents and future parents, that smoking of tobacco can harm you and your child.

With those few remarks, I beg to support.

Dr. Rutto: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the chance to contribute to this Motion. I also wish to support this Motion in the strongest terms possible because smoking in this country is not seriously prohibited because the laws that we have in this country are so relaxed and the penalties that are to be meted out regarding hazards related to smoking are not harsh enough.

Mr. Temporary Deputy Speaker, Sir, if you happen to travel in public vehicles, you find that people are very reckless with smoking cigarettes. This terribly inconveniences those who do not smoke. The non-smokers are completely helpless. They cannot get redress on the issue in a court of law effectively, because the laws are not tight enough. If you go to hotels, you find people who smoke without due regard to those who do not smoke. They smoke recklessly in public places; for example, in hospitals. This is terribly inconvenient to those who do not smoke.

Mr. Temporary Deputy Speaker, Sir, I want to make another remark. Smoking, to me, is a despicable habit. It pollutes the environment, our health and our life. As some speakers have said previously, it encourages health hazards. I would like to reply to the hon. Member who just opposed the Motion on economic reasons. My point here is that such a position is really based on the question of values. We either make a decision to preserve life, or to destroy it for the sake of money. To me, if we are to arrange values in some hierarchy, top on the agenda should be those values that promote the preservation of human life. In my opinion, the preservation of human life is of a higher value than the one that potentially destroys life. If there is anything that is to be valued that endangers life in the long run, we should throw it away; we should not even discuss it. The preservation of human life is of a higher value to me.

Tobacco production and consumption has the potential of destroying life, as previous speakers have said here previously. Tobacco is not food, therefore, we cannot categorize tobacco on the same scale as food, air or water. We can live without smoking and tobacco. In other words; air, water and food add value to life. But this other one, in fact, devalues life. It damages our health. I believe that when nature or God gives us life, we should enjoy it fully. Smoking is not one of those ways of

enjoying life. In fact, it is destructive.

Mr. Temporary Deputy Speaker, Sir, the hon. Member who opposed this Motion insinuated that, by allowing the sale of tobacco, we are enhancing our economic security as a nation. What security is there? It is false security in the sense that, while striving to make more money, in the same strength, we destroy the very life that we are supposed to be supporting. He also said that smoking is a personal choice. He said that people choose to smoke and, therefore, they should be allowed to make choices. Hon. Members have expressed concern that cigarette smoking, as a habit, develops mostly in schools, either in primary or secondary schools. Children in primary and secondary schools are not capable of making informed decisions and yet cigarette manufacturing companies advertise their products in a very colourful language. By advertising in that colourful language, they do not provide the opportunity to choose to our children. They lure them to smoking by using very deceptive language. That is not information. It is bad information.

We should not allow people to smoke cigarettes on the basis of the fact that they choose to do so. Sometimes, people choose to smoke because of lack of information. I have mentioned that our children can be lured into smoking by advertisements which do not tell the truth. Secondly, in ordinary life, we make choices using mistaken information. In fact, people make choices without being properly informed. The Government should make advertising companies tell the people the truth. In actual fact, cigarette smoking finally destroys lives. There is no substantive reason that can be adduced in this House, or anywhere else, for us to oppose this Motion.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! You still have time to talk, but I would like to give this opportunity to the Official Government Responder to make her remarks, and then we will continue from there. So, I will call upon the Official Government Responder.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to respond to this Motion which is very timely. This Motion has just overtaken the Bill the Ministry of Health intended to bring to this House.

The Motion by Mr. Sungu has clearly stated the reasons why the use of tobacco should be controlled and, if possible, abolished. Mr. Temporary Deputy Speaker, Sir, it is obvious that we know the effects of tobacco smoking, and these are serious effects, indeed. These are health effects on people. The survey and research that has been done and, that we have, show clearly that people who continuously smoke suffer from one disease or another. It is cancerous, it causes brain tumour, it causes lung tumour, it has caused many pregnant women to have abortions, or they give birth to children who are not normal. Therefore, this is something that the Government cannot support. It is for this reason that the Government has decided also to bring a Bill to this House.

Mr. Temporary Deputy Speaker, Sir, the evidence that we have shows that tobacco smoking, even from other people, is harmful to the health of those people who do not smoke. It has shown that mothers who use tobacco during pregnancy are also exposed, and expose their unborn babies to harmful effects of tobacco. Tobacco smoking in public areas has shown that it also harms even those who do not smoke.

Mr. Temporary Deputy Speaker, Sir, the data that we have from the World Health Organization indicates that there are 1.3 billion active smokers today, and that tobacco kills one person every seven seconds, 560 people every hour, 13,400 people per day and 5 million people every year in the world. Currently there are 700 million people or children that are exposed to smoke worldwide, and by the year 2030 the number of active smokers is expected to rise to more than 1.6 billion. Tobacco will kill 10 million people per year, and over 70 per cent of these deaths will occur in the developing countries, Kenya being one of them. Kenya also participated in the Global Youth Survey in 2001, and the national random survey was conducted involving Standard Seven and Standard Eight

pupils in primary schools and Forms One and Two students in secondary schools. The prevalence rate of tobacco use was 13 per cent; 15 per cent male and 10 per cent female. These are young people who are exposed to passive smoking at home, and 40 per cent were exposed to it in public places. Seventy per cent were exposed to tobacco advertisements and 20 per cent reported to their intention to start smoking within a year of this survey.

Mr. Temporary Deputy Speaker, Sir, in recognition of this harm that tobacco use causes to health, the World Bank also adopted a formal policy to prohibit the bank from lending on tobacco, and encourages tobacco control efforts. Which means that we, as a country, need to take cognisance of the fact that we cannot encourage this. It is for this reason that the Government is bringing this Bill. From the hon. Members who have contributed to this Motion, other than one hon. Member who has opposed it, I now know that the Bill that we are going to bring into this House will pass. We would like to do this with speed. Therefore, I am going to call upon the Departmental Committee on Health, Housing and Social Welfare, other stakeholders, and the Mover of this Motion to sit down with the Ministry so that we can finalise the Bill and bring it to the House.

With those few remarks, I beg to support this Motion.

Mr. Nderitu: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this important Motion.

The Temporary Deputy Speaker (Mr. Poghio): Mr. Nderitu do you have an interest to declare?

Mr. Nderitu: Mr. Temporary Deputy Speaker, Sir, I am a smoker!

Cigarette smoking is something that builds up into one's system just like caffeine from coffee and teaffeine from tea. At the end of the day, one gets used to it and starts increasing his or her level of smoking from one stick to two and on and on. The problem comes when one plans to stop smoking. One's system is by this time full of nicotine which controls one's adrenaline levels. I agree with all contributors here that smoking is awfully bad. Sometimes I get mad about it. We should have control of where people should be smoking, who should smoke, and why, if there is any good reason for it.

I would also like to look at benefits in terms of revenue collected by the Government. The Government collects about Kshs4 billion from the British American Tobacco (BAT) and Kshs2 billion from the other tobacco-processing firms. However, is that sufficient? The Minister for Health should make sure that the taxes payable by the factories, or the companies dealing in tobacco, are at 100 per cent of the price of cigarettes. That would make it very difficult for us to buy a cigarette for smoking.

Smoking is a health hazard. There is also another angle to it. When one gets used to it, he or she has to undergo a very long process so as to get rid of it. Whenever I decide to stop smoking, my adrenaline level becomes very high. I get angry very fast and feel as if everyone is against me all the time. However, when I smoke one cigarette my adrenaline level goes down. I do not know what happens to my metabolism.

I accept that this is a killer habit. It is a habit that we should do away with. That is why I have stood here boldly to support this Bill. I do not earn any benefits from smoking. The Minister for Health should come here and give us the recipe for stopping to smoke. She should tell us what we are going to do about this habit. What are the smokers going to do? How will the Ministry assist smokers and the farmers who grow tobacco so as to grow something else because that is where they reap? Those farmers are the same as those who grow flowers and other horticultural products for export. What are we going to do so as to stop them from growing tobacco and convince them to grow something else; like tomatoes? Who will find a market for them? Farmers grow tobacco because there is ready market for it. We have to look at the issue from a wider perspective.

The millions of farmers who are growing tobacco are benefiting by educating children and supporting their families from the crop. What is the Ministry going to do to assist them? I know many farmers who have huge pieces of land for growing tobacco. Such farmers earn about Kshs4 million

every year. Such farmers would want to retain the same level of income for their families. What other crop will bring to them Kshs4 million or more a year? If we say that nobody should smoke in this country, what will we do with the farmers who are growing tobacco? Banning smoking is like closing a tap without providing an alternative. We should shut a tap because it is giving dirty water and then instal another one that will give clean water. We should not preach drinking of water while behind the doors some of us are drinking wine.

Mr. Temporary Deputy Speaker, Sir, why is it that people have been smoking cigarettes and everybody has been watching this? Tobacco builds itself into one's system. It has not been classified as a drug yet. So, that means it is not a drug, but it is harmful. Those who smoke use it as a relaxer. That is why you will find that attitudes and habits kind of create a person. As my friend said, some people started smoking when they were in school without the knowledge of their parents. When they grew up they started smoking openly. I support this Motion and I would like corrective measures to be put in place. As a country, what do we want? As the Government, what are our options?

Mr. Temporary Deputy Speaker, Sir, we should have guidelines for those people who want to smoke as is the case in Britain and elsewhere, where people are not allowed to smoke in offices. We should come up with stringent rules and regulations so that, if broken, one is sentenced to a jail term or arrested and reprimanded. If we do that, of course when I enter a plane, even if the flight takes five hours to land, I will not touch a cigarette. I will know that the moment I light a cigarette, signals will go off and I will be taken to the cells upon landing of the plane. We should come up with regulations that prohibit smoking in particular places.

I do support this Motion because I want to stop smoking.

The Assistant Minister for Local Government (Mrs. Tett): Thank you, Mr. Temporary Deputy Speaker, Sir. It is a fact that today, many complicated health problems are related to tobacco. Today, about 1.3 million smokers die of tobacco-related diseases. Eighty-four percent are in the developing countries such as Kenya. Tobacco is one of the many preventable causes of death in the world today. Tobacco-related diseases include heart diseases, lung cancer, cancer of the mouth, gullet and bladder, tuberculosis and other diseases. These diseases are preventable because if you do not smoke, you will not die of them.

The World Health Organisation estimates that by the year 2020 tobacco-related diseases will be responsible for more deaths than HIV/AIDS, tuberculosis, road accidents and suicide worldwide. You will find that the death rate from smoking will be higher than that from HIV/AIDS and the other diseases put together. It is estimated that by then 7 million people will die yearly due to smoking. It is surprising that some MPs here do not support this Motion, and yet they know that every year 7 million people will die of tobacco-related diseases.

It is further estimated that 70 per cent of the tobacco-related deaths will occur in the developing countries, including Kenya. Some of the sisters, brothers and daughters of those who do not support this Motion will die if they will be smokers. That is why I am surprised. Some of the effects of tobacco use by an individual are high medical costs. Indeed, even the insurance companies quote their health insurance premiums based on whether one smokes or not. If an individual smokes, his or her insurance cover comes in a much higher rate than an individual who does not smoke.

Mr. Temporary Deputy Speaker, Sir, indeed, we are told that Kshs6 billion is raised as taxes collected from the sale of cigarettes. However, what is the point of raising Kshs6 billion as taxes when we use over Kshs18 billion for medical bills incurred as a result of tobacco-related diseases? The rest of the money is repatriated abroad. Does that make sense? It does not make sense at all.

Mr. Temporary Deputy Speaker, Sir, tobacco farmers struggle to make ends meet when a top Chief Executive Officer, for example, Mr. Philip Maurice, of one of the largest multinational tobacco companies earns over US\$3.2 million. This is a very sad affair. Mr. Temporary Deputy Speaker, Sir, when talking of health hazards, those working in the tobacco fields suffer from a disease called green

tobacco sickness which is caused by direct skin absorption of nicotine from contact with wet tobacco. Even if they do not smoke while working in the field, they are exposed to this disease. Many people do not know about this disease. It is like a cancer.

Mr. Temporary Deputy Speaker, Sir, if tobacco companies must enjoy the freedom of production of cigarettes and other tobacco products, they must meet the consequences arising from the problems facing this industry. It is not enough to tell our people that tobacco smoking is dangerous. The Government has a duty to protect those who are tempted to smoke due to the strong marketing campaigns applied by the tobacco companies. These companies advertise a lot. Therefore, we must bring forward some legislation to control this just like the United States of America (USA) and other European countries did. I do not know why we should be left behind. Most tobacco companies are aware that tobacco smoking leads to diseases and deaths. Therefore, I would like to suggest that the cost arising from tobacco related diseases should be endured by these companies. They should not run away from their responsibility; they should be made to pay. The people of this country must be given the recourse in cases of tobacco smoking associated diseases and deaths. The argument that a person has the freedom to choose between smoking or not should not be used to protect companies and businesses which deliberately mislead the public, and especially the youth, about the dangers of smoking.

Mr. Temporary Deputy Speaker, Sir, all other public organisations must also be required by the law not to give the opportunity to tobacco companies to advertise through, for example, public means of transport and events. We see many lorries and buses merchandised with cigarette products. We have also seen various sponsorships such as road shows and sports events where these products are advertised. When our young brothers, sisters and children see this kind of thing, they think this is really a macho thing to do. So, they start smoking. This should not be allowed at all.

Mr. Temporary Deputy Speaker, Sir, public events which are associated with tobacco smoking should also be banned. A legislation should be put in place for such events, because of advertising. The power of advertising is vast. When we see advertisements, we take it that they are telling the truth. They never tell us the dangers of smoking. All they say is how good smoking is. The Ministry of Finance collects revenue from tobacco companies. That must not be done at the expense of our lives. The money collected is "blood money" and we should not touch it.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Your time is up!

The Assistant Minister for Local Government (Mrs. Tett): With those few remarks, I beg to support this very important Motion.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Since this is a timed Motion, it is time for us to call upon the Mover to reply.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, due to the interest expressed by hon. Members, may I request you to allow Ms. Mwau to speak for one minute, Dr. Khalwale for two minutes, Prof. Olweny for two minutes and Mr. M. Kariuki for three minutes?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Sungu, you simply donate! It is your time! Do not ask me to allow!

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I have donated one minute to Ms. Mwau, two minutes to Prof. Olweny, two minutes to Dr. Khalwale and three minutes to Mr. M. Kariuki.

The Temporary Deputy Speaker (Mr. Poghisio): Ms. Mwau, just take the time you have been given!

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, I have been standing throughout, and I actually feel bad because I was not given a chance to contribute. I want to emphasize that smoking kills. That is a fact. About 70 per cent of all cancers are actually caused by smoking. There is an argument that farmers who grow tobacco get a lot of money out of it. But, actually, farmers who grow tobacco are the poorest of the poor! It has also been mentioned that 400 ingredients of tobacco

are dangerous to our health. Growing of tobacco also depletes the soil. You cannot grow any other crop after growing tobacco. It actually takes some time for that soil to sustain other crops. We are talking of investors coming into this country to kill our people.

It was mentioned that at Heathrow Airport, there is a billboard which says that if you buy one packet, you get three packets free to take to Asia and Africa. Why are we killing our people in the name of getting money? We know that the Ministry of Health spends Kshs18 billion to treat tobacco-related diseases. They say that for every US\$1 you earn from tobacco, you actually spend US\$3 to treat tobacco-related diseases.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Ms. Mwau! Do you support the Motion?

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, I support.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I do not know how much I can say in two minutes, but I will try my best.

I have a document here from the Ministry of Health and the World Health Organisation (WHO). It says that 4.9 million people died of tobacco-related diseases in the year 2002. That means that 54 per cent of Kenyans who smoke, and 13 per cent of under-age Kenyans who smoke and are below 12 years, will become part of that number when they die in the near future. So, that means tobacco is a major danger to us. Tobacco is dangerous to the smoker, the chewer, the farmers who grow it and handle and cure it; tobacco makes us lose our forests because, in order to cure tobacco, you have to cut down the trees.

We have been debating the Forests Bill so that we can conserve our forests. Tobacco is making us lose our forests directly because we cut trees to cure tobacco. Tobacco is dangerous to the workers who handle it in the industry where it is packaged. Tobacco is very dangerous to non-smokers like myself because the smokers who are around us make us inhale nicotine. Why should they subject us to the dangers when we do not benefit the way they do? The Government is a major loser. Although the Government gets money from the tobacco industry, the Ministry Health is treating Kenyans who are suffering from tuberculosis free of charge. Some of those people suffering from tuberculosis got it from tobacco. The Kenyan community in general is suffering from illnesses that are caused by nicotine.

With those remarks, I beg to support the Motion.

Mr. M. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to support this Motion.

In supporting this Motion, let me say that it would be abdication of leadership of heavy proportions for any hon. Member in this House to oppose this Motion. We have a challenge, as leaders, to ensure the safety of our people. When it comes to their health and their general security, it is the responsibility of this House to ensure that it takes that particular responsibility seriously.

Mr. Temporary Deputy Speaker, Sir, a look at the World Health Organisation (WHO) convention, provides that the highest standard of health is now assumed as a fundamental right of every citizen regardless of race, economic status and so forth and Kenya is a party to the convention. We are also party to the convention on the rights of a child which also embraces this fundamental principle of the right to good health as a fundamental right. So, in considering this Motion, we have to bear in mind that we have to take into account the highest standard of the health our people and in so doing, ensure that we have a healthy population and a healthy country which is productive.

This Motion does not seek to abolish the use of tobacco. Even in the most capitalistic of all capitalist nations, the USA, there is a Tobacco Control Act and I do not think that Kenya should be an exception. That we are so much obsessed with the revenue we are collecting from the tobacco companies and we do not seriously take the health of our people as a prime consideration. Once there

is a legal framework, then the consumers of tobacco would be entitled to some form of protection in the sense that they will be able to litigate and get compensation if their health is adversely affected. But as things stand now, there is no legal framework.

It is also important that in countries where there is a legal framework, there are clear provisions relating to environmental preservation. I think the farmer who produces tobacco has to be enjoined in a way in terms of ensuring preservation of the environment. The manufacturer should also be enjoined. So, this is the kind of legal framework I am talking about.

Once that is in place, things like advertising and promotion of consumption of tobacco will be regulated in a manner that the interests of consumers will take the upper hand. So, this Motion is well-intended.

With those remarks, I beg to support.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, may I take this opportunity to thank all hon. Members who have contributed to this very important Motion. I also want to thank the Minister for Health for supporting this Motion. I believe it is time for us to decide the way forward with respect to regulation of this industry. I want to assure the Minister that since her Bill is ready, we will work together once this House gives us the authority to do so. We will make sure that this Bill comes to this House as soon as possible.

The intention of this Bill is to give this House and Kenyans a chance to control tobacco and its related products. There is need for a legal framework that will provide for litigation and compensation. This will ensure that the interests of *wananchi* are taken into the fold as far as the Bill is concerned. So, I want to assure the Minister that we will work together. I also want to urge her to take note of the interests of hon. Members and their sentiments. I promise that we will work together so that we bring this Bill as quickly as possible.

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

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Poghio): Next Order!

AMENDMENT OF PENAL CODE TO
MAKE CATTLE RUSTLING A
NON-BAILABLE OFFENCE

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, considering that cattle rustling is a major cause of insecurity in many parts of the country resulting in loss of property and sometimes loss of life; taking into account that culprits when arrested often walk to freedom as a result of the right to bail and light custodial sentences; this House do grant leave to introduce a Bill for an Act of Parliament to amend the relevant sections of the Penal Code, Chapter 63, of the Laws of Kenya, in order to provide for cattle rustling as a non-bailable offence punishable by life imprisonment. Mr. Temporary Deputy Speaker, Sir, may I at this particular moment reassure hon. Members from certain communities in this country that the purpose of this Bill is not to target their communities, but it is to bring in deterrent measures. These measures will ensure that the right to property and life are preserved. Hon. Members might want to know what the current law says with regard to cattle rustling. This law is found in Cap.63, Section 278, of the Laws of Kenya. It says:-
"If the thing which is stolen is any of the things following, that is to say, a horse, mare, gelding, ass, mule camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, or the

young thereof, the offender is liable to imprisonment with hard labour for a term of not less than seven years and not more than fourteen years together with corporal punishment."

Mr. Temporary Deputy Speaker, Sir, hon. Members will realise that this is a very strong law. However, it has still not served enough to deter cattle rustling. So, given that it has not worked, even in spite of the previous Government introducing a special police crack unit called the Anti-Stock Theft Unit, it is now important that we consider introducing a new law. This Motion is aimed at creating this law. The backbone of cattle rustling is insecurity. Insecurity is something which cannot be overstated in this country. Insecurity leads to loss of property and life. Insecurity leads to displacement of families and insufficiency in milk production. As far as cattle rustling is concerned, insecurity promotes corruption especially in the Judiciary. Insecurity also leads to insufficiency in food production. The bottom line of insecurity is that it leads to poverty.

Mr. Temporary Deputy Speaker, Sir, I would like to give examples of what cattle rustling has done to this country. The land clashes which were experienced in the 1990s, while to some people they were politically-motivated, the perpetrators were really encouraged to participate in them because they gained by taking people's livestock. In fact, there is a school of thought in this country, when its history is written, which believes that had it not been for cattle rustling, probably, land clashes would not have occurred.

Some former hon. Members of this House made millions of shillings out of cattle rustling. There was a notorious former Member of Parliament who had organised groups of youths in his constituency in the North Rift--- That former Member of Parliament became a millionaire out of cattle rustling.

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member substantiate his allegations? Could he prove that hon. Members of this House are thieves and get millions of shillings from cattle rustling? Could he substantiate the remarks he has made?

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. If the hon. Member, who is my colleague, had listened to me keenly, I did not say the current Members of Parliament, but the former hon. Members of this House. I am sorry, if Dr. Ali thought that I spoke about the current hon. Members.

The Temporary Deputy Speaker (Mr. Poghisio): Order! The rules remain the same. Dr. Khalwale, you are held responsible for the information you give to this House. The only way we can be sure of what you have said is for you to say that So-and-so did it. Do you have such information?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I happen to come from a community whose relatives live in the North Rift. I am aware that the late Mr. Lotodo became a millionaire by taking livestock from my people who live in Trans Nzoia District.

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. Dr. Khalwale is obviously treading on dangerous ground. Is he in order to allude to the fact that the late Mr. Lotodo made millions of shillings out of cattle rustling when he cannot substantiate his allegations? This is very serious.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, does the hon. Member have information to the contrary?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Dr. Khalwale, it is true that you are treading on dangerous ground; especially when you start mentioning names of people who cannot defend themselves in this House. That is how lightly we take this House. Substantiation means that you have information which you can lay on the Table so that we can read. Substantiation is not what your relatives told you about somebody else where they live. So, you either substantiate or withdraw your remarks. Unfortunately, you have to apologise to the House.

Dr. Khalwale: Mr. Temporary Deputy Speaker, this is a very practical issue. Mr. Zakaria was

displaced from his land.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Dr. Khalwale, I am going to ask you that, before you move the Motion, you declare any interest that you personally have on the subject. The rules only allows me to ask you to substantiate, and if you cannot substantiate, to withdraw and apologise, or you declare an interest that you have.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, before I withdraw, may I mention that there is no greater interest that an hon. Member can have than to be a representative of a group of people. With that remark, I withdraw and apologise.

Mr. Temporary Deputy Speaker, Sir, having given that example, I want to say that you are sorry.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Dr. Khalwale, having withdrawn, that is no longer an example to us. You have already apologised, which means you are falling all over yourself to say that your sorry.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, two weeks ago, it was reported in both the print and electronic media that four school boys in Marakwet District were gunned down by cattle rustlers, because the children identified the bandits. The children saw the cattle rustlers drive away the cattle very early in the morning on their way to school. The death of one child in this country, and if not four, is something we must take with a lot of seriousness. We must offer the right protection within our statutes, so that life is never again lost, because of the personal greed of a few people. Last night, 11 camels were stolen in Chesitet, West Pokot District. The police are currently pursuing them. They are using a lot of Government resources to trace the camels. You can imagine the amount of poverty that is going to be visited on the farmers, who are the owners of the camels.

I would like to say something about a special cartel that exists within the Judiciary. This cartel is especially witnessed in law courts in Western and Rift Valley Provinces. The cartel involves cattle rustlers, magistrates and advocates. What happens is that a cattle rustler takes an old woman's cow from her *boma* at night and hides it. A hardworking chief, or assistant chief, arrests the cattle rustler and takes him to Kakamega Police Station. When the cattle rustler's wife visits him at the police station, he instructs her to sell the cow. Once the cow is sold, the proceeds are taken to the advocate, who keeps part of it as his professional fees and uses the balance to compromise the magistrate.

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member seems to be repeating the same thing. He is alleging that cattle rustlers take money to the magistrates, as if he is part of the cattle rustlers. Is he in order to, again, allude that magistrates get money from cattle rustlers to bend the laws?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, if Mr. Sasura, who was an Assistant Minister in the previous Government, does not know that we won the previous election on an anti-corruption platform, then he may not know what I am talking about.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Dr. Khalwale, Mr. Sasura has stood on a point of order, seeking to know whether you were in order to, again, make a very serious allegation. You have made a sweeping statement that there is a cartel in the Judiciary. That is the statement he is asking you to substantiate. Be responsible for the statements that you make in this House. That is, basically, my duty.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I thought that I was assisting the hon. Member, who was once a chief, because he used to get very frustrated. Since he does not appreciate my assistance, I would like him to check the facts. The case at hand is not that of proving that there was corruption within the Judiciary. He is aware of the fact that after we took over the Government, we had to do a clinical surgery on the Judiciary. We even changed the Chief Justice.

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Khalwale, did you hear what I said?

Mr. Temporary Deputy Speaker, Sir, allow me to talk---

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Khalwale, did you hear the Chair? Did you hear me say that you are responsible for the accuracy of the information that you are giving to the nation? You are telling this nation that there is a cartel in the Judiciary! Are you sure about what you are saying?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, if we could cause the kind of changes that were done in the Judiciary, as a result of corruption, then how useful is the Chair to me in supporting a wild allegation like that?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Khalwale! I know you are new to the House and, hence, new to the rules. Basically, the rules allow you to bring information to the House, but only information that you are going to take responsibility for. For the time being, if you are not sure about the knowledge of that information and, therefore, cannot be challenged to substantiate, that is the time when you withdraw and apologise. Otherwise, you are going to be challenged to table it and if you cannot--- That responsibility and onus is upon you!

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. But I must say that, because of the seriousness of what we are trying to achieve here, and because there are many hon. Members in this House who must declare their interest in this particular Motion, I withdraw.

The Temporary Deputy Speaker (Mr. Poghisio): Are you, therefore, withdrawing your remarks?

Dr. Khalwale: Yes, I withdraw.

Mr. Temporary Deputy Speaker, Sir, there is the issue of our security organs. The Administration Police, regular police, chiefs and other security agencies are not adequately prepared to face cattle rustlers. That is because cattle rustlers come with very sophisticated weapons and, therefore, there is need for all those groups to be given more powerful weapons. If anything, cattle rustlers should be viewed as invading armies and our security organs, that is the General Service Unit (GSU) and the Kenya Army, must deal with them. That has been tried in Uganda by their President and it is working. My proposals to be captured in the new Bill are as follows:-

We need to amend Cap.63, Section 273, so that cattle rustling offenders could be liable to life imprisonment.

Secondly, a factor of compensation should be introduced whereby, in addition to punishment, offenders must compensate the livestock owners.

Thirdly, there is the issue of cost. They should be ordered to pay the costs of and incidental to the prosecution or any part thereof.

There should also be security for keeping peace. In the event that the offence has been committed by a community a council of elders, acting on behalf of the community, should be ordered to give assurance that they are going to keep the peace once their soldiers have been arrested.

In the event that an ex-convict has escaped and has been re-arrested, on the second conviction, he or she should not be given life imprisonment but, instead, should be sentenced to death.

Mr. Temporary Deputy Speaker, Sir, there should also be an issue of forfeiture whereby an order could be given for forfeiture of any property that has been passed on, in connection with the offence.

We have cases of offenders who are non-citizens, especially from Uganda. I come from the border. A recommendation should be given, so that the extradition of those persons from Kenya to be tried in their own countries is denied. In that regard, it will be important to harmonise Section 8 of the Immigration Act.

When you read the definition of "robbery" and, especially, "robbery with violence", you will realise that cattle rustling is not considered as a case of "robbery with violence". It is important that we look at cattle rustling, especially when cattle rustlers come with crude and other weapons, as "robbery

with violence". As it is today, Section 278 is a contradiction of Cap.295 and Cap.296(2) that define robbery and punishment thereof

Mr. Temporary Deputy Speaker, Sir, lastly, I propose that proper amendments should be made to the Criminal Procedure Code, Cap.75, and especially Section 123, so that the following may be considered:-

In that section, we are told that offences in this country that are non-bailable include murder, treason, robbery with violence or attempted robbery with violence. We should add cattle rustling to that section, so that the offence becomes non-bailable. Having said that, I would like to request Members of this House that, since all communities in this country respect their animals, especially cattle, it is important that we all protect the property of those who elected us. Even in my community of Luhya, there are special songs---

The Temporary Deputy Speaker (Mr. Poghio): Your time is up! Could you move the Motion?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move. Since the time is up, the Seconder will proceed next time.

The Temporary Deputy Speaker (Mr. Poghio): Order, Members! Dr. Khalwale, your Motion has still one hour and 40 minutes left. I think the person seconding can do so next week.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.