

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 9th December, 1998

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.747*

ASSISTANCE TO MOTOR ACCIDENT VICTIM

**Mr. Deputy Speaker:** Is Mr. Munyasia not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.755

INSURANCE COMPANIES' INABILITY  
TO HONOUR OBLIGATIONS

**Mr. Njuki** asked the Minister for Finance:-

- (a) if he is aware that most insurance companies have failed to compensate victims of accidents involving insured vehicles leading to attachment and auctioning of the vehicle owners' property;
- (b) if he is further aware that the following vehicles were impounded and auctioned by Wema, S.K. Ndegwa and Kenna Auctioneers of Nakuru arising from non-compensation of accident victims by concerned insurance companies, Nissan Urvan Reg.No.KAE 497R, Nissan Urvan Reg.No. KAE 330D and matatu vehicle Reg.No. KAB 611Y; and,
- (c) if the answers to "a" and "b" are in the affirmative, if he could ensure that the insurance companies honour their obligations and compensate the vehicle owners who have had their vehicles impounded and sold.

**The assistant Minister for Finance** (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that most insurance companies fail to compensate accident victims leading to attachment and auctioning of insured vehicles.

However, I am aware that occasionally an insured vehicle may be seized following instructions from over-zealous and impatient lawyers and the so called "ambulance chasers" when they sense delay in settlement by the insurance company. The delay is at times inevitable due to the very nature of third party claims where the insurer has to verify many details of the claimants to avoid paying false claims which are quite common. Even in such cases, however, the seized vehicles are rarely auctioned, as the insurer normally settles the claim, including any cost of the attachment.

(b) I am not aware that Wema Auctioneers had impounded any of the vehicles KAE 497R, KAB 611Y.

However, I am aware that Kenna Auctioneers had attached vehicles Reg.No.KAE 497R, KAD 611Y AND KAE 330D. The vehicles were released to their owners immediately the insurance company paid the claims.

I am also aware that S.K. Ndegwa Auctioneers are holding vehicle Reg.No.KAE 330D. The vehicle has not been auctioned and the insurer has already released the payment cheque.

(c) In light of the answer to "a" and "b" above, it is clear that my Ministry is already ensuring that insurance companies meet their contractual liabilities to the persons whose vehicles are insured.

In the event of any complaints, the office of the Commissioner of Insurance and my Ministry is always ready to assist the complainants.

**Mr. Njuki:** Mr. Deputy Speaker, Sir, while I appreciate the answer given by the Assistant Minister, in

the first instance, why were those vehicles impounded even if they were not auctioned and yet the owners of those vehicles had already paid their insurance premium in full? The owners paid a lot of money for those vehicles and they also incurred losses for one week when those vehicles were impounded. Why were these vehicles impounded? **Mr. Arap-Kirui:** Mr. Deputy Speaker, Sir, I have already explained the situation that gives rise to the impounding of vehicles such as in this case. Usually, the insurance companies, as I explained, have to verify any claim. They cannot pay just because a claim has been made. It has to be investigated. In the process of investigation, as I explained, there are often some over-zealous individuals - I am afraid some of them are usually from the legal profession - who then go out of their way to try and force the insurer's hand to settle quickly on often very spurious claims by seeking attachment. I believe this is the situation that happened here. But the fact remains that through the intervention of my Ministry these claims, in fact, were paid and the vehicles have been released.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, what will the Assistant Minister do about insurance companies who create dubious grounds for refusing to pay *bona fide* claims? For example, Blue Shield Insurance Company is very notorious for this. It is known for refusing to pay, even where cases are so clear or where they have gone to an extent of writing a payment voucher. For example, they wrote a voucher and they refused to pay me. What will he do about these insurance companies which refuse to pay even when the cases are very clear?

**Mr. Arap-Kirui:** Mr. Speaker, Sir, obviously, I would not know about the case involving the hon. Member. But as I did say, if any body has any complaints, my Ministry, through the Commissioner of Insurance, is ready and willing to help. Maybe, without saying very much, I think one has to be very careful because this is a free market interaction between the insurer and the insured. I think it behoves the insured party to make sure that they deal with good insurance companies.

**Mr. Njuki:** Mr. Deputy Speaker, Sir, I have a list of some vehicles which have been sold. I would like the Chair to allow me to table the document after two or three days.

**Mr. Deputy Speaker:** You can do what?

**Mr. Njuki:** Mr. Deputy Speaker, Sir, I can table the document after the recess or tomorrow.

**Mr. Deputy Speaker:** Mr. Njuki, you want to table what?

**Mr. Njuki:** Mr. Deputy Speaker, Sir, I would like to table particulars of the vehicles which have been sold.

**Mr. Deputy Speaker:** Hon. Njuki, it would be rather difficult to lay vehicles on the Table.

But I assume that you want to indicate to the Assistant Minister that some vehicles have been sold in spite of the fact that the owners have already paid their premium.

**Mr. Njuki:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Well, that was not in dispute. What is your question, hon. Njuki?

**Mr. Njuki:** Mr. Deputy Speaker, Sir, while *matatu* business is the most taxed business in this country, it seems as if the Ministry does not take action against insurance companies which fail to pay accident victims.

**Mr. Deputy Speaker:** Hon. Njuki, what is your question?

**Mr. Njuki:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that all the owners of the vehicles that have been quoted in this Question paid some money in order for their vehicles to be released?

**Mr. Arap-Kirui:** Mr. Deputy Speaker, Sir, I am not aware and I believe no evidence has been submitted that monies were paid by the insured for their vehicles to be released. But, as I said in my response, we usually intervene, and the insurance companies pay not only the claims, but also any attachment costs. It would have been useful if the hon. Member had submitted evidence so that we can take up the matter with the Commissioner of Insurance to ensure that any legitimate payment is made by the insurance companies.

*Question No.040*

PAYMENT OF CESS BY SONY SUGAR

**Mr. Deputy Speaker:** Hon. Onyango is not here? The Question is dropped.

*(Question dropped)*

*Question No.689*

REPAIR OF MERU-MAUA ROAD

**Mr. Deputy Speaker:** Is hon. Maore not here? We will come back to the Question later on.

*Question No.746*

LEASING OF RACHUONYO CO-OPERATIVE  
UNION GINNERY

**Mr. Deputy Speaker:** Is Dr. Awiti also not here? Let us move to the next Question.

*Question No.570*

FOREIGN CURRENCY EARNINGS  
FROM MILLED COFFEE

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

(a) whether he could inform the House on the gross earnings in foreign currency of milled coffee delivered by Girango Farmers Co-operative Society Limited during the months of May and June as of 10th June, 1988;

(b) whether he could also inform the House on the net payments per kilogramme to Girango Farmers Co-operative Society Limited and to individual farmers during the two months; and,

(c) whether he could further inform the House on the respective net deductions by the Coffee Board of Kenya (CBK), the Kenya Planters Co-operative Union (KPCU) and Girango Framers Co-operative Society Limited.

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

(a) Girango Farmers Co-operative Society Ltd. did not deliver any milled coffee to the CBK during the months of May and June, 1998. The payments that were made during this period were in respect of the produce delivered earlier in the year. The society made gross earnings of US \$43,713.26 from the sale of cherry and US \$2,136.75 for mbuni.

(b) The net payments per kilogramme to Girango Farmers Co-operative Society Ltd., and to individual farmers during the said months were as follows:

<u>Cherry per Kg</u>	<u>Mbuni per Kg</u>	
Girango FCS Ltd.	Kshs10.45	Kshs4.98
Individual farmers	Kshs6.10	Kshs14.60

(c) The net deductions by the CBK, KPCU, the Co-operative Bank of Kenya the Kisii Farmers Co-operative Union and Girango Farmers Co-operative Society Ltd. were as follows:-

	<u>Cherry</u>	<u>Mbuni</u>
CBK and KPCU	Kshs274,825.60	Kshs7,692.60
Girango FCS Ltd.	Kshs410,954.25	Kshs21,089.60

In the case of Co-operative Bank of Kenya in respect of both cherry and mbuni it was Kshs200 for either. The Kisii Co-operative Union did not exact any deduction for the said produce.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, last week when the Question came up in this House the Minister pleaded with the Chair and me to give him more time to get a more accurate answer. I just wondered how he would do that when he would deal with the same people, who in the first place sought to mislead him, or give him wrong information. What the Minister has read in this House is a cooked up answer. I just want to explain one or two things so that he can decide whether or not he will take more time do it, or he can answer that. There may be no quarrel as to whether there was coffee delivered in May and June, 1998, but I meant to refer to the payments that were made in May and June. I have a document from the bank, which shows that in May the farmers earned US \$1,076,422.10. In June, they earned US \$1,740,051.25. The figures for the two months totalled US \$2,816,473.35. If you compare those figures with what the Minister has read here there is clearly a big discrepancy. I just wanted to point out to the Minister that according to this document, which relates that information, and other documents I have here--- This is the document which was signed during the transfer of money from the CBK to the Co-operative Bank of Kenya.

**Mr. Deputy Speaker:** Hon. Anyona, which document is that?

**Mr. Anyona:** Mr. Deputy Speaker, Sir, it is the internal final payment statement by the CBK to the Co-operative Bank of Kenya, where the money is channelled through. If the Minister goes through this document he will find that US \$337,610.75 is not reflected in this payment. There is another document which is at the factory, which shows that the society received Kshs2,093,128.20, and yet, the answer the Minister has given here says on page two that the Co-operative Bank of Kenya, Kisii branch received US \$2,348,300.10. The figure which was prepared by the union and the figure of the money which was transferred to the bank do not tally. I would like to table these documents, so that the Minister can decide whether the answer he has given is adequate, and whether, in fact, he should not take more time, particularly now that we are going for recess and probe the entire coffee movement in Kisii. The coffee industry in Kisii area has collapsed because of this kind of thing.

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

Thank you, Mr. Deputy Speaker, Sir.

**Dr. Anangwe:** I have two sets of documents. We may be having different interpretations of the same data. So, may I request that probably if he can find time we exchange notes and reach at a common understanding on the way forward.

**Mr. Deputy Speaker:** Order! The last question belongs to the House. So, once you have reached at an agreement with hon. Anyona you must come and tell the House what it is that you have agreed on tomorrow. John Munyasia's Question, for the second time?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I apologise for coming late.

*Question No.747*

ASSISTANCE TO MOTOR ACCIDENT VICTIM

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

(a) if he is aware that on the morning of 24th July, 1998, on Haile Sellasie Avenue, a CID Peugeot Station Wagon car Reg.No.KAG 130E knocked down Bernard Abutu Liyai, ID.No.10917549 of Kawangware causing him serious leg, head and chest injuries and that the matter was reported to Lang'ata Police Station?

(b) if he is further aware that the victim, Bernard Liyai is unable to get effective treatment and has since lost his job at Eliots in Industrial Area; and,

(c) if the answers to "a" and "b" are in the affirmative what urgent steps he is taking to assist the victim and to bring the suspected culprit to book.

**Mr. Deputy Speaker:** Anyone from the Office of the President?

*(Laughter)*

Order! Hon. Members this is not a laughing matter. It was a Question on the Order Paper. This Question must have reached the Office of the President at least ten days ago. There are two Ministers from that office present in the Chamber. We want an answer or an explanation. So, hon. Ndambuki come to the microphone.

**The Minister of State, Office of the President** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, Maj. Madoka is on his way here. He is the one who has the answer to this Question.

**Mr. Deputy Speaker:** Well, there will be no Question for him to answer because we will have to go over it. Once we go to Questions by Private Notice we cannot come back to this Question.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The Office of the President is meant to facilitate operations in this House. If the Office of the President has failed to answer questions, how is the House going to accept that? Is there not some kind of sanction that can be applied so that they can behave better next time and the country can know that they are so tired of doing their job and maybe they can give that job to other people who can do it?

**The Minister of State, Office of the President** (Mr. Ndambuki): It is not a question of failing. Hon. Maj. Madoka was supposed to come and answer the Question, but I do not know where he is. Anything can happen to anybody.

**Mr. Deputy:** Order! It is not for the Chair to tell Ministries how to organise themselves. We do not deal

with hon. Maj. Madoka, hon. Ndambuki or hon. Angwenyi; we deal with the Office of the President. This Question has been properly asked, approved and submitted to that Office for a reply. Is there an answer available right now or not? It is that simple. Let them tell me whether the answer is available or not.

**The Minister of State, Office of the President** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, can you defer the Question as we are waiting for him?

**Mr. Deputy Speaker:** Order! As I have told you once we go to Questions by Private Notice, I cannot come back to this Question.

**Dr. Kituyi:** Is the hon. Ndambuki in order to mislead the House? He has failed to give an answer to a Question asked of him. Instead, he claims that hon. Maj. Madoka is to reply when this is the docket of hon. Ndambuki, not hon. Maj. Madoka.

**The Minister of State, Office of the President** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I do not have the answer because Maj. Madoka is the one who was coming to answer the Question.

**Mr. Deputy Speaker:** Order! We are not going to make much progress. You have only hon. Ndambuki and hon. Angwenyi to deal with. They have already told us of their inability to answer this Question. But, hon. Members and particularly hon. Ministers, these Questions are never sent to a specific Minister or Assistant Minister. They are sent to the Ministries concerned. So, let us get this straight. The work of this House is being frustrated by non-appearance of Ministers to answer Questions in due time. There is no way we can now go back to this Question. The hon. Member who asked it has lost an opportunity to get an answer which is due to him. So, please bring this to the attention of whoever is responsible. We do want a statement tomorrow. So, tomorrow this Question will not reappear, but we want a statement from the Ministry to make sure that Member is satisfied in some way as to what answer he was expecting from you.

**The Minister of State, Office of the President** (Mr. Ndambuki): I will do that, Mr. Deputy Speaker, Sir.

**Mr. Mutahi:** On a point of order, Mr. Deputy Speaker, Sir. I do not know which statement we are going to get from the hon. Minister because when he was back there he said that hon. Maj. Madoka is on the way. When he came to the Front Bench he said that hon. Maj. Madoka is aware that he is supposed to answer this Question.

**Mr. Deputy Speaker:** Order! The Chair has already made a ruling. Whoever is responsible must bring a statement to the House tomorrow.

### QUESTIONS BY PRIVATE NOTICE

#### REGISTRATION CODE FOR INDIGENOUS COMMUNITIES

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

(a) Is the Minister aware that certain indigenous communities in Tana River District are having problems in securing National Identity Cards for lack of Code (tribal) of registration like Munyo, Yaya and Malakote among others.

(b) Is he further aware that as a result they are now registering as others, a situation that has caused uncertainty amongst the people?

(c) If the answers to "a" and "b" are in the affirmative, could the Minister order for the establishment of a code for these communities so as to regain their proper identities?

**The Minister of State, Office of the President** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I am seriously sorry about this because both Questions were supposed to be answered by Maj. Madoka. I am really sorry and I promise this is not going to happen again.

#### KILLING OF PRIMARY SCHOOL PUPILS BY LIGHTNING

**Dr. Kulundu:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education and Human Resource Development the following Question by Private Notice.

(a) Is he aware that Kochwa Primary School in Kakamega District was struck by lightning on 23rd June, 1998, and that four pupils died instantly?

(b) Is he further aware that the same school was struck again on 11th August, 1998?

(c) If the answers to "a" and "b" are in the affirmative, what assistance is the Minister planning to give the school and the affected parents?

**The Assistant Minister for Education and Human Resource Development** (Mr. Awori): Mr. Deputy

Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) Yes, I am indeed, aware.

(c) We have advised the local District Education Officer to come to the Ministry and collect the arrestor material so that this situation does not occur again. In the meantime, we managed to organise a small fund-raising on the 26th of September where a total of Kshs54,000 was realised. The Ministry has proposed that the school committee uses this money on the development of the school.

**Dr. Kulundu:** Thank you, for that wonderful answer. On the basis of that answer may I propose that the hon. Assistant Minister's name be included on the list of those potential Vice-Presidential candidates? However, could the Ministry consider extending this same assistance to five other schools in this region which were surveyed and determined to be prone to lightening attacks?

**Mr. Awori:** Mr. Deputy Speaker, Sir, I am quite satisfied with the position I am already in, and I am not aspiring for any higher position!

*(Laughter)*

To answer his question, yes, indeed, if the hon. Member lets me have a list of the names and the location of the area, we will help.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, for those who come from lightening prone areas, this is a very big problem. Would I request the Assistant Minister to do something about this, instead of waiting until Members bring Questions here? I have visited a school where this happened recently in my Constituency. So, would we ask the Assistant Minister, as a matter of policy, to go round and find out which schools are prone and see what can be done for them. I shall be bringing the name of this particular school, but I think generally, it is the interest of the country, since you are asking. Thank you.

**Mr. Awori:** Mr. Deputy Speaker, Sir, as a matter of policy, several years back we did indeed, request that all schools in the lightening prone-areas, such as Nyanza and Western Provinces, should install that lightening arresters. Of course, we know the physical facilities at various schools are provided by the community, but whenever a case like this occurs, we do the best we can and I would expect to get the names of one or two schools from hon. Anyona. We will help.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I have worked for a long time with these education officers. The education officers are very slow in taking instructions. Could the Assistant Minister order that this Kakamega DEO, goes immediately to collect the arresters and have them installed by next week, because the children are still exposed to danger and the Education Officer is not working? Could he undertake to order that this is done immediately?

**Mr. Awori:** Mr. Deputy Speaker, Sir, I know the DEO, Mr. Mung'aya. I will ensure that the arresters are not only collected, but installed. But of course, as hon. Munyasia, knows, schools are closed right now. So, there is not much danger.

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, I do not think the Assistant Minister has answered part "c" of the Question. What assistance is the Ministry giving to the schools? The answer he gave is that an hon. Member of Parliament for that area conducted a Harambee. These are two different things; the Harambee that was conducted by the Member of Parliament for that area, and what the Ministry could have done or did to that school.

**Mr. Awori:** Mr. Deputy Speaker, Sir, I do not know where the hon. Member got that information. The hon. Member from the area is just next door, can he please give him the correct information?

**Mr. Deputy Speaker:** Next Question, Mr. Wafula wa Munyinyi!

#### DEATHS OF PRISONERS AT BUNGOMA GK PRISONS

**Mr. Wafula:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Home Affairs, National Heritage, Culture and Social Services the following Question by Private Notice.

(a) Is the Minister aware that some eight (8) prisoners died mysteriously at Bungoma GK Prisons during the month of October, 1998?

(b) What caused these deaths and what action is the Minister tasking to have the cause of these deaths investigated?

**Mr. Deputy Speaker:** The Minister for Home Affairs, National Heritage, Culture and Social Services! Mr. Nassir is not in the House? Next Question!

*(Question deferred)*

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, I want to ask that now that we still have time---

**Mr. Deputy Speaker:** We are still on Question Time, so resume your seat! Maj. Madoka, is not here and since we have some time, and since we are on Questions by Private Notice, let us dispose off them first, and if we have time, we will go back to Ordinary Questions. So, Mohamed Galgalo!

REGISTRATION CODE FOR INDIGENOUS COMMUNITIES

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

(a) Is the Minister aware that certain indigenous communities in Tana River District are having problems in securing national identity cards for lack of code (tribal) of registration like Munyo, Yaya and Malakote among "others"?

(b) Is he further aware that as a result, they are now registering as others, a situation that has caused uncertainty amongst the people?

(c) If the answers to "a" and "b" are in the affirmative, could he order for the establishment of a code for these communities so as to regain their proper identity?

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, I wish to sincerely apologise to the House for coming late. I was looking at certain amendments because of this Bill coming up, as we wanted to finish with it. I beg to reply.

(a) I am not aware that the communities are having any problems in getting their registration.

(b) I am also not aware. What has happened is that for computerisation purposes during registration, various tribes were given a code, but there are certain tribes which did not come out properly at that time. So, they did not have any special code. They were nevertheless registered under "others", but this will be rectified when some of these other smaller tribes which did not come out in the exercise before come up.

**Mr. M. Galgalo:** Mr. Deputy Speaker, Sir, I beg to differ with the opinion of the Minister, because these are indigenous tribes that have been here for the last 200 years. How come that the larger groups have ethnic code numbers and these small ones do not have? Does the computer refuse Mogadishu and Moyale?

*(Applause)*

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I did say that during the census these tribes were not properly registered. So, because they were not registered, they were not given a code, but that is going to be rectified. It is just for computerisation purposes.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I am shocked to hear that this Government has decided to "code" Kenyans in terms of tribes. What is the reason of coding Kenyans in terms of tribes and then leaving others out? What are they going to do to curb this? It is a shame!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I do not know why hon. Anyona has to shout, but all we are saying is that it is for the purposes of computerisation, and we will continue to code just for the purpose of computerisation.

**Mr. Keynan:** On a point of order, Mr. Deputy Speaker, Sir. In the light of the inability of the Registrar of Persons to see these so many times in their computers, will it be in order for the Minister now to have the original 41 tribes instead of the current 76 tribes?

Mr. Deputy Speaker, Sir, these other tribes could not be registered because they are too many. I know as far as the records of the registrar of persons are concerned, we have 76 tribes. Due to the inability of the registrar of persons to have all these tribes entered in the computers, will it not be in order for the Minister to instruct the registrar of persons to have 41 tribes instead of the current 76, so that all of them can be accommodated in the computers and these people can be issued with the identity cards?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I do not think I said that these people are not coded because there are too many tribes. That is not what I said.

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, it is a tragic matter that this Question is being answered, in a way which suggests that there is tribalism in this country. The computer was brought into this country without knowing the tribes in this country. But now, that computer is being taught tribalism by the Office of the

President. I thought it was possible for data to be collected in this country so that this country can actually have geographical zones as opposed to tribalising our people and even teaching foreign computers tribalism. Is the Minister prepared to correct this irregularity or is he going to continue to tribalize our people?

**Maj. Madoka:** Mr. Deputy Speaker, I do not think we can deny the fact that there are tribes in this country.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, notwithstanding the fact that the hon. Minister has deliberately decided to declare the presence of tribes instead of answering the question as to whether it is good for us to perpetuate a thinking that Kenyans belong to tribes; could he explain to this house why, while in other areas ethnic groups are divided further into smaller ethnic groups? For example, the ethnic group called the Kalenjin grows between every census. In 1979, the Pokots were counted as Kalenjins. In 1989, Turkanas were also counted as Kalenjins. Yet, if you ask any Kalenjin, whether there are any other adult Kalenjins who are not circumcised he will abhor such a concept. The uncircumcised Turkanas are called Kalenjins. Why?

*(Laughter)*

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I think I will ask the Ministry of Planning and National Development which is responsible for census to look at it when we are doing the next census.

**Mr. Rutto:** Mr. Deputy Speaker, Sir, I think the hon. Minister is not getting the gist of the argument before the House that the continuous reference to Kenyans as tribes is repugnant because the idea of a tribe actually connotes primitivity and several other negative ideas. Why can we not refer to them as ethnic communities and we stop tribalising Kenyans? I think that is the gist of the argument we are having in this House. Can the Minister forget about tribes?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I share the view that we are all Kenyans. But I think for this purpose, it has been that way and I have said that I will ask the Minister for Planning and National Development when they are doing the next census to see how best it can be done.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The feeling of the House is that it is wrong to sit here as national leaders when back there we are coding Kenyans as tribes and leaving others outside. The feeling of the House seems to be that this should change and the Minister is being asked as a matter of policy, to carry out this change. But instead of confirming that he is going to do that, he is dilly dallying. Can we get this clearly from him?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I have said that I will get the Ministry responsible to look at it, I am not in a position to make a definite commitment.

**Mr. M. A. Galgallo:** Mr. Deputy Speaker, in his reply the Minister has admitted that when the census was being carried out, some of these groups were omitted. The director of National Registration Bureau is a man from Tana River and he is conversant with all these groups in Tana River District. Can the Minister now make an undertaking and give us an assurance that these groups will have their own code numbers because the youths are having a problem of getting the identity cards?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, that will be done.

#### DEATH OF PRISONERS AT BUNGOMA GK PRISONS

**Mr. Wafula:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Home Affairs, National Heritage, Culture and Social Services the following Question by Private Notice:-

(a) Is the Minister aware that some eight prisoners died mysteriously at Bungoma GK Prisons during the month of October, 1998?

(b) What caused these deaths and what action is the Minister taking to have the cause of these deaths investigated?

**Mr. Deputy Speaker:** Anybody from the Ministry of Home Affairs, National Heritage, Culture and Social Services? I thought I saw hon. Marrimoi. Order!

*(Question deferred)*

Ask your Question, hon. Munyasia.

*Question No.747*

## ASSISTANCE TO MOTOR ACCIDENT VICTIM

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

(a) whether he is aware that on the morning of 24th, July, 1998, on Haile Sellasie Avenue, a CID Peugeot Station Wagon car, Reg. No. KAG 130E knocked down Bernard Abutu Liyai, ID.No.10917549, of Kawangware, causing him serious leg, head and chest injuries and that the matter was reported to Lang'ata Police Station;

(b) if he is further aware that the victim, Bernard Liyai, is unable to get effective treatment and has since lost his job at Eliots in Industrial area; and,

(c) if the answers to "a" and "b" above are in the affirmative, what urgent steps he is taking to assist the victim and to bring the suspected culprit to book.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, on part (a), I am not aware.

**Mr. Munyasia:** On a point of order, Mr. Deputy Speaker, Sir. This Minister should have apologized to me and to the House for coming late first before he continuous to answer the Question.

**Mr. Deputy Speaker:** Order! He has already apologized.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, my friend hon. Munyasia, would like me to apologize. I have apologized but I am prepared to apologize again.

(a) I am not aware.

(b) I am not aware either, but I do believe that the driver has already been charged in court and the case was being heard on 4th, December, 1998 but I have not yet got the court ruling.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, that answer cannot be accepted by this House. The Minister cannot be unaware of an accident having occurred and then say that the driver will be charged. So, this Minister should take this House seriously. Does the Minister really have the answer or is he guessing? This is because I have documents there; the report was made to the police and the police are under him; the accident was reported and the P3 is here. How can the Minister be serious when he says that he is not aware of that? Can he now give us a more serious answer?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I would ask the hon. Member to give me the documents he has.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order when he says that, he thinks the driver is being charged. Is he not misleading the House? His answer should be either "yes" or "no"? Which is which now?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I have asked for the documents and I think I will be able to give an appropriate answer.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I will lay the documents on the Table for the Minister to examine and then bring the answer tomorrow. Can he promise that he will bring the answer tomorrow, after inspecting the documents?

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

**Maj. Madoka:** Yes, Mr. Deputy Speaker, Sir, I promise to give the answer tomorrow.

**Mr. Deputy Speaker:** Next Question, Mr. Maore.

**Mr. Maore:** Mr. Deputy Speaker, Sir, I wish to apologize for showing up late.

*Question No.689*

REPAIR OF MERU- MAUA ROAD

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

(a) if he is aware that Meru-Maua Road has developed numerous potholes that pose great danger to motorists;

(b) what measures he is taking to urgently patch the gaping potholes and gulleys between Kianjai and Meru Town as well as Muthara Market sections; and,

(c) how much money has been allocated for the entire

repairs.

**Mr. Deputy Speaker:** Anybody from the Ministry of Public Works and Housing? Leader of Government Business, we have had a problem this afternoon. So we would like those Ministers who have not been here to, at least, make a statement instead of providing answers because we will not have questions tomorrow. Thank you.

### MINISTERIAL STATEMENTS

#### ACCIDENT ON THIKA-GATUKUYU ROAD

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, on 10th October, 1998, at about 9.00 p.m. a fatal road accident occurred along Thika-Gatukuyu Road. It involved a lorry which was reported as unknown, and a motor vehicle registration No.KAC 235R, a Mazda pick up, driven by Mr. Francis Mutemi Wambua. The lorry was coming from Thika direction, while the motor vehicle registration No.KAC 235R was coming from Gatukuyu direction when the two vehicles collided. The alleged lorry did not stop after the accident. As a result of the accident, the following passengers from the motor vehicle, registration No.KAC 235R, Mazda pick up, died instantly: Veronica Kaingi, Stephen Kithaka, Boniface Kwendwa Kangulia who was the owner of the vehicle, registration No.KAC 235R, and Boniface Munyithia.

The scene was visited upon receipt of the accident report from the driver of the pick-up. The dead bodies were moved to the mortuary and the Mazda towed to the police station for inspection. The following passengers from the pick-up registration No.KAC 235R, got injured and were treated at Thika District Hospital and discharged: Musyoki Mbalu, Faith Kitheka, Brenda Katumbi, Mbuvi Veronica, Bernard Kisolo, Lucy Mburia, Lydia Musyoki and Mary Munyithia.

On 3rd October, 1998, the pick-up registration No.KAC 235R, was released to its insurer, Merchant Life and General Assurance Company Limited. In the course of police investigations, information was received of a suspect motor vehicle, registration No.KZJ 347, Isuzu lorry. The police traced it on 5th November, 1998, and brought it to the police station for further investigations. The lorry driver, Gabriel Wanyori Munyiri denied in his statement having been involved in the said accident. The lorry which is owned by one, Joseph Mwangi of Thika Town was inspected on 6th November, 1998, and later released to the owner, as there was no evidence to connect it with the accident. No eye witness took the registration number of the lorry at the time of the accident. However, the accident is still under investigation. It is procedural for accident motor vehicles to be released to the owners by the police, soon after they have been inspected. The allegation by the hon. Member that there is cover-up by the police in this case, is not true. I appeal to members of the public who have any information to come forward and assist the police.

**Mr. Musila:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for the statement that he has given as I had requested. Indeed, I can confirm that the pick-up in question has been traced at a garage. But, apart from that, I think the question of the case being investigated cannot be accepted for the simple reason that it is now two months since this accident where four people lost their lives took place. With the facilities that the police have; the communication facilities, is it conceivable that an accident can occur here and within a few minutes the police cannot trace the lorry that was involved in that accident?

Mr. Deputy Speaker, Sir, I would like the Minister to know that this matter was reported to Thika Police Station, and for his further information, Thika Police Station is one of the most corrupt police stations in this country. People lose their lives, reports are made and investigations carried out, but no conclusions are reached at. Therefore, I would like to urge the Minister to ensure and instruct somebody more senior, perhaps from outside the station, to go and follow up this matter, so that at least these families can be compensated by the insurance of the lorry.

#### NON-REMITTANCE OF STATUTORY DEDUCTIONS

**The Assistant Minister for Local Authorities (Mr. Sasura):** Mr. Deputy Speaker, Sir, I would like to make a Ministerial Statement on non-payment of workers' salaries and non-remittance of statutory deductions to NSSF, NHIF and Local Government Provident Fund as requested by hon. Muchiri.

Mr. Deputy Speaker, Sir, first on NSSF, this is an issue which is before court and we feel it is *sub-judice* to discuss it. Secondly, in regard to NHIF, the Council owed Kshs92 million in form of unremitted deductions of the same period. During this period, the Council has been meeting the workers' medical bills. For example, over the period of 1997/98, the Council has paid medical bills amounting to Kshs4 million for hospital admission. This amount covers what could have been paid by the NHIF, if remittances had been made up to date. At the moment,

the Council is reconciling and working out the figures to establish how much it owes NHIF against the amount that has been paid directly during this period.

As concerns the Local Government Provident Fund, the City Council of Nairobi is not a contributor, but instead, it runs an in-house provident scheme from which retirees are paid promptly on retirement. For example, the Council paid Kshs12.6 million as benefits to those who retired in 1997. However, there are some retirees who have not collected their dues, despite the fact that those dues are ready.

Mr. Deputy Speaker, Sir, there are various reasons as to why the Council has not been able to promptly remit statutory deductions and also meet other financial obligations over a period of time. This has been mainly due to the following factors: First, because of increase of expenditure without corresponding increase of revenue of the Council. For example, in 1993, following the collective agreement between the Ministry, Federation of Kenya Employees and the Kenya Local Government Workers' Union, there was a salary and wage review, resulting into a double bill. After the review, the payroll rose from Kshs70 million to Kshs140 million which reflects 100 percent increase. This rise attracted 10 months arrears on the salaries and the wages to the tune of Kshs600 million, which the Council has so far been able to clear besides payment of salaries. So far, over Kshs500 million in form of arrears has been cleared.

Secondly, the cost of goods and services has gone up over the years. However, the level of rates, fees and charges have not increased correspondingly. The Council is still using the evaluation roll for 1982, but it is reviewing the roll. Thirdly, defaulters of rates and rents have increased despite the concerted efforts by the Council. This amounts to Kshs3 billion. Fourthly, on the account of water, the Council is owed Kshs3 billion by all payers. The fifth point is that, there are various pending legal suits in court, that have handicapped the Council from revenue collection on house rents, for example, Karen/Lang'ata Court Injunction against the rates, and Shauri Moyo and Madaraka Estate cases on house rents. These are the primary causes.

However, there are other secondary factors that have had an impact, adversely affecting the Council's revenue debts. Among these include the strike by the Council staff resulting in record low-collection of revenue and the general slump in the economy.

**Mr. Deputy Speaker:** How long is that statement?

**The Assistant Minister for Local Authorities (Mr. Sasura):** Mr. Deputy Speaker, Sir, I am just winding up. This is a statement which was requested, and I expect it to be detailed and comprehensive.

Lastly, on the other hand, consultative meetings between my office and the Council are going on, which are aimed at streamlining the Council's revenue-collection method. I wish to make an appeal to all rate-payers to be prompt in payment of rates and all other dues to the Council, in order to enable the council to provide prompt and efficient services and to honour its obligations.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, according to the Assistant Minister for Local Authorities, my understanding is that the Nairobi City Council is bankrupt. If it is true, then why should it continue operating rather than being dissolved? Secondly, the Nairobi City Council is still employing people even now, despite the fact that it has not paid its employees, salaries for October and November. How can you employ when you are unable to pay? Thirdly, we have been told in and outside this house, that, out of the total amount collected by Nairobi City Council, 85 per cent goes to the salaries and 13 per cent goes to improving the infrastructure. I would like to ask the Assistant Minister why they should continue employing more staff rather than retiring them?

Finally, everybody in this country knows that lawyers in this country owe Nairobi City Council billions of shillings. Why are the Nairobi City Council advocates not collecting the rates he is talking about, other than engaging lawyers who charge exorbitant fees and demand payment immediately?

#### AWARD OF TENDER FOR MEDICAL SUPPLIES

**The Minister for Health (Mr. Kalweo):** Mr. Deputy Speaker, Sir, I would like to make the following Ministerial Statement. As you may recall, on Thursday, 3rd December, 1998, I was requested by hon. Norman Nyagah, the Member for Kamukunji to make a Ministerial Statement regarding the matter of the award of tender to Messrs. Bulk Medical Ltd. to supply drugs to my Ministry. In that connection, therefore, I would like to put the record straight as follows:

**Mr. Deputy Speaker:** Order, hon. Kalweo! You are sitting next to your Assistant Minister who had promised this House to supply some information three weeks ago. That information has not been supplied, regarding recruitment to the Medical Training Colleges. You really cannot justify making a statement about a question which was asked much later when in fact, an earlier question on which the Chair had made a ruling still stands unanswered. So, I want to know why that question has not been satisfactorily answered or the information

sought not be supplied before you could deal with that question.

**The Minister for Health** (Mr. Kalweo): Mr. Deputy Speaker, Sir, when I was requesting you to come and give this Statement, I told you that I was aware of the matter and I will give that Statement, myself, tomorrow.

**Mr. Deputy Speaker:** That is what I wanted to know. I wanted you to assure the House that, you will bring that information tomorrow; then, I have no problem. I wanted it to come from your mouth.

**The Minister for Health** (Mr. Kalweo): Thank you, Mr. Deputy Speaker, Sir. So, I will repeat---

**Hon. Members:** Proceed.

**The Minister for Health** (Mr. Kalweo): I proceed?

**Hon. Members:** Yes, proceed.

**The Minister for Health** (Mr. Kalweo): (a) Messrs. Bulk Medical Limited.

1. That, there was nothing irregular in the manner in which my Ministry handled the tendering process and the subsequent payment to Messrs. Bulk Medical Limited or any other organisation for that matter.

2. That, the total value of the tender awarded to Messrs. Bulk Medical Limited was Kshs47,717,454 vide our letter Ref. No.MSIU-11a/2/Vol.3(108) of 3rd June, 1998, and not Kshs95,434,908 as alleged by the two hon. Members. The question of their having been awarded a tender to the tune of Kshs95,434,908 does not, therefore, arise.

3. That, the amount of Kshs95,434,908 allegedly paid to Messrs. Bulk Medical Limited, includes a figure of Kshs47,717,454 from the cancelled payment vouchers which the hon. Members ostensibly used to arrive at the former amount.

4. That, the cancellation of the original payment voucher was made when it was realised that there were no adequate funds in the Recurrent Vote to cover this transaction. Consequently, the two cheques, therefore, were issued as follows: (a) Kshs37,723,354 was from the Recurrent Vote. (b) Kshs9,994,100 was from the Development Vote, and the two payments ended up to Kshs47,717,454.

5. That, the tender in question was handled in a professional and transparent manner through the established departmental tender board of the Ministry, chaired by the Director of Medical Services who is the chief Government advisor on all matters pertaining to health.

**Mr. Deputy Speaker:** How long is your statement?

**The Minister for Health** (Mr. Kalweo): I will lay the rest on the Table, but let me just explain. Therefore, it is apparent that I read it all to clear the air.

**Mr. Deputy Speaker:** Well, hon. Kalweo, if it is 20 pages long, I am not going to allow you to read it over.

**The Minister for Health** (Mr. Kalweo): I will be quick, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** How many more pages do you have to go?

*(Mr. Kalweo counted the pages of the documents)*

**The Minister for Health** (Mr. Kalweo): There are five and a half pages.

**Mr. Deputy Speaker:** That is too long. Can you summarise it?

**The Minister for Health** (Mr. Kalweo): Mr. Deputy Speaker, Sir, what I can summarise is that---

*(Laughter)*

Therefore, the figure of Kshs95,434,908 does not arise. The two cheques were issued and there were vouchers and guarantees. At that material time, three people were awarded the tender. One of them was Bulk Medical Limited, Kshs47,717,454. The other one was Europa Medicare Firm, Kshs29 million and the third one was Gesto Pharmaceuticals who were awarded about Kshs24 million. As of now, the two accomplished the supply by mid August to September. Bulk Medical Limited supplied by September drugs worth nearly Kshs10 million. When we realised this before the question was raised by hon. Nyagah in Kiambu, we had written a letter to Bulk Medical Limited telling them we may recall the bank guarantee. But as of now, although I do not have the figures here, they may have now supplied nearly 60 per cent and the reports I hear from the supplies department is that by tomorrow or the following day, it will be accomplished. What we instituted in the Ministry when I was appointed there is that, after every tender is accomplished, the top management in the Ministry, that is, myself, the Permanent Secretary, Director of Medical Services and my two Assistant Ministers, must verify that they have been supplied.

Mr. Deputy Speaker, Sir, in conclusion and on this note, I appeal to my fellow Members and leaders to

exercise caution and strength in procurement, lest they spoil the good image of those who may not be able to defend themselves in this House. In this respect, hon. Members, I hereby table all the documents pertaining to this matter for your perusal and for what I trust would be fair judgement on your part. I have analysed this in depth and here are all the documentations of the vouchers, whether they were cancelled or not cancelled. That is, every aspect that I have mentioned and what I have not, are all here, and I lay them on the Table.

*(Hon. Kalweo laid the documents on the Table)*

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, if you recall the gist of the concerns of this august House when the matter of Bulk Medical Limited came up, there were three things that arose. The first one and most important one to the House, is the mention that the hon. Minister now making a statement was personally involved in the scandal at a personal pecuniary level. He has not mentioned anything about whether he is clean on this one or not.

Mr. Deputy Speaker, Sir, the second issue is that, the payment was paid upfront and when the matter was raised at the public function in Kiambu, Bulk Medical Limited attempted to supply some of the drugs but they were rejected by personnel under his Ministry. The Minister has not told us why at first, they rejected it and now they have accepted 60 per cent. Why has there been a hurried delivery of drugs since the question was raised in Parliament while they had been dragging their feet before the matter was brought here?

Mr. Deputy Speaker, Sir, the third issue was the matter of the integrity of the persons involved in Bulk Medical Limited. If I may jog your memory, in the report of the Inter-Ministerial Committee of Experts on Evaluation of Procurement Procedures, Financial and Purchase Practices in the Ministry of Health which was carried out because of the multi-billion scandal where money from the Road Maintenance Levy was being irregularly transferred to the Ministry of Health to buy a fictitious oil for fighting off mosquitoes as part of the malaria fight, the Minister might not remember but I suggest that I should jog his memory on one thing. There were two procurers of the contract which had been advertised for two days in the year 1996 in *The Kenya Times* and awarded 12 days later contrary to the Ministry's own procedures that all tenders have to be open for four weeks minimum. The two companies which won that scandalous tender which was later cancelled, were a company called Eurotech International and another company called Equip Agencies. On the day of collecting the Local Purchase Orders (LPOs) on the 14th June 1995, one person went to collect both LPOs for the two companies. It turned out and I want the Minister to deny this; that, these two companies which were involved in the scandal for oil for malaria were owned by the same persons who now own Bulk Medical Limited. These are a few business associates of Joshua Kulei and Joshua Kulei himself. Could you deny that the same scandalous history has followed you in the drug procurement today and that, your officers again are breaching your procedures of acquiring drugs as they did in 1995 and 1996?

**The Minister for Health** (Mr. Kalweo): Mr. Deputy Speaker, Sir, it is only that you cut me short. I would assure the House that I was in any way involved in this theft. Either---

**Hon. Members:** So, you were!

**Mr. Deputy Speaker:** Order!

**The Minister for Health** (Mr. Kalweo): Mr. Deputy Speaker, Sir, either--- Even the Permanent Secretary knows that, if I was given leave by the House, I was to exonerate myself from all this in these papers. So, I am not in any way involved in this scandal. However, this matter just comes to me, because I am the Minister in that Ministry and I have never been corrupt in my life and I will never be. So---

**Mr. Deputy Speaker:** Order! I want to help you. If what you have in your hand will explain your position, please just refer to it and refer the Member's attention to the relevant documents. Go ahead.

**The Minister for Health** (Mr. Kalweo): Mr. Deputy Speaker, Sir, whatever Members want to know, they can peruse through these documents. Pertaining to the matters raised by hon. Dr. Kituyi about something which happened in 1996, unless I go back to counter-check, I cannot comment anything on that matter. However, what I can assure the House is that, these people are trying to tarnish my name simply because I have tried to close all the loopholes both in and outside the Ministry and suppliers included. There maybe a wide range of people fighting me because I waived the tenders that we have already pursued for the time I have been there. I will complete them and I beg leave of the House to bring the documentations here, so that they can see them. The tenders will now be evenly distributed to anybody, and more than 100 people will benefit. So, whether somebody is a tycoon or powerful, my vision is that I must be transparent, responsible and an answerable person as far as I am concerned.

*(Applause)*

**Dr. Murungaru:** Thank you very much, Mr. Deputy Speaker, Sir. About six to eight months ago, this said company that the Minister awarded Kshs48 million and I am speaking with some authority since I am a pharmacist, was embroiled in a controversy where medicines were imported into this country which were totally useless. Starch was imported and peddled in this country in the name of life-saving drugs. I have made enquiries in the Ministry of Health and the reason why the first supply of drugs by Messrs Bulk Medical Limited was rejected by the Central Medical Stores was because the quality was unsatisfactory. Can the Minister now tell us truthfully, whether this second consignment which has been accepted after the question was raised in this House is acceptable quality or whether it is perhaps, the same starch that had been imported by the same company?

**The Minister for Health (Mr. Kalweo):** Mr. Speaker, Sir, precisely, the tender system is now headed by none other than the Director of Medical Services, Prof. Meme. He is the man who is chairing this process. As far as the matter of procurement of drugs is concerned, no drug can be accepted in any way, if it has not passed the test by the Medical Board and the signatory to this is no other person than the Chief Pharmacist, Dr. Kosgey. For example in this case, I have to ask what is happening. What I can say is that, it must be quality drugs.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The Ministry of Health stinks to the high heavens and we sincerely hope that this Minister will do his best to bring it back to normal. I think I know what is going on in that Ministry because over the my last five years in Parliament, I spent a lot of time fighting corruption there. I have written a lot of memoranda and I know he is not going to succeed alone. This Parliament will have to give him support. However, I just want to find out one thing; When the Assistant Minister answered this question, he did say one thing that the supplier had been given a deadline of the next day to complete supply and yet, from what the Minister said, it appears that only 60% per cent supply has materialised. Now, clearly, we are not doing anything even now. Can the Minister clarify whether the supplier was given a deadline or not? If he was, did he comply or did he defy it and how much has been done, as the beginning of this process of correcting the corruption in the Ministry of Health?

**The Minister for Health (Mr. Kalweo):** Mr. Deputy Speaker, Sir, the letter by which we communicated with the supplier is among the documents I have just tabled. We gave him a deadline, but he wrote to the Ministry and asked for extension of time.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. the Minister has responded to one of the most critical issues, which I and Dr. Murungaru raised in this House regarding this matter. This is the question of quality. Part of the consignment of the drugs were being supplied after the matter had been raised by hon. N. Nyagah in Kiambu. The Ministry personnel rejected the drugs because their quality was not satisfactory. An Assistant Minister had told us the delivery of the drugs was going to be completed the next day. Today, the Minister has said that they have supplied 60 per cent. He even added a more dangerous statement, namely, that the Ministry of Health never accepts drugs which are not of good quality. The Minister's own personnel said the following:-

"The Ministry of Health procured 1 million vials of Hepatitis B vaccine flown into the country at a cost of Kshs199 million--"

We doubt that any survey was done about the use of such a vaccine, which has a limited time of utility. The report further says:-

"The vaccine was air-lifted to Nairobi and kept for 32 days under direct sun-shine and high temperatures, contrary to recommended storage procedure. There is, therefore, a possibility that the vaccine was contaminated."

Mr. Deputy Speaker, Sir, after the issuance of this report, personnel in the Ministry of Health were obliged to administer the vaccine on themselves to justify that the importation had been required because some people can use the vaccine. How can the Minister tell this House that his Ministry does not acquire below standard equipment if he has had the experience of exposing his own personnel to a vaccine just because it was available when professional advise was that it was contaminated?

**The Minister for Health (Mr. Kalweo):** Mr. Deputy Speaker, Sir, 1996 is not 1998. That was the old management. The new management will adhere to all the requirements that pertain to the procurement of drugs.

#### ARRANGEMENTS FOR NEXT CENSUS

**The Minister for Planning and National Development (Prof. Saitoti):** Mr. Deputy Speaker, I rise in response to a statement which was made by hon. Ochuodho. The hon. Member had requested that I do make a Ministerial Statement to appraise the House on the arrangements that are being made in connection with the forthcoming census, which is going to be held in August, 1999.

Mr. Deputy Speaker, Sir, the 1999 population census has been planned through the concerted efforts of experts, or specialists in the subject matter, who have been drawn from various Government departments, local universities, the private sector, non-governmental organisations (NGOs), donor agencies, technical assistance groups and the mass media. The census secretariat comprises of subject matter specialists mainly demographers, cartographers, sampling statisticians, administrators from the Kenya Bureau of Statistics, other Government departments and universities, *et cetera*. There is also a group of technical advisors who are playing key roles in the planning and advising on technical aspects of the census.

Mr. Deputy Speaker, Sir, these include a Project Manager, a Dr. Kikovole. He is a Kenyan reputable demographer who has worked extensively both locally and abroad. He also participated actively in the previous census. He has been recruited by the United Nations Family Planning Association (UNFPA) and the Government from the open market to preside over the census affairs, and hence the exercise depends on his recruiting his staff. There is also a Publicity and Advocacy Officer called Mrs. Kwendo.

Experience from the 1989 census suggests that the census was widely discredited not because it was flouted, but because leaders were ill-informed about census activities. Therefore, the role of the Advocacy Officer will be to ensure that a lot of information is available to members of the public in advance. This is what we are doing. We are also going to get a team of technical advisers from the United Nations Fund for Population (UNFP) and from the country's support programme. The DFID and the USAID will also provide some technical experts. Therefore, it is worth noting that the experts have been commissioned by the various donor agencies as part of their technical assistance programme. In addition, these donors have contributed funds, materials and equipment, and I am sure that they will also be following the exercise very carefully.

Mr. Deputy Speaker, Sir, once data is collected, a consultant will set up the equipment and software for data processing. Soon afterwards, a team of renowned demographers will be recruited in the open market to undertake a detailed analysis of the census under the guidance of international technical advisors and consultants. The arrangement will serve a dual purpose, namely, to lessen the load of the secretariat as well as to boost the credibility of the census data. Once the census is completed, the Kenya Bureau of Statistics, with the help of the technical advisors, will establish a data base acceptable to all stakeholders and users of the census data. The findings will then be disseminated to all stakeholders, comprising planners, policy makers, researchers, religious organisations, NGOs and the private sector to sensitise them on the availability of the data. The composition of the National Census Steering Committee (NCSC), as indicated in the Kenya Gazette Supplement No.50, paragraph 5 says:-

"The 1999 census will be conducted by the Director of Statistics under the guidance of the National Census Steering Committee, which shall consist of various experts from the relevant Government departments, universities, mass media, private sector, NGOs, donors and representatives of religious groups."

Mr. Deputy Speaker, Sir, this Committee has its functions clearly defined in the above legal notice. It will work closely with the secretariat, the Publicity and Advocacy Sub-Committees, and the District Census Committees, and hence the crucial role of this Committee. The Government intends to make the exercise as participatory and transparent as possible to avoid misgivings on procedures and processes to be followed in its execution. I should also say that traditionally, the Chairman of the NCSC has historically been the Nairobi PC.

**An hon. Member:** No!

**The Minister for Planning and National Development** (Prof. Saitoti): It is needless to say that, it will be very difficult to manipulate such a large committee comprising of members with diverse and varying personalities.

There are also two other points that have been raised, and I would like to address them. One is about the recent figures that my Ministry released regarding the survey of poverty in this country. I think the hon. Member had made a statement to the effect that this data could very well have been doctored. I want to inform this House that the survey on the population of the country was carried out by both Kenyan and international experts---

**Mr. Deputy Speaker:** Order! Order, hon. Minister!

**The Minister for Planning and National Development** (Prof. Saitoti): Mr. Deputy Speaker, Sir, it is important that I explain this matter, because it affects everybody in this House. I will be extremely brief on this.

**Mr. Deputy Speaker:** Thank you.

**The Minister for Planning and National Development** (Prof. Saitoti): Mr. Deputy Speaker, Sir, the methodologies which were followed are internationally known. However, should the hon. Member wish to examine the way they have carried out the census in a most scientific manner and offer any alternatives that contradict what we have, we will only be too happy to consider them.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for the clarification he has made. But one point which is extremely important, and which is not included in the statement, is the issue of methodology. As you know, census is an extremely sensitive and important issue all over the world. It depends on the methodology used in the census to arrive at a result that would be acceptable to the nation. Could he inform the House this elaborate plan he has made, what methodology he has chosen in the coming census that would protect both you as a Ministry and the Kenyan people from arriving at an erroneous figure as Kenya's population?

**The Minister for Planning and National Development (Prof. Saitoti):** Mr. Deputy Speaker, Sir, I want to inform this House that the methodologies which are going to be employed are in no way different from the internationally recognised methodology normally used in carrying out a census. We have no intention, whatsoever, of departing from the well-laid down international methodology and we have also got Kenyan methodology.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, there was a question I raised earlier and I was told that it belongs to the docket of the hon. Minister of Planning and National Development. Now that he is here and he is talking on a related matter, could he explain to this House, that whereas the people of this country and certainly, many of the hon. Members of this National Assembly, feel that separating Kenyans on the basis of ethnic or proto-national identity is negative to the goal of national integration, can the Minister explain why there has been a trend that in 1989, the Tharaka stopped being categorised as Meru, the Ameru community was now split into smaller tribes, and at the same time, Pokots and Turkans were being categorized as Kalenjins. The Kalenjin community is acquiring new entrants while certain other communities are exiting from one community. What has been the interest of the State, if you believe in a uniform methodology comparable to other countries? What has been the interest of your office in this use of ethnic identity to build tribes and to scatter some other tribes?

**The Minister for Planning and National Development (Prof. Saitoti):** Mr. Deputy Speaker, Sir, I want to inform this House that the matter of tribes does not factor into my own thinking. We are going to carry out the census to know the number of people and the population in this country. We will know exactly who are in certain locations, sub-locations, districts and provinces. I am not in any way interested in the segmentation of the Kenyan population.

**Mr. Keriri:** Thank you, Mr. Deputy Speaker, Sir. I think the Minister has avoided the question. There were two questions: One, he was asked about the methodology he is going to use, then he said international, but he did not say which one. Then, he was told by hon. Dr. Kituyi that some tribes were split and others were amalgamated to make one. He stood up and said that he is not thinking about segmentation of the Kenyan population. He was still the Minister who was in charge of census at that time, what made him do that at that time? Is he going to repeat the same? What has changed?

*(Laughter)*

**The Minister for Planning and National Development (Prof. Saitoti):** Mr. Deputy Speaker, Sir, first of all, let me explain to the hon. Member that I am a very strong believer in collective responsibility. I was not the Minister at that particular time, but indeed, I am proud to be in a position to defend the 1989 Census. We have examined those censuses carefully from two sides, one, there is empirical method, namely; the actual counting of people. We have also taken a scientific and mathematical procedure, which begins: What was the position at that time, much earlier. Census are carried out every ten years. So, ten years earlier than 1989, we knew what the population was. We have carried out an annual growth rate of the population, simple mathematics tells you exactly what kind of a result is expected. We compare the two. The error was very small. I therefore defend that.

On the question of methodology, if the hon. Members want, I will be in a position to come and table a major document. But if he wants to know the methodology, we will gather information on where Kenyans are living, for example, in Kirinyaga. We want to know the Kenyans who are there. We want to know where they are living and how they are living. Those are the kind of things that we are going to find out. We will also check the age. Once we do that, then we will tell the Kenyans the number of people in this Republic.

## POINTS OF ORDER

### INSECURITY AND BANDITRY IN KWANZA

**Mr. Kapten:** Mr. Deputy Speaker, Sir, I request for a Ministerial Statement from the Minister in charge

of Internal Security about the state of banditry, cattle rustling and general state of security in Kwanza Constituency.

Mr. Deputy Speaker, Sir, for a long time, the people of Kwanza have never had any peace. Of late, we have had large groups of cattle rustlers and bandits attacking the people of Kwanza Constituency. On 1st of November, 1998, we had over 200 cattle rustlers and bandits who came to Kwanza and attacked a GSU camp. They stole over 200 animals and those animals have never been recovered. Last week, on 3rd December, 1998, another group of over 300 bandits came and attacked the home of a very prominent farmer in Trans Nzoia called Zachariah Shimechero. They went away with 250 cattle, 250 sheep and other properties. The problem is that before those bandits come, they normally bring information and we normally tell the Government that those people are going to attack. Like those ones who attacked the GSU camp, the security personnel had information that those people were going to attack. They did come actually on the day they said they would come. Yet, when they attacked, none of them was injured and they went away with those animals. We do not know what is happening in Kwanza, we do not know where the Government is as far as Kwanza is concerned.

Can the Minister tell this House why the Government has neglected its duty to protect the people of Kwanza? Secondly, why can the Government not build a police station at Kolongolo Centre?

#### IMPOUNDING OF MATATUS BY POLICE

**Mrs. Mugo:** Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of Transport and Communications. Right now, there is a very grave situation in Nairobi with regard to communication. I have just come from Dagoretti, where all matatus have come to a standstill. I understand also that matatus on other routes in Nairobi are not plying their routes because of the serious impounding by the police.

This is due to the requirement that they must be in possession of the good conduct certificates and PSV licences. While the matatus have agreed to follow the law, I think the Minister must have a proper plan of how this is going to be effected without interfering with transportation of the people and bread-earning of the drivers and the touts. Right now, about 700 drivers and touts have been put in Kibera jail. We need to have a Ministerial Statement urgently as to how people in Nairobi are going to be transported back home today from their places of work today.

#### WITHDRAWAL OF KENYA BUS SERVICE

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, the other day I raised a matter and I informed the Minister of Local Authorities that the Kenya Bus Services (KBS) had threatened to withdraw their buses from routes including Dandora and Eastleigh. True to their word, they did withdraw their buses along those routes.

Mr. Deputy Speaker, Sir, the situation today has been aggravated by the fact that matatus, as hon. Mrs. Mugo has said, have also now withdrawn from the same routes. So, it is very serious. The Minister for Local Authorities has kept mum, since that time, they have not said anything about it.

**Mr. Deputy Speaker:** Order! Order, hon. Mwenje! We have heard you. I am going to talk about the outstanding---

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, can I just now put the question?

**Mr. Deputy Speaker:** Order! I am going to make a general statement on outstanding statements.

**Mr. Mwenje:** Thank you, Mr. Deputy Speaker, Sir. I hope they will reply and do something immediately. The KBS withdrew their buses from these routes because of the general state of roads which are in pathetic condition.

**Mr. Deputy Speaker:** Order, Mr. Mwenje!

#### DEMOLITION OF MATHARE SLUMS

**Mr. Muchiri:** Thank you, Mr. Deputy Speaker, Sir. I rise to ask for a Ministerial Statement from the Minister of State, Office of the President in charge of Internal Security. Right now, as I am talking in this House, the Provincial Administration is demolishing Mathare 4A. On 3rd December, 1998, they demolished about 300 structures. It is the Government that actually allocated those people those plots. My question to the Minister is: Why destroy the slums in such a brutal manner?

**Mr. Deputy Speaker:** Order! You are not asking a question, you are demanding for a Ministerial Statement, which you have already done.

## DEATH OF JOURNALIST

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, I rise to ask for a Ministerial Statement from the Minister of State, Office of the President. At the beginning of last November, a journalist working with the *East African Standard*, based in Kakamega was found by the roadside near Kaimosi, unconscious. He was taken to Kaimosi Mission hospital and he passed away while undergoing treatment. It is alleged that the deceased, Bernard Liru, died as a result of a road accident. The car that he is alleged to have had the accident in belongs to an official of Mumias Sugar factory, a Mr. Sang.

**An hon. Member:** Mr. Sang!

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, to date the police seem to have settled for the version of the accident. But, looking at the circumstances under which this journalist died and the preliminary private investigations by the family, there are a lot of loose ends to this police story of a road accident. To date, Mr. Sang---

**Mr. Deputy Speaker:** Order, Mr. Shitanda! Could you say what you want from the Minister?

**Dr. Kituyi:** Mr. Shitanda, talk of the Ksh1 billion!

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, Mr. Sang has not recorded a statement with the police. The late Liru was one of the journalists to fall---

**Mr. Deputy Speaker:** Order, Mr. Shitanda! State what you want the Minister to make a statement on very quickly.

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, I would like the Minister to tell this House what investigation they have carried out and what was the actual cause of the death of Bernard Liru.

## HARASSMENT OF TENANTS AND UNSECURED LOANS

**Mr. Anyona:** Mr. Deputy Speaker, Sir, in the course of the other week, I personally raised two requests for Ministerial Statements. One in respect of the harassment of the tenants in Madaraka estate, from the Minister for Public Works and the other in connection with the unsecured loans in respect of other banks, apart from the National bank. This is in order to be able to do internal cleansing and clear the air.

Mr. Deputy Speaker, Sir, I believe that there are other hon. Members who have also requested for similar statements. There has been this practise that when the House is going on recess, Ministers hide away, thinking that they can get away with it. Since the House is likely to go on recess tomorrow, could we request the Chair to demand that every Minister who owes this House a Ministerial Statement does come with one tomorrow, and if he does not, then a serious consequence will follow?

**Hon. Members:** Point of order, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** Order, hon. Members! Hon. Members, particularly, hon. Ministers, you have seen that there are a lot of pending statements due from yourselves. I would like to advise you that tomorrow at 2.30 p.m. we shall devote quite a bit of time to dispose off that unfinished business. So, hon. Leader of Government Business, for those Ministers who are not here, I would like you to take the responsibility of informing them that they should be in the House tomorrow to discharge those statements due to them. Tomorrow, at 2.30 p.m., all those statements that have been sought or promises made must be disposed off by tomorrow afternoon. Thank you.

Next Order!

## BILL

*Second Reading*THE NATIONAL INTELLIGENCE AND  
SECURITY SERVICE BILL

*(The Minister of State, Office of  
the President on 03.12.98)*

*(Resumption of Debate interrupted on 08.12.98)*

*(Loud consultations as hon. Members*

*withdrew from the Chamber)*

**Mr. Maore:** Mr. Deputy Speaker, Sir, I would like to plead with the hon. Members---

**Mr. Deputy Speaker:** Order! Order, hon. Members! Hon. Members who wish to withdraw from the Chamber, please do so quietly so that we can hear hon. Members who wish to contribute.

**Mr. Maore:** Mr. Deputy Speaker, Sir, while trying to do some presentations on this Bill, it has taken about 13 minutes for me to do my contributions and this is the third day. So it might look like it has been long. For that reason, the flow has been a bit affected. So, I would like to raise about two to three points and then give other hon. Members a chance to contribute.

Mr. Deputy Speaker, Sir, while contributing to the Bill on the formation of a National Intelligence and Security Service, I feel that it will take angels to restructure the damage done in the recent past. This damage has occurred because we have allowed tribalism to permeate the security services of this country. It would not take an angel to know that 80 per cent of the armed forces in the republic of Kenya are actually from one tribe and this has happened in just about 12 years. It does not take competence to note that the General Service Unit (GSU) Commandant, the Director of the Security Intelligence, the Chief of General Staff, the Director of Criminal Investigation Department, and the rest of their juniors, are members of one tribe. Kenya is not just one tribe. There are 42 tribes in the country. So, it is not good that a lot of havoc that has been created by this tribal mentality in our security forces has interfered with the performance of the security organs to deliver services. It has not gone unnoticed that a constable from a certain tribe shows up in a District and the DSIO panics because he fears the constable could be reporting him to very high places in case of anything.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, we want a structured and professional Security Service. Talking of professionals, we would like to call for the adoption of some clear guidelines on the recruitment of accountants, engineers, computer analysts, lawyers, business people and all other professionals. All these professionals can be in their places of work while working for this Service. There has to be some defined and clarified criteria in which these dogs of fear will be reigned. Secondly, we would also insist that the Minister, when doing the final presentation, to address some of the following issues. The Minister mentioned a point or two regarding a budget provision whereby Kenyans who have been terrorised, humiliated and killed by the Special branch officers in the last 28 years will be seeking their compensation from. We would like the Government to open a Fund before the Government is sued. They should call those families, make a deal with them or a contract and have them compensated for the loss of lives or limbs of their relatives.

Mr. Temporary Deputy Speaker, Sir, finally, there are loopholes in the current Bill regarding the assets of the Intelligence Service. The current Directorate of Security Intelligence (DSI) has a lot of assets and the Bill does not state very clearly, how this assets will be inherited apart from what the Minister said, when he spoke about it. We are aware of a case like when the Kenyatta university College was being changed into a university. It was very clear in the Bill that the assets and liabilities of the former college would be transferred to the university. But, we are not sure even whether the assets of the DSI will be privatised in this era of corruption. The same applies to the headquarters. It is known that in Kiambu forest, the Directorate of Security Intelligence Service has gone there and grabbed about 100 acres. For these 100 acres, they have gone to a French company and procured a very lucrative contract worth 1 billion shillings. This money has not been approved by this Parliament.

The same Minister from the Office of the President is in the same docket where they went to the Consolidated Fund and withdrew money for the construction of the Eldoret International Airport which has not been resolved and it remains illegal, irregular and unconstitutional. So, we do not want during the Supplementary Estimates, to be faced with a billion shilling project under the Security Intelligence. This Parliament is not under the Special Branch. It is the supreme authority that allocates all monies in this country and it should not be put under that kind of confusion.

Mr. Deputy Speaker, Sir, I do not want to take all the time allocated because I had actually spread it in a very unfair way. I would like to tell the Minister that we are going to support the Bill, but he has to put into consideration the issues we are going to express as issues of concern and at the Committee Stage, there will be some amendments which we are going to propose to the Minister so that we can have a national security intelligence and not "dogs of fear" whereby the big man will show up with his dogs and scare everybody around.

For this reason we would like to ask the Minister to listen to the sentiments expressed by Members and take them seriously and not to personalise them. I believe that the country will be a bit better when we have "a legal terror squad" rather than an illegal one.

With those remarks, I beg to support.

**The Assistant Minister for Education and Human Resource Development** (Mr. Awori): Mr. Deputy Speaker, Sir, we notice that this is the second time this Bill has been published and it is the first time that we have been able to discuss it.

It is very important that this service is de-linked from the uniformed branch of the police. I think it has been wrong for the Director of Intelligence to be subordinate to the Commissioner of Police. This must have been the only place where such a situation obtained. It is possible that the bad history that this service has had in the past could have been because the service was subservient to the uniformed branch of the police. We know that a few officers and a few people within this service have abused the powers that were given to them through torture, terror and witch-hunting. I know and many people do know that Nyati House and Nyayo House always strike terror in the hearts of many people.

We must not think that this state of affairs was peculiar to Kenya. There are many countries that have used their intelligence and their security service to harass citizens of those countries. A very good example here is a country that "professes" to be the most democratic country in the world, that is the United States of America. Many people who know the history of that country know that the late Director of FBI used that service to prosecute the black Americans in that country. Many a time, the revolutionary Dr. Martin Luther King Junior was accused of all sorts of things simply because he was fighting for the rights of a section of Americans. Therefore, I want to state here that the abuse of this service was not peculiar to Kenya.

A progressive country needs a national intelligence and security service. This service has got a lot of work that can be done in order to stabilize the country. A good country must always be in a state of preparedness and alert because it does not matter what country it is. There are those who are always determined to create mischief, both inside and outside the country. If a country is in a state of preparedness, then it can avert any insecurity, both from internal and external sources. If insecurity is averted in a country, then there is stability and tranquillity. These are prerequisites to development and growth which will, in turn, result in citizens enjoying their rightful lives.

A stable country normally invites investors, both local and foreign. We need investment in the country in order to progress. The time for soft loans from overseas is long passed. In order to do everything we need to build our country, we need investment and it will only come when we have created an enabling environment.

Mr. Deputy Speaker, Sir, this service is subject to abuse, anywhere. Many years ago, there were many members of this service struggling with less education and yet they were very efficient and were able to gather intelligence reports that helped this service to create stability in the country. In fact, you would not identify a member of those people in civilian clothes in the old days. Regrettably, in the recent past and today, it is not uncommon to find at public rallies, including at Harambees, members of this service being introduced to the public. I think this not only makes it difficult for them to gather intelligence but it sometimes endangers their own lives. In passing this Bill, let us make amends of the old history and ensure that our country is run properly.

It is necessary that we take time to look for intelligent and bright people from right across the country. We could recruit these people from schools, universities and colleges. Or we could take them from the uniformed branch, as a reward to those who have shown intelligence and proficiency. In taking in recruits in this service, we must avoid the question of favouritism completely. Favouritism is what has always created mediocrity to the extent sometimes that corruption comes in. So, the first and most important thing is to be careful of how we recruit officers to this service. After they have been recruited, it is necessary that we must now have specialised training.

The training should cover most sections that will help them to discharge their duties efficiently. They must have knowledge of civic education and some training in law.

Mr. Temporary Deputy Speaker, Sir, today, it is necessary that a person working in there must be computer literate. This is because in order to be clear on the intelligence information, we should be able to be connected internationally, so that it is easier to find the information that we require. It is necessary that members of this service be recruited from right around the country, so that we maintain regional balance in the service.

When it comes to the question of promotion, it is important that promotion has to be based entirely on merit. It would be wrong to find a situation like the one we read recently in the newspapers, for a District Officer (iii) being promoted over District Officers (ii) and (i) to become a District Commissioner, and within no time at all, to a Provincial Commissioner. That is where problems always arise. There are many ways which we can find merit in a person. For instance again, only recently, a few months ago, a man from the uniformed branch of the police by the name of Inspector Sang, who happened to have been a Sergeant, plying Doonholm Road

traffic, distinguished himself in the service for his honesty and dedication to the service. Of course, everybody recognised this, and thank God, he was recognised by his Department and he was promoted. We would like to see this continuing to happen, particularly in this very service.

Mr. Temporary Deputy Speaker, Sir, there is to be a Director-General. Behind him, there will be directors of various departments. We would like to see people go through the ranks. People who are recruited at the lower levels and who have distinguished themselves should move through the ladder so that they can take charge of others. If we do this, we will avoid mediocrity in this service. We need to have career officers. When I talk of career officers, I mean officers who when they are in the service, think of nothing else except their careers. They think of nothing else except the service that they have got to give to their country. They must be fully dedicated. It is unfortunate to see from time to time, officers having a casual and care-free attitude towards their service. This particular service requires complete dedication.

In order to have officers who will take this service as their full careers and are dedicated to it, we have to make the terms of these officers attractive. The conditions of service must not only be attractive, but must be at par with other important sections of our country. If we pay the officers in this service a good salary, make sure that they are housed properly and meet their family obligations without any strains, we will avoid the temptation that is always there to utilise the service for their own benefit. It is always very difficult to have people who are endangering their lives in the service of the wananchi being in a society where they themselves, are poorly paid, and moving around people who are living very rich lives. It is important that we take care of the officers.

Mr. Temporary Deputy Speaker, Sir, I would like to suggest very strongly, that there should be conditions of employment in this service. One of the conditions must be to bar the senior officers from participating in active business. When you have an officer in such a sensitive service like this, and he is running a business, and you know that a business can succeed or fail - if somebody has got a business which is having liquidity problems, it is very tempting to utilise his position to make sure that he is back in liquidity. The biggest problem that has faced this country was when we adopted the Ndegwa Commission, without even bringing it to Parliament, allowing Civil Servants to participate in business. I do not think anybody can argue against the fact that until that time, Kenya had probably the most efficient civil service in the Continent of Africa. I remember with nostalgia, times when I was in private sector, and I interacted with civil servants. I went to the Treasury. I went to Komason Industry to discuss matters of importance. I found officers available. I found officers knowledgeable and they served me without expecting any compensation because they were quite satisfied with what they were receiving. It is only when they were allowed to participate in business, that we started having problems. I would like the hon. Minister to take cognisance of the fact that we would not like people who hold the position of Director-General or other senior positions to indulge in business. This does not mean that they cannot buy shares in companies or have investments here and there. But surely, to allow them to participate in active business is giving them a temptation that is hard to go against.

Mr. Temporary Deputy Speaker, Sir, we would like these officers to be free of any scandal. Any officer who is appointed to this senior position must be absolutely free of any scandal if he/she has to be respected and if his/her service also has to be respected. We know that the Director-General is, indeed, the adviser to the President where intelligence and security is concerned. An officer like that must have the confidence of the country as a whole, in order to discharge his or her duties properly.

Mr. Temporary Deputy Speaker, Sir, I note somewhere that we are still talking about the Public Service Commission (PSC). I would like this Bill to create a Police Commission so that the uniformed service do not fall under the PSC. What we need to do is to harmonise the terms of those under the PSC, the Judicial Commission and the Police Commission. But it is very important that the officers within the intelligence and security service are very well compensated.

On the question of collection of information, there have been some countries where an officer equivalent to the Director-General has misused the information collected. We would not like to see that happen here. We know that the information that has to be collected is the information that will ensure that there is no external or internal threat to the security of the nation. We know that the information can also be on the question of politics.

But no information should be utilised because someone has got a different political belief. Political belief must be left to the individuals. Nobody should force anyone to belong to one political party or another. There should be no private files. In the past, it was stated here that there was some very powerful person who paid up firms and various individuals in the country and he was terribly feared and many people were afraid because files had been prepared about them. These files were not giving the true picture, but they were files for intimidation and threat. So, we would like to ensure that this service works in the interest of wananchi and that nobody should suffer because of the information gathered by this body.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

**Mr. Shill:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will not take long on contributing to the National Intelligence and Security Service Bill. I would like to say that the security of this nation is very paramount to all of us. Therefore, we must have an independent network which will give us information on the security of the country.

Recently, Mr. Temporary Deputy Speaker, Sir, we had a problem of the bomb blast, the Bagalla incident and other tribal clashes. In fact, if we had a very effective and independent National Intelligence and Security Service, I think we would have evaded these kind of things. For instance, on the recent Bagalla incident in Wajir, it took so long for the security intelligence officers to inform the Government that there were certain people going around the district, looting and killing. Even after the killing, it took three days for it to be highlighted in the media. The bomb blast was one of the most unfortunate things to have happened in this country, but it was sad that somebody would have come from far away, passed through our airport with a bomb, shared nights and days with us and later planted a bomb which killed and crippled many Kenyans. Recently, during the on going Judicial Commission on the clashes in this country, there were a lot of absurd revelations that some of our intelligence officers knew about the impending clashes, but did nothing to avert it. So, it means that by passing this Bill, our national intelligence and security service will be enhanced and our security will be improved.

Mr. Temporary Deputy Speaker, Sir, we have talked about corruption for a long time in this country. It is said that it is at its highest point. I believe corruption is not only confined on the Government side, but also on the Opposition side. Like the Federal Bureau of Investigations (FBI), if we have the National Intelligence and Security Service in this country, then we will know who is who because there are many things happening behind the scenes. As an hon. Member of Parliament for SAFINA, I was hurt by the article that appeared in today's papers that somebody who used to fight corruption, is also corrupt. I hope he will clear his name. We do not want people who preach about water and, at the same time, drink wine. Recently, there was a lot of coverage about Karura Forest. In fact, it over-shadowed the Bagalla incident. We know that we must protect our environment, but those people who have been shouting loudly have even taken the law into their own hands and burned other people's property and yet they want to lead this country. I think that the National Intelligence and Security Service will help us to find out who is clean so that in the next election we will know who to elect.

People are talking of Karura Forest, but I wonder whether somebody has ever talked about Ngong and Karen forests. I have a document here which shows that those politicians who have been shouting loudest acquired plots in Ngong and Karen forests long time ago. We Kenyans should not be cheated and we would like them to come clean. We will never condone corruption whether it is being perpetuated by politicians in the Government or in the Opposition. We want people to come out clean. They should know that corruption will destroy our security. What destroyed Somalia is what is happening in Kenya now. People are competing in grabbing things, whether officially or non-officially. This is what is happening in this country. If we are not very serious on this matter we will do a lot of disservice to our country.

**An hon. Member:** On a point of orders, Mr. Temporary Deputy Speaker, Sir. Since the hon. Member has some information about Karura and Ngong Forests, is it not in order for him to table it?

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, if I am requested I can table the information.

**The Temporary Deputy Speaker (Mr. Musila):** Mr. Shill, is it relevant to what we are discussing?

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, I was saying that we are now discussing the National Intelligence and Security Service Bill. There are many things that we do not know, and if we enhance our intelligence we will know them. That is how this information is relevant to what is before us. I am saying that those people who have been shouting loudly and pretending to be very clean are also involved in grabbing part of Ngong Forest.

**Hon. Members:** Table the document!

**The Temporary Deputy Speaker (Mr. Musila):** Order! Mr. Shill, you were saying that if we enhance our intelligence we will get this information. Are you saying that you have already enhanced your intelligence and you are able to---

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, maybe I was a bit privileged as a Member of Parliament (MP) to get such kind of documents, but many Kenyans are not so privileged as to get them. I believe that if we enhance our intelligence and pass this Bill many things will be known to the authorities.

**Mr. Kamolleh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that in the interests of this nation, and exactly what hon. Shill is talking about it would not have been necessary for an MP to go around looking for information if we had a better security service. Now, that hon. Shill has gone around to get all the names of those people, I do not see why he should not be asked to table the document he has. Is it in order for him not to table the document?

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Musila): Let me see the document.

*(Mr. Shill handed over the document to the  
Temporary Deputy Speaker, (Mr. Musila)*

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, I was saying that our National Intelligence and Security should be enhanced. There are a lot of shady deals that are going on in this country, that the tax payers in Kenya do not know about. We want our intelligence service to be like the Federal Bureau of Investigations (FBI) or the Central Bureau of Investigations (CIA). The national intelligence service is supposed to be a mirror for the country, so that we can know what is going on. As I have said earlier, things that happened in 1993 are coming to light now. This is very absurd. People write reports in the newspapers or make allegations and nothing happens. We want to know exactly what is going on. If somebody blackmailed somebody else in order to get some money, he should be taken to a court of law. We want our intelligence service to be very vigilant. We do not want those who misuse power, be it an MP or a Minister.

Mr. Temporary Deputy Speaker, Sir, there are rumours--- When we hear people trying to scramble---

**The Temporary Deputy Speaker** (Mr. Musila): Mr. Shill, you should not bring rumours to this House.

**Mr. Shill:** I am sorry, Mr. Temporary Deputy Speaker, Sir. I would like to say that there are some things which are giving us problems.

*(Laughter)*

I am not bringing rumours into this House.

**The Temporary Deputy Speaker** (Mr. Musila): Mr. Shill, this House is will not be treated to rumours. Give us the facts, if you have them.

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, I will not use the word "rumours". It will be very absurd if we see people coming in and going out of our country using fake passports. I am worried about this matter, which was reported by the Press, where people were fighting over duty free shops. I do not know why fights should be at the airport. Some of those people who are at the airport are wanted by the International Police (Interpol). I have a document here which shows correspondence between our Criminal Investigations Department (CID) and the Interpol over somebody, who is alleged to have dual citizenship. The Interpol has asked for his extradition but our CID officers have rejected the request because there is no extradition treaty between Abudabi and Kenya.

**Mr. Temporary Deputy Speaker** (Mr. Shill): Mr. Shill, I think you are being derailed. Please, stick to the debate.

**Mr. Shill:** Mr. Temporary Deputy Speaker, Sir, I am sticking to the debate because it concerns the intelligence of this country. Where I think our security is being jeopardised, I should point it out. This is because airports are very important, and whoever thought that duty free shops are supposed to be at the airport--- Somebody can bring arms or other things into the country if airports are not guarded. That is the relevance of this to the Bill before this House.

We see people coming from Mogadishu, Kismayu or other places into the country through the airport without passports. Fire arms are brought in, and yet they are not being checked. This is where we feel that things are going wrong. We want our intelligence team to be very vigilant on this and find out what kind of deals are going on at our airports.

Pocket phones are being used without proper licence. We cannot try to compromise on our security. Our economy is collapsing because there is no intelligence information on the people who are syphoning out resources. I think that once we have an independent intelligence and security service things will improve.

On recruitment into the proposed National Intelligence and Security Service, I wish to say that every applicant should be employed on the basis of merit and intelligence. Above all, he should also be patriotic to this country.

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

**The Temporary Deputy Speaker** (Mr. Musila): Mr. Shill, before you sit down, I think I have to make a ruling on the document you presented to me. Hon. Members, this document is headed "Ngong/ Karen Forest allocation". It is a photocopy showing various allocations in that area, but it is not signed. Therefore, it is not

authoritative and is not acceptable. If you have finished contributing you can collect your document. It is this department which has caused a lot of problems to most Members of this side of the House. It is dangerous if we are going to have a department or this National Service set up and yet the loyalty of those people will be to the President of this country and of the ruling Party. It may cause a lot of havoc to Members of the Opposition because the Bill requires that these people inspect and interrogate people who they deem to be dangerous or having bad plans for this country. It is a known fact as of now that Members of the Opposition want to take over from the Government legally. If that expression of the opinion and intent of the Opposition will be taken into account by the intelligence, then we may be treading on very dangerous ground.

We want a department which is going to be quite independent. I would request this House that the appointment of the Director-General should not be at the behest of the President. Should the Director-General be appointed, a Parliamentary Select Committee should interview this person, find out the status of his integrity, whether he is involved in any scandal as another hon. Member has said, if he has any criminal record or is a member of any political party. It would be very dangerous to appoint a Director-General who is a member of SDP. It would equally be taken as dangerous to appoint a Director-General who is a KANU supporter because definitely his loyalty will be to his Party. Therefore, in this regard, the Director-General's appointment should not be at the behest of the President for whatever reasons.

If we are to get clean people let us not absorb those who are currently doing intelligence work. Let us get clean people who have no past record of intimidating others. The citizens of this country have really suffered at the hands of these people. Others have been maimed or jailed for nothing. To have such people continue doing such things will create more problems for us. Therefore, in my own opinion we should get new people. Let the Director-General be appointed after being interviewed by a Committee of this Parliament. Let there be an Intelligence Security Service Commission to advise whether that person is fit or not to head such an important body. We have seen in certain areas, current departments appointed by some citizens to act as agents of other political opponents. I have seen a situation in my constituency whereby when a councillor crosses swords with another powerful individual, an intelligence officer acts like an arresting officer while there are real police men in uniform who are supposed to do such jobs. If we allow this to continue this situation will worsen.

While supporting this Bill I would like to request this House to ensure that those officers who are going to be hired to serve in this service are given better remuneration. Let them be given better facilities to do their day to day work. In some of these areas you will find an officer at the district level has no transport and or any means of communication and yet he wants to collect information to help this country to prosper. When you go to some areas you find that the vehicles which they use have no radio communication or are un-serviced and yet we require to get the details of every activity that goes on in the country daily for us to prosper.

As we are about to go for recess I am sure that there are many other people like the land grabbers in this country. They have taken the opportunity to suppress the real squatters. If the Government was properly advised on the squatters problem, we would not see senior Government officials and politically correct individuals getting chunks of land in every settlement scheme that is created in this country. In every scheme you will find the same names appearing in every register of every scheme and yet there are real squatters in this country who cannot even get one acre of a plot. If these security men were really serious they would advise the Government correctly. But if they are the ones who want to benefit most they cannot report these things because the moment they report they shall not get the rewards of what they want to do.

We have seen cases where some politicians in the districts control the information flow from departments. They say that: "before you report this to your boss, I must know what you are reporting about." It is very dangerous when politicians control the flow of intelligence data in the country. So, to ensure that these intelligence services are effective, we should have people of high integrity or those who are not into business and have no political connections. Let us have people who can give the information as it is. I do not understand why all Members of this side have suffered in the hands of these people and not the other side. It means there is some political collaboration and involvement in this matter.

Another Member talked about importation of goods into this country. We have seen cases where goods are imported through Wilson Airport at night. Some people escort those convoys to the city centre. These people are aliens. They have no passports; they just come. It is a daily occurrence at the Wilson Airport where planes land at about 7 o'clock and 8 o'clock. You just find these people being escorted by other characters to the city centre. We do not know what they bring.

It is common knowledge that if you go to Eastleigh there is Garissa Lodge where you can buy everything. You can buy even an A-K 47 at Garissa Lodge and yet our intelligence officers are there. They know what is happening but they spend most of their time within the precinct of this Parliament to listen to what we say instead of listening to what is relevant to the security of this nation. The hon. Members of this House can never be a

security risk because all of us cannot prosper without security. Without peace we cannot move ahead. Even Members of the Opposition cannot lead if there is no peace in this country. It is very saddening to see things happening as was the case the other day, when people came all the way from Ethiopia and stole our animals. Nothing was noticed and yet our security intelligence service officers were around. These are things that we need to correct. When it comes to the Director-General we are being told that he must serve for one term of six years. Six years is a long time. We may get the wrong person. Let him serve for two terms of three years each, other than a continuous six year term. If he gets a six year term, we may get a person who is supporting a system which is against us.

With those few remarks, I beg to support.

**The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir):** Bw. Naibu Spika wa Muda, nimefurahi kwa aliyeleta Mswada huu wa Kugeuza Mambo ya Polisi na Idara ya Upelelezi kwa sababu "apikaye siye alaye". Idara ya Upelelezi kazi yake ni kutafuta ukweli.

Ofisi yoyote ikipata ghasia, hio ofisi hutoa amri polisi ikafanye kazi. Lakini, ofisa wa polisi akijitawala, kazi nzuri haifanyiki. Ninashukuru kwa Serikali kujua kazi muhimu ya Idara ya Upelelezi. Kama sio Idara ya Upelelezi Kenya, sidhani katika Mashariki na Kati ya Africa kuna wapelelezi ambao wanajua habari ya ukweli kama ya Kenya. Kama sio wao kupasha habari na kuzuia uchafu, Kenya leo ingekuwa ina damu barabara zote.

Mipango inayofanywa ili kuharibu Serikali, kutia uchafu, kutia ukabila na maneno mengi ya ufisadi na hali maneno ya siasa, ni Idara ya Upelelezi itakayojua kama huu ni ukweli, sio mimi mwanasiasa. Hata kama ni hakimu au wakili, lakini hakuna anayejua zaidi kama wapelelezi. Wao wamefanya kazi ile ilivyo mpaka sasa ukweli wa ukweli unatokea katika Kenya bila kundanganyana hivi na vile.

Idara ya Upelelezi inapasha habari kwa Serikali, na habari mbovu zaidi ni ya ukosefu wa kazi, umaskini na taabu tulizo nazo. Wale walionyakua ardhi kubwa, wamewafanya vijana wengi wa wale waliopigania Uhuru kuwa, maskini. Wengi wao hasa, wanazunguka Nairobi na Mombasa kwa sababu ya taabu walizonazo na hawana pahali pa kulala. Wanakasirika kuwapigia kura kwa sababu mnawandanganya wawasaidie kisiasa, "nisaidieni tu nyinyi, mtusaidie tukipata Serikali, haya mashamba yote mtayapate". Uongo huu ndio tunataka leo Idara ya Upelelezi ikomeshe, kwa sababu mambo mnayoyafanya msifikirie kwamba watu hawajui.

Idara ya Upelelezi inajua kwamba kuna mipango sasa ya kuwafanya watu wa matatu wafanye fujo Kenya.

Mnayo mipango ya wenye "kiosks" wafanye fujo katika Kenya. Lakini ninaomba Mungu tupate Idara Ya Upelelezi kama hii ambayo itachunguza na kujua namna ya kukabiliana na mambo kama haya.

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

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

Bw. Naibu Spika wa Muda ninamuomba Waziri mwenzangu, wakati wa kuajiri watu kwa Idara ya Upelelezi, asimchukue mtu kutoka mbali amlete Mombasa; Mombasa kuna Mkikuyu, Mkamba na kabila zote.

**Dr. Kituyi:** Kwa jambo la nidhamu, Bw. Naibu Spika wa Muda. Ukifanya uchunguzi kamilifu kuhusu Hoja iliyo mbele yetu, utagundua kwamba Waziri hana fursa ya kumuajiji mtu kazi katika "Intelligence Security Service" kulingana na hiyo Act tunayoita futa. Je, ni adhabu gani mhe. Nassir, anamwomba mwenzake aanze kuajiri watu wa Mombasa kama tunamnyima ruhusa ya kumuajiri mtu yeyote?

**The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir):** Bw. Naibu Spika wa Muda, ninataka mhe. Kituyi ajue kwamba wale waliolala Pwani wataamka. Usitende kumpigia kabisa!

Tunasema kwamba kama kutaajiriwa watu kazi, wako Wakikuyu wa Pwani, Waluhya wa Pwani na wengine ambao wanajua vitongoji na mitaa yote ya Majengo. Ukimchukua mtu kutoka Kakamega, haijui hata bahari, eti awe mjasusi Mombasa, hawezi na akifanya atakuwa akifanya uongo. Mimi sikusema lazima awe mtu wa Pwani, bali nimesema Mkenya yeyote anayeishi Mombasa, ajiriwe kazi.

Idara ya Upelelezi inafanya kazi na itengwe kando na kuwaambia, "sasa, fanyeni kazi". Na wakifanya kazi, uteuzi wa ofisa wa polisi utakuwa chini ya Ofisi ya Rais. Hii ofisi ndiyo itakuwa ikiwapatia wajibu kama kuwaambia "tumepata habari kadhaa, mtaa kadhaa kuna mambo kadhaa, nendeni mkachunguze".

Kuna wengine wamezungumza hapa kuhusu ukabila katika Idara ya Ujasusi. Wale walikuwa hawajazaliwa waone Serikali tuliokuwa nayo juzi yenye Waziri wa kabila moja na maofisa wote kabila moja. Ukitaka hata kuzungumza na mtu, hebu ujifundishe lugha ya kabila lao ndipo uzungumze naye.

**Hon. Members:** Ni kabila gani hilo?

**The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir)** : Utajua wewe mwenyewe na kama haujui, ukatafute. Bw, Naibu Spika wa Muda, ninaomba Mungu atujalie Bw. Moi akitoka mamlakani, tupate Bw. Moi mwingine. Lakini ikiwa ni hawa walipiga kura hapa, walituaa, ukabila ukazidi na wana chuki rohani. Hata watu Nairobi ukiwaona, ikiwa kiongozi sio mtu wa kabila lake ndani, anaanza kugeuka sura. Ninauliza wanageuka sura, tumeiba vyakula nyumbani kwao? Nenda Mombasa, utaona haya makabila yote huko. Hata ukinichukia kwa sababu mimi ni Waziri na mimi sio wa kabila lako, umewahi kuniona kwenu?

Bw. Naibu Spika wa Muda, mambo haya ya kutengeneza nchi hii, lazima tuyatengeneze na pia mipango fulani ya watu wapate chakula. Msiwandanganye Wakenya kwa maneno huhusu ufasidi kwani kumbe hakuna wafasidi kama Wabunge wa Upinzani. Wananyang'anya, wanachukua mashamba, na mashamba yao ikiguzwa kidogo, wanalia, "Oh! Karura Forest imenyakuliwa". Vile mkichukua mashamba ya wenzenu, mnaona nini? Ni tamu? Kweli iko uchungu! "Usiue mwana wa mwenzio na mwanao atauawa".

Bw. Naibu Spika wa Muda, ninasema kwamba hiki kikundi tulichokivunja cha Upelelezi kiwe kando. Maafisa wa polisi wa kawaida wasifanywe kuwa wajasusi. Maj. Madoka, hakutoa amri hiyo wala Ofisi ya Rais haikutoa amri hiyo! Wamesema tutafute wenyeji wanaojua mahali pale na kukiwa na matata wanajua la kufanya.

Kwa hivyo, tukitaka kutengeneza nchi yetu ya Kenya, kila mwanasiasa ajaribu. Njaa walionayo watu wetu ni nyingi. Hawawezi kusoma, hawawezi tena kuketi kwa magari ila tu kutungojea tuwapashe habari.

Ndugu zetu wa magazeti ikiwezekana waandike mambo ya ukweli. Hata wakiandika mambo kama Serikali ya Moi ni ubovu, ukweli utajulikana. Magazeti ya Mikoa 100 ya Kenya, yote iliingia upande mmoja eti kuunda Serikali. Mungu hayuko katika gazeti, bali yuko Kenya nzima na ukweli utasemwa na utaonekana. Nyinyi semeni kwa magazeti lakini sisi tutakwenda kwa watu, "grassroots", tuwaambie ukweli ulioko.

Kwa hayo machache, ninaunga mkono.

**Mr. Kathangu**: Asante Bw. Naibu Spika wa Muda kwa kunipatia nafasi hii ili niseme machache kuhusu Mswada huu. Kwanza, ninashangaa sana wakati naona Mawaziri wa Serikali wanaposimama katika Bunge hili na kusema mengi kuhusu ukabila. Mshangao wangu ni kwamba, ikiwa tutaiunda nchi moja katika Kenya hii, ni lazima Waziri wa Serikali awe wa kwanza kuzungumzia utengano. Lakini ikiwa Mawaziri watasimama hapa na kuzungumzia mambo yanayohusu ukabila, basi nikusema kwamba nchi nzima itakuwa inazungumzia ukabila ambao nimeusikia sana.

Leo tunapozungumza kuhusu Idara ya Upelelezi, watu ambao wanatakiwa kupewa jukumu la kusimamia na kuchunguza ni yapi yanayoisumbua nchi; lakini Waziri wa Serikali akisimama hapa---

*(Mr. Nassir crossed to the Opposition side)*

**Mr. Mutahi**: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you have seen how this Minister has crossed the Floor? He came straight from the Government side directly here. Nassir, I can see he is pushing me here. There is no space here!

*(Messrs. Mutahi and Nassir pushed each other)*

**The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir)**: Bw. Naibu Spika wa Muda, kama niliposema hapa, hawa watajua hivyo. Jina langu lilitajika---

**The Temporary Deputy Speaker (Mr. Pogishio)**: Order! You are actually wasting our time. Just continue.

**Mr. Kathangu**: Nashukuru sana, Bw. Naibu Spika wa Muda. Kwa hivyo, vile nilikuwa nikisema, ikiwa tunataka kuishi kama nchi moja, ni lazima Mawaziri wa Serikali wawe ndio wa kwanza kueneza neno la umoja. Lakini ikiwa tutazungumzia ukabila, hiyo itakuwa mbovu sana.

Bw. Naibu Spika wa Muda, kuhusu mashamba ambayo yanazungumziwa hapa, ni nani aliyenyakua mashamba hayo? Tunawajua! Pia tunajua ni akina nani katika Upinzani wanaoshirikiana na wale wa upande wa Serikali. Tunajua vile vile kwamba hakuna tofuati kati ya watu wengine ambao wanajiita kwamba wako katika Upande wa Upinzani na wale ambao ni wa upande wa Serikali. Hakuna mmoja katika Serikali anaweza kusimama hapa aseme kwamba, yeye ni mkiristo sana hajachukua shamba la watu au pesa za watu.

*(Hon. Sunkuli stood up in his place)*

**Dr. Kituyi**: You are not in the Government, you are peripheral!

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

Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that there is no single person in the Government who has not grabbed a piece of land? Can he substantiate that allegation because we do not know what exactly he is talking about?

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, kuthibitisha madai kwamba watu katika Serikali wanatuonyesha vidole hapa, ni unafiki mkubwa. Tukijua kwamba hawa wenyewe ndio wanaongoza nchi na kujua ni vipi mashamba yanafaa kugawanywa, sisi katika upande wa Upinzani tunasema kwamba ni lazima kuwe na haki katika kupeana mashamba na kuyasimamia.

Bw. Naibu Spika wa Muda, leo si siku ya kuzungumzia mashamba, ni siku ya kuzungumzia Idara ya Upelelezi.

**Mr. Kamolleh:** Bw. Naibu Spika wa Muda, ninashangaa kwamba mhe. Kathangu amesema kwamba katika upande wa Serikali, hakuna hata mmoja ambaye hana doa; na kwamba wote wamefuja mali ya Serikali. Hajathibitisha na bado anaendelea. Yafaa athibitishie ni akina nani au ni yupi ambaye anafikiria kila mara anafuja mali ya Serikali. Kuna watu huku ambao hawana dhambi.

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, mhe. Kamolleh alikuwa mmoja wa wale wanasemekana kwamba walikuwa wanapeana fedha mwaka wa 1997, ili KANU iweze kufaulu. Kwa hivyo, mimi siwezi kusema ni akina nani. Lakini mhe. Kamolleh mwenyewe anajua.

Bw. Naibu Spika wa Muda, mimi vile nimesema ni hivi---

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

**The Temporary Deputy Speaker (Mr. Pogishio):** Hon. Kathangu, do you need information?

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, nina mambo ya kutosha hapa. Sitaki kuongezwa.

**The Assistant Minister for Finance (Mr. Arap-Kirui):** On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe the hon. Member on the Floor is seriously misleading this House. His attention has been called to the untruth that he has perpetrated here. He has not withdrawn and apologized and he is continuing. We are entitled to an apology because not everybody on this side is a land grabber and not everybody on this side has taken anybody's money. So, he can either substantiate the allegations, or withdraw and apologize.

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, sijui kama unayasikia yale Wabunge wezangu wanayasema. Wanateta kwa sababu nimesema Serikali. Katika Katiba na sheria za nchi, Serikali ni Rais na Mawaziri wake. Wale amboa wanasimama ni Wasaidizi wa "Serikali". Wabunge katika nyanda za nyuma---

*(Several Members stood up in their places)*

**The Temporary Deputy Speaker (Mr. Pogishio):** Order! Order, hon. Members!

**The Assistant Minister for Research and Technology (Mr. Kiangoi):** On a point of order, Mr. Temporary Deputy Speaker, Sir. For the information of the Member who has just sat, our Standing Orders in this House provide that Assistant Ministers are also Ministers.

**The Temporary Deputy Speaker (Mr. Pogishio):** Order! Mr. Kiangoi, did you stand on a point order, or information? You are giving information!

**The Assistant Minister for Research and Technology (Mr. Kiangoi):** I am laying the foundation for that, Mr. Temporary Deputy Speaker. Our Standing Orders provide--- My point of order is that he has not substantiated the allegations he has made. Can he substantiate or withdraw? Let him not go around it or somehow try to avoid the issue. Let him substantiate that he knows that we on this side, particularly the Ministers and Assistant Minister have got plans---

**The Temporary Deputy Speaker (Mr. Pogishio):** Order, Mr. Kiangoi! I think you are taking too much time on something that is not well related to the Bill. Please proceed.

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, uamuzi ule umepitisha---

**The Assistant Minister, Office of the President (Mr. Sunkuli):** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is continuing to mislead this House. I am not going to pursue that erroneous part he is trying to put here, but is he in order to say that the Government means only the President and the Ministers, and that Assistant Ministers are not Members of the Government? Has he read the Standing Orders? Can the Chair guide us on this matter because the hon. Member will heap one misconception after another, like he is fond of doing?

**The Temporary Deputy Speaker (Mr. Pogishio):** Okay, order! The Government by definition is in the Standing Orders and you know that Assistant Ministers are part of the Government. Now, stick to the Bill.

**Mr. Kathangu:** Asante sana, Bw. Naibu Spika wa Muda. Naweza kuendelea?

**The Assistant Minister for Agriculture (Mr. Karauri):** On a point of order, Mr. Temporary Deputy

Speaker, Sir.

**The Temporary Deputy Speaker (Mr. Pogishio): Overruled!**

**Mr. Kathangu:** Bw. Naibu Spika wa Muda, kwa wale wenzangu ambao ninawaunga mkono sana, ni kusema kwamba kuna maana ya kuwa na idara inayosimamiwa na sheria zake kwa sababu itakuwa vibaya sana ikiwa idara hii itaundwa na iwe haina sheria za kuiongoza.

Bw. Naibu Spika wa Muda, nina machache ambayo ningetaka kusema kuhusu usimamizi wa polisi katika nchi hii kwa wakati huu na kuhusu Afisi ya Rais, kama Mkuu wa Majeshi na kuhusu CID na Special Branch; Idara ya Upelelezi.

Kwanza ningependa kusema kwamba yale ambayo mhe. Nassir amesema hapa ni kweli. Utaona kuwa nchi hii imegawanywa vipande vipande ikiongozwa na Pwani, Nyanza, Mkoa wa kati na Mkoa wa Kaskazini Mashariki. Na, utakuta kwamba kuna mahali majeshi yetu yanasimamia zaidi kuliko mahali pengine na, si vizuri kamwe kama nchi itagawanywa vipande vipande.

Katika muundo na usimamizi wa polisi kwa wakati huu, sheria inayosimamia polisi ni kwamba, polisi wa kawaida na idara hiyo imechukuliwa na watu wengine kama vile GSU na kupachikwa katika Ofisi ya Rais. Kuchukua watu wa Special Branch na kuwawekwa katika Ofisi ya Rais ndio kusema kwamba polisi yote imewekwa katika Ofisi ya Rais. Ule muundo hauwezi kusaidia idara ya polisi ambayo iko na sheria zake.

Bw. Naibu Spika wa Muda, ule muundo hauwezi kusaidia Idara ya Polisi. Ni lazima wawe na uoga, kwamba, ikiwa hawatafanya kazi kulingana na minajili ama mapenzi ya Rais wa nchi na wale ambao wanasimamia ofisi hiyo, basi ni kusema kwamba, kazi yao haiwezi kutuliza ofisi zao. Ninasema kwamba, ikiwa nchi hii inataka kuunda idara ya upelelezi na iwe na sheria zake, ni lazima tujiulize ni kazi gani idara ya upelelezi imekuwa ikifanya, ambayo haiwezi kuendelea kufanya bila kuwa na sheria mpya.

Bw. Naibu Spika wa Muda, vile nilivyosema hapa juzi, ama leo asubuhi, ni kwamba, ni lazima tujiulize ni sababu gani miswada mbali mbali inaletwa wakati ambao tunataka kuunda Katiba mpya? Pia, ni sababu gani, wakati tunapofikiria kuunda Katiba mpya, inakuwa ni lazima tulate miswada ambayo huenda ikabadilishwa baadaye wakati Katiba mpya imeundwa? Mimi ninaangalia mambo haya kwa njia mbili: Kwanza, kuna wachache ambao huenda wanaumwa na hofu. Na hofu yao ni kwamba, huenda Katiba ikabadilishwa na wawe mashakani. Kwa hivyo, wanabadilisha sheria zingine, wakihofia kwamba, huenda hizo sheria zitawasaidia ikiwa Katiba itawafanya. Ninafikiri ni lazima tuondoe uoga katikati yetu kwa sababu, ikiwa tutakuwa tunafanya kazi kwa uoga, hatutaweza kuhudumia nchi hii. Bw. Naibu Spika Wa Muda, ni mapenzi ya nchi hii, kwamba, kila sheria iambatane na matakwa ya nchi. Na ikiwa sheria hii tunayoifikiria sasa; sheria ya kusimamia idara ya upelelezi, itakuweco kabla ya Katiba kuundwa, ninaona kama kutakuwa na taswishi ama wasiwasi. Na wasiwasi utakuwa huu: Wakati huu, idara ya polisi ina sheria zake na inaweza kusimamia mambo ya upelelezi ikisaidiana na idara ya upelelezi ya kijeshi (The Military Intelligence Department), ambayo huwa inasimamia upelelezi nje na ndani ya nchi, kuhusu nani kule nje anaweza kuwa anafikiria vile atasumbua amani ya nchi. Na ni nani nchini anayeweza kuwa anafikiria kusumbua amani ya humu nchini akishirikiana na wengine ambao wanaweza kuwa nje. That is the job of the Military Intelligence Department, ambayo iko kisheria katika Armed Forces Act.

Bw. Naibu Spika Wa Muda, ni mambo mengi sana tunayoweza kuyasema hapa kuhusu idara ya polisi. Lakini, jambo moja ambalo ni la muhimu ni kwamba, idara ya polisi inasumbuliwa kwa sababu Special Branch imekuwa chini ya Ofisi ya Rais, tangu, ninafikiri miaka kumi iliyopita, wakati tulikuwa na decree, kwamba, idara ya Special Branch iwe chini ya Ofisi ya Rais. Hivyo ni kusema kwamba, Komishona wa Polisi hawezi kumuamuru msimamizi wa Special Branch kufanya lolote. Lakini kama wangewachwa huru, hata vile walivyo wakati huu, wangeweza kufanya kazi vizuri. Lakini kwa wakati huu, hawawezi kwa sababu ya utaratibu ambao umeingiliana na kazi zao.

Bw. Naibu Spika wa Muda, huo usimamizi wa Idara ya Polisi ndio umeleta shida, mpaka ikamlazimisha Waziri kuleta huu Mswada hapa. Kwa sababu, kama hatungekuwa na hiyo shida, huu Mswada haungekuwa na maana. Tukiangalia nchi mbali mbali, kwa mfano, Marekani, idara ya CIA, kazi yake nyingi huwa hasa nje ya Bara la Marekani. Na kazi yao ni kupeleleza ili wajue ni wapi Marekani inaweza kufaidika, aidha kisiasa au kiuchumi. Na ni kitu gani kinaweza kubadilisha jamii ya Marekani kuendelea kusimamia uchumi na siasa ulimwenguni. Na kwa miaka iliopita, CIA wameweza hata kupindua Serikali mbali mbali za Afrika na Bara Hindi. Swali ningependa kuuliza ni hili: Kenya inaweza kujilinganisha na nchi kama Marekani, kwamba, watahitaji idara kama CIA? Wakati huo huo, kule Marekani, kuna FBI, kama vile sisi hapa tuko na CID. Kazi yao ni kupeleleza na kuona kwamba, wale wanaovunja sheria, wamenaswa. Wale ambao ni CID katika nchi hii wanaendelea na kazi, lakini haiendelei kwa njia inayofaa. Kwa sababu, Special Branch ambayo inaonekana kama kwamba, inaaminika zaidi katika Serikali, wanabadilisha mambo. Wakati mwingine mtu ananaswa, na Special Branch yenyewe inaenda hata kortini kuamuru kwamba, mtu huyo aachiliwe, na CID inafanya hivyo.

Bw. Naibu Spika wa Muda, ninasema hivyo nikiwa na ujuzi fulani. Na hata hapa Bungeni, kuna wengine

ambao walikuwa katika Idara ya Polisi. Mimi ninakumbuka tarehe 11 Julai, 1990, wakati mimi, mhe. Anyona, Edward Oyugi na Ngotho wa Kariuki tulinaswa. Na waliotutia mbaroni walikuwa wanasimamiwa na ofisa mmoja aliyekuwa anaitwa James Opiyo wa Special Branch. Lakini, yeye alisimama kando kidogo, na akamweleza Bw. Mtonyi ambaye alikuwa anasimamia idara ya CID Parklands: Ndiyo hawa, shika hawa. Na kweli tukashikwa na tukaenda. Baadaye, Bw. Mtonyi mwenyewe katika mahakama, alikuwa anasema kwamba, hakujua ni nini kilichomfanya atushike, kwa sababu, alielezwa tu, atushike. Na ndipo John Keen akasimama upande ule wa Bunge na karatasi ambalo lilikuwa limeandikwa na maofisa wa Special Branch, kwamba, Kathangu, Anyona, Oyugi na Ngotho walikuwa wanajaribu kuunda baraza lao la Mawaziri. Karatasi hiyo ililetwa kortini kama ushahidi ili ituvunje. Kwa hivyo, ninasema kwamba, wale maofisa wa CID ambao wangepanya kazi nzuri sana, pia "wanafinywa" na Special Branch ya Kenya. Ndiyo maana huu Mswada unaletwa, ili kutoa ule mchanganyiko ambao umeleta wasiwasi katika usimamizi wa Special Branch.

Mimi ninaona kwamba huenda ukafika wakati utakapooona kwamba hakutakuwa na maana ya kuwa na Special Branch ama National Intelligence Service, ambayo itakuwa inajisimamia. Hii ni kwa sababu independence ya Mwana Jeshi inaweza kudhuru sana. Mimi nimeona katika Mswada unasema kwamba huenda hawa watu watakuwa raia. Haiwezekani kwamba mtu mpelelezi ataenda kama mtu ambaye hajafunzwa mambo ya nidhamu, bunduki na kadhalika ili aweze kupeleleza. Ni lazima wale ambao wako sasa, ambao wamefundishwa na wana ujuzi, waajiriwe katika usimamizi. Lakini hatuwezi tukapeleka mtu bumbuzi tu aende akasimamie idara ya upelelezi. Ni kusema wale wako na mafunzo wakati huu kutoka kati yao, ndio watachukuliwa kuenda kusimamia. Ukabila hauingii hapa kwa sababu tuko na watu wengi sana ambao wamefunzwa. Ila tu, huu Mswada una maana kubwa sana ikiwa tunaweza kungoja Katiba mpya iundwe, ili tuje hapa tuzungumzie huu Mswada na tuone kama kutakuwa na urekebishaji wa sheria ya polisi.

Bw. Naibu Spika wa Muda, mwisho kabisa, ikiwa sisi tunataka idara ambayo itaweza kusimamia mambo ya upelelezi, ni lazima tuone kwamba kusiwe na Wizara ama mtu anayeweza kuwa ndiye kielelezo na siyo sheria ambazo zitakuwa zimewekwa. Ya pili, wakati tunaposema mambo ya serikali na kwamba tunataka idara kama Special Branch ama National Security Intelligence Service, ni vibaya sana ikiwa ile idara ambayo pia inatakiwa kuchunguza serikali, itakuwa inachukua orders kutoka kwa serikali hiyo hiyo. Kwa hivyo, wakati tunapopitisha huu Mswada, ni lazima hata serikali yenyewe iwe inajuliza swali moja, kwamba; kazi yao katika usimamizi wa Idara ya Upelelezi itakuwa gani? Ikiwa itakuwa na kazi kwa idara ya upelelezi, basi ni kusema, wacha iendelee vile iko sasa kama Special Branch. Na ikiwa haitakuwa nayo, huu Mswada uletwe baadaye.

Jambo la mwisho ni kuhusu police reservists. Tunajua kwamba katika vijijini kila pahali nchi hii, kuna reservists ama informers ambao kazi yao ni kuchukua maoni, tabia ama fununu fulani mbele, iende ikachunguzwe ionekane kama inaweza kuleta hasara fulani katika nchi. Vile inavyoendelea sasa katika Ujerumani, jamaa waliokuwa wanasimamia upelelezi zamani wakati kulikuwa na serikali ya Nazi, hawa wenyewe wanakuja kuleta habari siku hizi kusema kwamba hao hawakujua wanaleta madhara na habari ambayo walikuwa wamepeana ilikuwa ya uongo. Hii ni kwa sababu serikali inatoa kiasi fulani cha pesa kupatia informer ama reservist na ni lazima hawa waonyeshe kwamba wanafanya kazi. Huu ni mfano mzuri na ningetaka kuwaonya wote, kwa sababu majina ya watu yana umuhimu sana katika historia yao na maisha yao. Mimi ninajua sasa katika nchi hii, watu wote katika siasa wanaangalia ni nini Kamlesh Pattni atasema. Ikiwa mlihusiana na Kamlesh Pattni, uko na shida kubwa sana katika nchi hii kwa sababu nchi nzima inasema aliyehusiana na Kamlesh Pattni ni adui wa nchi; na ni kweli kwa sababu yeye amechukua, amepewa fedha ama aliiba hizo fedha, sijajua kabisa, halafu kazi yake ni kugawanya na wengine ambao wanaweza kumsaidia.

**An hon. Member:** Hata Muite.

**Mr. Kathangu:** Hata Muite, kweli. Kwa hivyo, jamaa hawa wako Bunge hii, nimeona nyuzo zao, wakati ninapotaja Kamlesh Pattni, ukiangalia utajua ni nani anahusika. Na kile kitu ningetaka kusema ni kwamba, wale reservists na informers ndio wanafanya kazi katika Special Branch, kusema kwamba taja jina la fulani. Kile kitu ningetaka kusema ni kwamba reservists na informers wanatakiwa wapeleke ukweli wa mambo vile wanasikia, lakini si sababu kwamba watalipwa.

Kwa hayo machache, nashukuru sana.

**Mr. Kimetto:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on behalf of the Departmental Committee of Administration and National Security and Local Authorities, established under Standing Order No.151. I feel extremely delighted to present to the House the report contained in the minutes of the recommendations the Committee made on the National Intelligence Security Service Bill, 1998. The Committee held a total of four sittings, out of which the Minister in charge of this Bill appeared three times to explain to the Members the reasons for bringing this Bill before the House. I want to sincerely thank hon. Minister Madoka for the able manner in which he answered all types of questions put to him and the mature way in which he reacted to the comments and remarks made by the Members. Due to this warm

co-operation---

**The Temporary Deputy Speaker** (Mr. Poghio): Order, Mr. Kimetto. You caught my eye as hon. Kimetto and I did not expect you to be contributing on the committee resolutions or minutes. Please contribute to the Bill.

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir, I highly thank hon. Madoka for the total---

**Mr. Mutahi:** point of order!

**The Temporary Deputy Speaker** (Mr. Poghio): Order, Mr. Kimetto. Yes?

**Mr. Mutahi:** Mr. Temporary Deputy Speaker, Sir, is the Member on the Floor relevant to the Bill? Even if he was to report anything, he cannot do so by reading what has transpired outside this House!

**The Temporary Deputy Speaker** (Mr. Poghio): Order! I have just ruled on that. Mr. Kimetto, will you contribute on the Bill at hand.

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir, I just said I highly thank hon. Madoka for the manner in which he answered all the questions in the Bill because we requested him--- There was an amendment of 16---

**The Temporary Deputy Speaker** (Mr. Poghio): Order! Order, Mr. Kimetto. Order!

**An hon. Member:** He has finished!

**The Temporary Deputy Speaker** (Mr. Poghio): No, Mr. Kimetto is still on the Floor, but I am saying, please, focus on the Bill. Of course, if he has finished, you can proceed. Mr. Kimetto, what do you have to say?

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir, the main reason of bringing this Bill to the House is just to make the National Intelligence Security Service Bill a success. This Bill is now put in such a manner that it is human understanding.

Mr. Temporary Deputy Speaker, Sir, when this Bill goes through, it is going to assist this Government internationally, because we shall be putting what we call---

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

**The Temporary Deputy Speaker** (Mr. Poghio): Overruled! Let the member on the Floor proceed.

**Mr. Kimetto:** Mr. Deputy Speaker, Sir, if there is any possibility, we are going to separate this Bill from the police because we want to put our national intelligence members either outside this country, to enable us to curb what could happen within our Government.

**Hon. Members:** On a point of order, Mr. Temporary Deputy Speaker, Sir. What is this Member talking about?

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir if this Bill is going to be passed---

**Mr. M. Galgalo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Bill has been moved by the Minister of State in the Office of the President, hon. Maj. Madoka. Is it in order for hon. Kimetto to repeat the same things that Mr. Madoka was saying?

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

**The Temporary Deputy Speaker** (Mr. Poghio): Is it on him?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Yes, Mr. Temporary Deputy Speaker, Sir. With due respect to my friend, hon. M. Galgalo, I think hon. Kimetto is a new Member and the House should also take cognisance of that fact and encourage the hon. Member to make a speech. He is coming to the point, and he must begin from the known to the unknown.

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

**The Temporary Deputy Speaker** (Mr. Poghio): Overruled! Mr. Kimetto, Proceed!

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir, what I will say about this Bill is that if this security service is separated from the police, it will enable the special branch people to work independently. Then there will be no problems because they will be independent and be in a position to investigate exactly what crimes other people commit like the August 7th Bomb blast here in Nairobi, because the plan originated from other countries. We shall then post some special branch officers outside Kenya to enable this country to be run in a smooth manner so that, people will understand that Kenya has got special branch intelligence officers who can work both inside and outside Kenya. This will assist the future generation of this country, since they will have their own officers outside the country who will work like the Interpol.

**Mr. Gatabaki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for an hon. Member of Parliament to put forward really confused thinking and annoy this House with irrelevanties? Can you rule him out of order and what the hon. Assistant Minister---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! You should not be speaking about annoying actually. So, proceed, Mr. Kimetto.

**Mr. Kimetto:** Thank you very much, Mr. Temporary Deputy Speaker Sir, for assisting me to make the other confused Member of Parliament to understand what I am saying.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, I was just saying that if this Bill goes through and works independently, then we will be in a position to investigate crimes like the National Bank of Kenya scandal, whereby the National Intelligence officers will advise the Government over this matter. So, I feel this National Intelligence should be separated and made into a Bill for the success and future of Kenyans. It will assist in several dimensions. They will be able to assist in cases like imprisoning people without interrogation. They will assist the Government in such a manner that, this Bill will bring an understanding of goodwill because this Bill is humane.

**Hon. Members:** What do you mean?

**Mr. Kimetto:** Yes, it will be humane and bring about humanity and good understanding of people. So, I feel the enactment of this Bill if the Opposition comes together with the Government, this Bill will enable Kenyans to have a better future.

**Hon. Members:** You are talking nothing. Kwa hayo machache---

**Mr. Kimetto:** Mr. Temporary Deputy Speaker, Sir, I feel that these people are harassing me so much. This is a Parliament, where Members should have respect for one another.

With those few remarks, I beg to support.

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

*[Mr. Deputy Speaker took the Chair]*

**Dr. Kituyi:** Thank you very much Mr. Deputy Speaker, Sir, for giving me a chance. I promise my colleagues that I will not use my entitlement in time. In fact, I am going to make very few remarks, some fairly concrete. The first concrete remark I want to make is about the title of this Bill.

Mr. Deputy Speaker, Sir, we are trying to establish a separate security intelligence service. Therefore, the Bill should be called The National Security Intelligence Service Bill. It is a Security Intelligent Service and not National Intelligence and Security Bill. National Intelligence and Security is small letter "i", intelligence", but we are talking about one of the three arms of intelligence as separate from criminal intelligence and military intelligence. So, although NISS looks a very pleasant name, actually it is misleading because we are trying to create a security intelligence service and if you look at the contents of the Bill, it is called security intelligence. In the body of this document, you read different phrases whereby they are talking about separating security intelligence from the police, separating provisions for security intelligence services. That is what the Bill should have been called. That is a National Security Intelligence Service Bill. That is my first remark.

Mr. Deputy Speaker, Sir, I will say a few things about specific provisions inside the Bill and I will make a few general remarks about governance and security intelligence. There are a number of ambiguities in the relationship between the intentions expressed in the preamble to this Bill in the preliminary section of the memorandum of reasons and objects, and the provisions of the positions created by the Bill or by the proposed Act. One of the main reasons why some of us find this Bill superior to the one which was brought to this House in 1995 is that, it sets out clearly to establish a civilian security intelligence service. Two, that we consolidate the laws that govern the conduct of security intelligence work and three, that we tame the animal called security intelligence. If we are doing that, all the functions of the personnel of security intelligence should be defined within the ambit of the law as created by this Bill. When you start creating possibilities of external additions to their functions and power; when you start creating the possibility of the proliferation of alternative intelligence mechanisms, you are smuggling us back to the dark ages that we are trying to run away from.

Clause 5(1)(f), which is on page 391 of the Bill, says as follows:-

"The Director-General may make recommendations to the President in connection with---  
---perform such other duties and functions as may from time to time be determined by the President to be in the national interests."

Mr. Deputy Speaker, Sir, we are trying to set out the parameters of the functions that are in the national interests of a security intelligence nature. It is dangerous in the same vein in which we are doing that to say that the President may decide all of a sudden something he, or she, considers to be in the national security interests, and assign the security intelligence personnel to execute that function as part of their legitimate duties. We are trying to contain these people, and we should do so by denying even the president the authority to use them to abuse the rights of this country's citizens. However much we may start circumscribing that provision by providing that such functions may not include this or that, there is no justification for again saying that the President can define new functions and call them national interest security functions, and then make them legitimate duties of security intelligence personnel. The amorphous functions of the Special Branch, which has acquired the notoriety of its own in the history of this country, derived from the orders given by the late President Jomo Kenyatta. He created a body to which we would add duties and responsibilities. We are trying to tame that monster, and in doing so, we should not allow the President the discretion to again decide what duties to assign to the security intelligence officers.

Mr. Deputy Speaker, Sir, hon. Members used to be called "male chauvinist pigs". They cannot comprehend the possibility of a woman President. I see it as a distinct possibility, and I hope it will come very soon. While we are saying that we are now consolidating security intelligence services under one organ of Government, Clause 5(2)(a) of the Bill, which is at the bottom of page 391, says as follows:-

"The provision of Section 1 shall not be construed as depriving or derogating from any power, duty or function, conferred upon or entrusted to any person or authority other than the service by or under any other written law---"

Clause 5(2)(c) says:-

"Depriving or derogating from any duty or functions of anybody, or committee instituted by the President."

What is being said is that although we are creating a security intelligence body which is separate from the Police Force, which is supposed to have a monopoly over security intelligence work with rules governing its operations, this does not stop other legitimately established security intelligence mechanism from going on, or a person, or group established by the President to do security work, from doing that work. This means that we are living in a country where one of the threats to the dignity, honour and standing of the Special Branch is the amorphous creation of political intelligence mechanism. These are persons who carry security intelligence officers' passes but who are basically eavesdroppers on gossip that comes out of politicians.

Mr. Deputy Speaker, Sir, we are now trying to create a professional body to carry out this work, and yet we are saying that this does not stop the President from creating other security intelligence mechanisms. Why should there be the provision contained in subclause (2)(c)? Why should the President still have the power to create other mechanisms and assign to them security intelligence work when they are outside the regulation of the Act we are creating, and when Parliament has not established any parameters under which they will not breach the laws of the land and the citizens' rights? It becomes laughable that in one hand, we are doing what is necessary - the process of regularising the conduct of the security intelligence personnel and the Minister concerned in the Office of the President. On the other hand, we are saying that this does not remove the President's discretion to assign such services to another person. We have no law with which to control the behaviour of that other mechanism that may be granted intelligence duties by the President. This is a dangerous weakness that exists in the law we are trying to create.

Mr. Deputy Speaker, Sir, I hope that when the Minister comes to reply to the debate on this Bill, he will consider seriously the possibility of excluding these exceptions, which have been followed more seriously than the law itself. The governance crisis in this country is that all laws with a chain of exceptions have witnessed the exceptions being utilised much more than the provisions of the laws themselves. This subclause is negative to the spirit of professionalising security intelligence work and curbing its excesses and abuse.

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

**Dr. Kituyi:** The hon. Member may inform me, Mr. Deputy Speaker, Sir.

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, to add to what hon. Kituyi is talking about, already in the existing security arrangements, there exist other bodies which are not answerable to the Commissioner of Police or the Director of Security Intelligence. The people who went to hon. Nyanya's house do not report to the Commissioner of Police or the head of the special branch. There is a third parallel body that exist---

**Mr. Deputy Speaker:** Order, hon. Gatabaki! Are you stating that as a point of fact, or of conjecture?

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, to support what hon. Kituyi is talking about, the President has already created---

**Mr. Deputy Speaker:** Order! Order! Hon. Gatabaki, you are personally held responsible for the accuracy

of the information you give in this House. Now, you are giving us information which, if we require you to prove, you cannot do so. So, it is not information that hon. Kituyi can use for the purpose of this debate.

**Dr. Kituyi:** Thank you, hon. Gatabaki, for your information.

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, I want the Government to realise how horrible it is---

**Mr. Deputy Speaker:** Order! Order! Hon. Gatabaki, you may have been arrested very many times, but that does not give you the right to argue with the Chair. Proceed, hon. Kituyi!

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, of course you know that hon. Gatabaki might have a point. Those people cannot be the same ones who went for him and hon. Nyanja, because only five of them went to his place while 50 went to hon. Nyanja's place. But the spirit of the hon. Member is right.

I wish to finish with the specifics that I have been dealing with. According to the provisions of Clause 8(2)(c) on page 395 of the Bill, organised crime has two components. One, it is an international phenomenon, an example of which is drug peddling, money laundering and sanitization of dirty money like is being done in Malindi and Lamu. But some organised crimes can be domesticated. I do not understand why the responsibilities of dealing with organised crime are assigned to the external division of the security intelligence only, and not the internal intelligence department. The Bill seeks to separate the Department of Internal Security, and the creation of another one for foreign intelligence and counter-intelligence.

The responsibility of dealing with organised crime is only defined under the assignment of the section dealing with external intelligence. That is why we are saying that all organised crime is an external phenomenon. But from the way things have been developing in this country lately, one is not totally sure that the only threat to our national interest on the basis of organised crime is originating externally to this country.

Mr. Deputy Speaker, Sir, my last remark about specifics is on Clause 9. Clause 9 reads as follows:

"There shall be such officers and other staff of the service as the Director-General deems necessary for the proper and efficient discharge of the functions of the service."

I think this, together with what was raised earlier by hon. Maore, are some of the grey areas about excessive powers being given to the Director-General. But some of the risks we run some time is that when we have a particular individual who does a job well, we are too trusting and free his hands not knowing that when he leaves office, there might be a much worse person. I know that we can be confounded by the fact that currently, the head of Security Intelligence is a very respectable person and seems to know his job, and wants the power to be able to do a good job. But if we create excessive powers on the basis of the good intentions we can read in the current occupant of the office, we run the risk that another "monster" can take that office and abuse the excessive powers that you are creating into the office. I do not think it is fair, seeing how human frailty has led to lopsided-ethnic based, political based, recruitment of personnel in security services in this country that we should give such a wide range of discretion to the Director-General, not just in which position to fill, but in how many people he may hire.

Constantly, he might be going to the President---Now that the President will decide how much to pay him, he can make very good personal relationships with the President and get a "bomb", like the Governor of the Central Bank. This law is saying that the President will freely choose how much to pay the Director-General, unless you want to change it, it says that expressly. I would be glad if that will be amended to harmonise with the provisions in other disciplined forces and other civil servants. Similarly, it would not be fair to allow the Director-General a free hand on the size of staff that he will hire.

Mr. Deputy Speaker, Sir, now I want to go to a more global view of this Bill. There is something very positive about institutionalizing practices. There is no country that can continue without a professional security intelligence apparatus. But the practice of Special Branch in this country has not in any way suggested to us that this country is, by acts of Government or practice of officers in the process, of professionalising security intelligence. It is a matter we have been raising here many times. We know that we are coming from the "dark ages", when just the fact of saying that the President is bad will make people run away from you in a pub, and certainly, a lot of people will make a fortune by going to report to hon. Kamotho or any other person that they heard you saying that the President is bad. Then it became natural that the persons who were suspected not to be particularly famous "Nyayo followers" or whom by the barometer created by the likes of hon. Nassir could be seen as not very positive by the "Nyayometer" measurements, either to one extreme they will be burned in effigy form like they did to Ngumba, Koigi Wa Wamwere and the American Ambassador and others *ad nauseam* or else they just meet rough-tactic boys, toughen them up, beat them up sometimes, hire street urchins to throw human waste at their cars or at their faces. Then, naturally, it became very lucrative for members of the Special Branch to hang around suspicious persons, in drinking places, to listen to what they might say about the Government.

That is the only way I can understand the history of how the Special Branch became "a recruiting ground for persons working at Parliament". But now we are in the multi-party era, at least, some of us say our things on top of the table, clearly during the day, on the microphone and in the HANSARD. If we have reservations about

the conduct of public officers, we are putting it on record. But it is still nagging; one, why does Parliament continue employing people who have been Special Branch officers to come and work in the Sergeant-At-Arms' Department? Two, why are special branch officers posted to Parliament? They wake up in the morning, have breakfast and leave their houses, buy newspapers and come and sit in Parliament and think they are working?

They greet us, smile at us and have tea with us. When we go home, they also go home and draw a salary at the end of the month. What work are they doing? The Security Intelligence Service of this country should concern itself with factors like: What are the possible repercussions of the Shangilla invasion on the Gabbra that happened one short year ago? What are the possible repercussions of the massacre of Bagalla in international relations, particularly the relationships between Kenya and Ethiopia, and the Oromo Liberation Front (OLF). What are the possible security concerns for Kenya with the proliferation of arms from Southern Sudan and the continued hosting of Sudanese Peoples Liberation Army (SPLA) with large arms in Turkana, Kibish? For example, the SPLA persons masquerading as refugees have been raiding Turkana *manyattas* in Northern Turkana. In the past one month alone, General Bol, the founder of SPLA and General Garang who are trying to come back together but they are not trusting of each other had a friction which ended up in a very strange phenomenon. Two leaders of a guerilla group from a neighbouring country drawing guns in a Kenyan police station were seen recently. The supporters of General Garang, in the precincts of Muthangari police station, drew guns to shoot at another politician from Sudan inside a Kenyan police station.

**The Minister of State, Office of the President** (Maj. Madoka): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that guns were drawn at the police station?

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I want to believe that hon. Maj. Madoka should be in a position to know about the following. First, that there have been doubts cast about the conduct of the Kenyan Government because it is the Kenyan Government officers who returned General Bol from the airport when he was leaving the country. Secondly, why was it in the interest of Kenya, to take a Sudanese who is trying to go to Sudan back to Kenya the same day he was attacked by bodyguards of another Sudanese guerilla? Thirdly, it is well known and documented that guns were drawn at Muthangari police station. If the hon. Minister has not been informed by his own personnel, he should try to check with the police officers at Muthangari police station. Be that as it may, two weeks later, in day time, supporters of Dr. Rieck Machar and those of General Garang started to fight at Mountain View petrol station along Waiyaki Way by shooting in the air. Is this a terrorist country? Is this a jungle country where persons who may have had differences because of the geo-politics of Sudan can settle them in our own territory or capital?

Why is the Government not able to regulate the conduct of Sudanese refugees in Kenya? Why are supporters of both Dr. Rieck Machar and General Garang being allowed to continue owning houses in the Mountain View estate of Nairobi? You come here and hear about criminals doing things, and the Government comes and says it will try to do something about it. Hon. Munyasia was raising here a question the other day; about two notorious Koreans whose passports have been taken away and are here because of the arm-twisting they do and the contacts they have in the Government. Yet, a Minister of the Government said that they will lock them up. I know that the two Koreans who are being mentioned live in house No. 214 in the Mountain View estate and up to now they are still there. But, the Minister of the Government has not found it possible to find out where house number 214 is in Mountain View estate and why these people are still there.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member is definitely misleading this House because I undertook in this House to look into that matter. I did look into that matter and I discovered that there was vendetta between one of the officials of the Korean embassy and those two people. There were no extradition papers from the Korean Government that would enable me or any Minister in this Government to extradite the Koreans. After verifying that fact, I was going to make a statement---

**Hon. Member:** Is that a point of order!

**Mr. Deputy Speaker:** Hon. Sunkuli, you should not engage in a debate while on a point of order. Proceed, Dr. Kituyi.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, the hon. Assistant Minister is finding an excuse to justify that he has not come back to this House to explain on a matter he had promised the House. I will not allow you that---

**Mr. Deputy Speaker:** You should remember that he has to come tomorrow.

**Dr. Kituyi:** He might have to. He might fall sick. You never know.

(Laughter)

If we are developing a culture of transparent management of our affairs, we have some important lessons to draw

from the Mwau Commission of Inquiry. We are saying that "there shall be established a Commission to which a matter will be referred if the Director-General of Security Intelligence is not competent in the execution of his duties." You see, the problem we have with that is that, when they want you to go, they hurriedly create that Commission, and instead of checking what you have been doing, they assess you as if you are applying for a job.

Mr. Mwau was not assessed on how he was doing his job but on whether he was competent to perform the job. It would be very good to do that but then, why do you not establish a pre-employment vetting mechanism instead of a mechanism through which you pass a person whom you want to fire? If we want to have this confidence that the persons who are leading security intelligence in this country are competent, just like the Anti-Corruption Authority, it would be much better for the Government that a Parliamentary Select Committee vets a certain level of appointments including Permanent Secretaries, the Director-General of Security Intelligence and the Director of the Anti-Corruption Authority instead of waiting for them to fall out with certain politically-correct persons or persons who are enforcing their political correctness and the Government has to choose sides and humiliate them through some mechanism at the end of which, the conclusion must be that they are not competent to carry out the job. We want to establish their competence at the entry point. It is too costly for us to let a person in, mess up things for six years before we start discussing whether he is competent or not. That is a very important phenomenon.

With those remarks, I want to emphasize that while we are ready to establish the security intelligence body through an Act of Parliament, it is very unfortunate that the Government did two major mistakes. The first one is that it proceeded to construct the headquarters of security intelligence off Thika Road on a 50 - acre piece of forest land and they have already completed building by disguising the budget under the Office of the President. You should not anticipate Parliamentary approval. The Government should have come to Parliament to enact this law before appropriating money from the Exchequer for the construction of the headquarters. I hope that when the Minister comes to reply, he will apologise to the House that they appropriated money under a certain disguise in the Office of the President; acquired 50 acres of Kiambu Forest, built the headquarters of the Security Intelligence Service and anticipated that Parliament would enact this law and justify the existence of that.

With those few remarks, I beg to support.

#### EXTENSION OF TIME

**Mr. Deputy Speaker:** Hon. Members, it seems that there is still some interest in continuing to debate this Bill. This appears to be the only day that we can do so. So, under the provisions of Standing Order No.17, I am persuaded that I should extend the sitting of this afternoon to 9.00 p.m. If in fact we run out of contributors and the closure of the debate is called, we will come to an end, but for the time being, I thought I should take this opportunity to announce that we can, in fact, continue to debate this Bill until 9.00 p.m.

*(Applause)*

**Mr. M.A. Galgalo:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute on this Bill.

First and foremost, I want to thank the Minister for having moved this Bill. But having said so, there are certain short-comings which should be made clear before we approve this Bill. Why do we need security intelligence? It is defined in the objects that the security intelligence collects information which relates to or may be relevant to any external or internal threats or potential threats to the security of Kenya in any fields. We have witnessed in the last ten years or so, constant threats to the security of the people of Northern Kenya. We have lived with an un-precedented level of banditry in Northern Kenya and the North-Coast. The Security Intelligence has been there all along and the people have been subjected to immeasurable suffering. Whether the security was reporting, or it was a neglect from the past, the national security still remains a dilemma.

We vividly recall the incident of Marsabit North, where foreign forces moved into Kenya and slaughtered 19 policemen. We have been said to have a very strong military. We have a very strong Airforce. We have a very strong Police Force. It is inconceivable that our Government was not aware of the invasion from foreigners. Save for the common man, 19 police officers were slaughtered, and thousands of herds of cattle were driven away, 300 miles from the border area.

Mr. Deputy Speaker, Sir, let us be serious. We also recall the recent Bagalla incident where over 100 lives of innocent Kenyans were lost. Yet, we have all these strong forces. Unless someone tells us: "Look, that is not an integral part of this country. It is just an appendage to Kenya". There can be no reason why the people of those areas should be subjected to many years of suffering. Then, what are we talking about?

Mr. Deputy Speaker, Sir, having said that, the other shortcoming I am seeing here is the vetting. It is not very real that anybody entrusted with such responsibilities as the Director will do the job in the best interest of Kenya, or Kenyans for that matter.

Mr. Deputy Speaker, Sir, we have been around in politics and we have seen what the Special Branch can do. Let us get these things very clear. I have had an occasion when a Special Branch Officer came to me and said: "Wewe umekataa kuja na sisi? Huwezi kuchukua hiyo". They have been involved in rigging elections. They have been involved in tortures. They have brought a lot of suffering, particularly in those areas where we do not have lawyers to assist in courts. A Special Branch officer will just pick you and hold you for seven, ten or even 28 days. All that I am saying is that let us try to harmonise the laws of this country, so that they can benefit the population of this country. We have seen laws which favour one side and others are not included and yet, we are all peoples of Kenya. What we are saying is that the integrity of the Director-General--- I am not meaning the integrity of the current Director-General because he has appeared before us in one of the Committees, and we considered him to be a very competent person. But you see, we are not talking about an individual. We are talking of an institution. So, we must be very careful with the appointment of the Director-General and the Directors. I think Parliament should be given a leeway to vet some of those officers. We do not want a situation where if hon. Kajembe favours someone, he is appointed. That kind of situation will be very unfavourable.

The second issue is the element of gathering information. It is on page 390, Section 5(b). It reads: Gather the ministerial intelligence at the request of any Government Ministry, Department or agency and without delay, to evaluate and transmit as appropriate to that Ministry, Department or agency, such intelligence and any other intelligence at the disposal of the Service, and which constitutes ministerial intelligence.

Mr. Deputy Speaker, Sir, I can foresee a situation where the National Intelligence and Security Service will want to take over the responsibility of the PAC and the PIC. We have the Controller and Auditor-General who looks into the accounts of the Government Ministries. The National Intelligence and Security Service will have no moral obligations to look into the accounts of the Government Ministries. What responsibility will they have to audit Government Ministries? This is dangerous and I do not support that. Mr. Deputy Speaker, Sir, I have a lot of reservations. I see a lot of incumbrances because if an officer is highly qualified, how do you determine elevating him to a higher rank? It is a fact that there is an element of tribalism in this country. It is also noticed in the appointment of senior officers in the Government. We have not been told exactly what criteria will be used to appoint these officers. The appointment of these officers has been left to the President. The President must be advised by those people who are very close to him. We do not want to see a situation where we will have a small clique of tribal individuals heading such a big institution. This is what I see in this Bill.

So, Mr. Deputy Speaker, Sir, this country has evolved a tradition where the minority are not given or accorded equal opportunity. It took 33 years of Independence before a Permanent Secretary as appointed from Northern Kenya and yet we have competent people. So, it means that only the majority groups in this country always share Government jobs and high offices. We are still denying the minority job opportunities in this country. The minority are not happy about this. I hope the Minister will take this remark into account.

Mr. Deputy Speaker, Sir, I want to look at page 401, sub section 22(2)(b). It says:-

"Whether other investigative procedures have been tried and have failed or are unlikely to succeed, or whether the urgency of the matter is such that it would be impracticable to carry out the investigation using any other investigative procedures or that without a warrant, it is likely that information of importance with respect to the investigation would not be obtained."

This is tantamount to encroaching on the freedom of the individual. It is an abuse of individual freedom that today we are discussing about the constitutional review commission. In the North-Eastern Province of Kenya, people have suffered so much in the hands of police officers. Whether we have an independent intelligence body or otherwise, the fact that they go to a court of law for a warrant of arrest and retain you for three months is an abuse of basic human rights. If they have not obtained enough information, then they can keep you for a longer period. I mean, you have no choice and you cannot defend yourselves. This is very dangerous. I think this subsection should be completely deleted from this Bill. I am talking from personal experience. There is a lot of suffering at the hands of police officers. This issuance of warrants by the special branch intelligence, unless it concerns outsiders, should not be allowed to happen to Kenyans. Unless one is given an opportunity to get a lawyer to argue for him, they will be arresting people without taking them to court even if it is for more than three months. This subsection is very dangerous. I would like the Minister to take note of that and see how this can be corrected. To me, that is a very serious anomaly.

Mr. Deputy Speaker, Sir, we also have very strong imbalances in both the Government and private sectors. For example, four days ago, this Government decided that all the aliens should be cleared from Nairobi.

Believe it or not, a lot of our people have been arrested alongside the aliens. Of course, it is not bad to contain crimes and remove aliens from our midst, but anybody who looks like a Somali--- Out of 600 arrested, a lot of our people have been arrested despite the fact that they had national identity cards. There are a lot of imbalances, but they do not affect Odongo, Munyasia or Kariuki. We should have laws that are not discriminative. For how long shall we live in fear in this country? The other day hon. Anyang'-Nyong'o stood up in this House and said that Mr. John Simba and Mr. Ahmed must be sacked. He was not serious about Mr. Simba being sacked. Previously, Mr. Charles Ang'wenyi and Mr. Oluga were in the management of the National Bank of Kenya (NBK). But because Mr. Ahmed was the first Somali banker to hold a high post, the entire Luo forces wanted to get him out of the bank.

**An hon. Member:** Aende wapi?

**Mr. M. A. Galgalo:** Mr. Deputy Speaker, Sir, this is very unfair. Prof. Anyang'-Nyong'o said that in this House and hon. Raila said it somewhere in Kisumu District. When Mr. Oluga, Mr. Ndong' and Mr. Charles Owino Likowa were there, they were not talking about it. But when a Somali banker joined the management they wanted to get him out. This is very unfair.

**An hon. Member:** Aende wapi?

**Mr. M. A. Galgalo:** Mr. Deputy Speaker, Sir, if you look at the list of those people who borrowed money from the NBK you will find that there is no single Somali. Why are the hon. Members pushing us to the wall? I have been in this House since 1974 and not even a single person from Tana River District has been named in a scandal. Tunawashangilia ili mwendelee. Give us some peace. Wacheni tukae kama Wakenya wengine.

**Mr. Deputy Speaker:** Order, Mr. Galgalo! Continue in English!

**Mr. M. A. Galgalo:** Mr. Deputy Speaker, sir, I am not opposed to this Bill as such. But I have some proposals that I would like to make on some sections of this Bill. I am in the ruling party KANU, and I am part of the Government, but certainly, I was saddened with the information I received. I am saddened by the way the Kenya Army is carrying out the recruitment exercise. The number of people who have been recruited from my area to the Police Force for the last five years might be three or two. The same case applies to the Prisons Department.

**An hon. Member:** Because you belong to a minority tribe!

**Mr. M. A. Galgalo:** Mr. Deputy Speaker, Sir, let the Government consider the minority groups because they will not have vested interests in their work. They will perform the job better. Yesterday it was time for the Kikuyus, today it is time for the Kalenjins and tomorrow it will be time for another community. I am saying that let us distribute job opportunities fairly. We should also be given some of these opportunities. I should also have a prison officer from the area.

**An hon. Member:** Even minority tribes have a right to be employed!

**Mr. M.A. Galgalo:** Mr. Deputy Speaker, Sir, minority tribes have rights! We are talking loudly about this in a minority rights seminar, which started yesterday.

Thank you, Sir.

**Mr. Maitha:** Bw. Naibu Spika, ninakushukuru kwa kunipatia nafasi hii ili nichangie Mswada huu ambao ni muhimu sana kuhusu Idara ya Upelelezi. Vile tunavyoona katika nchi zote ulimwenguni, upelelezi wa Special Branch, au majina yoyote ambayo yanapewa idara hiyo katika nchi nyingine, ni idara ambayo inategemewa katika misingi yote ya uongozi wa kisiasa. Pia idara hii inasaidia katika mambo ya kiuchumi na kisayansi. Idara hii mara nyingi huchukuliwa kama idara inayoeneza habari zilizojificha ama inayotambua habari ambazo watu wengi hawajazijua. Idara hii ni muhimu na inaweza kuendeleza au kuivunja nchi ile ambayo inahusika.

Ukiangalia katika Mswada huu ambao umeletwa hapa, inaonekana kwamba kazi nyingi ya idara hii itakuwa kushauriana na Rais wa nchi hii. Rais yeyote wa nchi hutaka kujua habari nyingi ambazo zinaletwa na Special Branch. Idara hii ina uwezo wa kujua habari zote za nchi, ziwe za uongo au za ukweli. Maafisa wa Idara hii wanaweza kujua hatari ambayo inaweza kuikumba nchi yoyote mapema iwezekanavyo ili idara nyingine ambazo zinahusika ziweze kuchukua hatua sifaazo hiyo habari. Kwa hivyo tunaona ya kwamba idara hii ni muhimu katika nchi yoyote, kwa mfano Marekani sasa hivi. Idara hii ni muhimu katika nchi hiyo kwa sababu inaweza kupeleleza mambo ya Rais Clinton na Bi Lewisky. Idara hii imefanya kazi kubwa sana ya kufanya nchi hiyo kuwa imara.

Wananchi wa Marekani wanaona kwamba kuondoka kwa Rais Clinton kutoka urais kunawatia wasiwasi. Pia watu wengine wanaona kwamba uwongozi wa Rais Clinton hakuwafai. Kwa hivyo idara hii inawasaidia wananchi kuwa katika hali nzuri. Idara hii pia inasaidia idara zinazohusika, kwa mfano utawala au jeshi, kutekeleza kazi zao kulingana na tatizo linaloendelea katika nchi hiyo sasa hivi.

Hapa nchini mwetu, idara hii ilikuwa inatumiwa katika siasa hapo awali. Pia ilikuwa inatumiwa kueneza

fitina. Hasa ilikuwa inatumiwa na watu ambao wako karibu na Rais, au uwongozi, ili kuwatesa watu wengine. Ni idara ambayo inaweza kuamka leo na kusema kwamba mimi sifai, na kwa hivyo ni lazima nifanyiwe hivi na vile. Maafisa wa idara hii hawatafanya kazi nyingine muhimu katika nchi hii ila kunifuata mimi ili kuhakikisha kwamba mimi simfuati Bw. Ntimama wala simguzi tena Maj. Madoka. Kwa mda mrefu kazi hii ambayo Special Branch ilikuwa inafanya ilikuwa haisaidii nchi hii yetu.

Mswada huu ukipitishwa tungepende wakati Serikali itakapoianzisha idara hii, kwanza ni lazima kuwe na maofisa ambao wana maarifa mbali mbali kama vile mawakili, ambao wanaelewa sheria. Pia ni lazima wajue criminal law, constitutional law na mambo mengine mengi. Inafaa tuwe na maofisa wanaofahamu uchumi katika idara hii. Tunahitaji wanasayansi katika idara hii. Ni lazima tuwateue wataalam katika idara hii kwa sababu kuna mambo mengi katika nchi hii ambayo ni lazima wananchi waambiwe. Kwa mfano tangu juzi tunasikia kwamba dunia itaisha mwaka wa 2022, kwa sababu dunia itagongana na sayari nyingine na itapasuka. Mambo haya yamewatia wasiwasi Wakenya. Radio ya Kenya inaendele kutangaza kwamba kipindi hicho cha wanasayansi kitakuwa hewani Jumapili hii. Ni lazima tuwe na maofisa wa upelelezi katika idara hii ambao watawaeleza wanasayansi wetu wawaeleze wananchi kama mambo haya yatatokea, au kama ni porojo.

Pia ni lazima tuwe na watu ambao watatueleza kuhusu porojo zinazotoka katika nchi za Wazungu, kwa mfano UKIMWI. Tunaona kwamba watu wanakufa kutokana na ugonjwa wa UKIMWI. Lakini tukilitazama jambo hili vizuri tunaona kwamba ni porojo zilizotoka Ulaya. Pia tunaona kwamba Wazungu wana nia ya kuwapunguza Waafrika. Ni lazima tuwe na upelelezi ili mambo madogo katika nchi hii yachambuliwe. Pia ni lazima idara ya upelelezi iwe ikitupatia kila wakati mwongozo kwa kutuambia kwamba jambo hili ni la ukweli au ni la uwongo. Tumeshindwa na nchi nyingine ambazo zimefanya mengi katika ulimwengu huu kwa sababu---

**Mr. Deputy Speaker:** Order, hon. Oburu! You may obviously consult quietly, but if you engage in a long argumentative session, that will be out of order.

**Mr. Maitha:** Bw. Naibu Spika, nimesema katika ulimwengu huu sasa kuna mambo mengine ambayo yanafanyika na ni watu wa ujasusi peke yao ndio wanaweza kutusaidia kwa kutuambia ni kitu gani kizuri. Mswada wetu umeeleza wazi kwamba upelelezi ama idara hii ambayo itakuja itahusika sana na mambo yetu ya uchumi, ujenzi, viwanda, mambo ya ujasusi wa kutoka nje. Idara hii itakuwa inatueleza mambo mengi. Lakini tunaona kwamba kwa mambo haya yote, kabla ya kuandika ripoti zao, itabidi kwanza waketi na mkuu wa nchi hii ambaye ni Rais. Maofisa wa ujasusi wameshindwa kwa muda mrefu kutambua kazi yao. Kama wangetambua kazi yao kutoka mwaka wa 1963 ama kutoka ilipoundwa mpaka sasa ingekuwa imeisaidia nchi hii kufanya mambo mengi. Kwa mfano, wakati huu kule Pwani wakati watalii walipokuwa hawaji Pwani Bunge hili lilivuma sana kwamba ni vurugu ya Likoni ndio ilisababisha Wazungu wasije Pwani. Sasa ni mwaka mmoja na miezi miwili tangu vurugu ya Likoni iishe na Wazungu hawaji Pwani. Lakini tumechunguza na tukaona hii kazi ingefanywa na idara ya ujasusi. Tumechunguza kule Pwani na tumepata kwamba kule ulaya Wazungu wametishika sana na mambo ya malaria. Kwa hivyo shirika la ujasusi linatakiwa kuwa na uwezo wa kumwita Waziri wa Afya katika ofisi yake na kumwambia kwamba Wazungu wanaogopa malaria. Kwa hivyo ingefaa atoe taarifa ya kusema kwamba malaria hakuna hapa Kenya na Wazungu wanaweza kuja, wakalala na wakafanya mambo yao. Lakini unakuta ya kwamba idara ya ujasusi pengine itahusika wakati huu kumwita mtu ambaye amemtukana Mkuu wa Sheria ama mtu yeyote ambaye yuko karibu na Serikali ambaye hagusiki. Lakini mambo ya muhimu kama haya ya uchumi wa Kenya, kama vile watalii hawaji Kenya, hakuna chochote kinachoguswa.

Pia utakuta ya kwamba Wazungu wametishika sana na mambo ya succession katika Kenya. Mambo ya ni nani atakaye kuwa Rais wa Kenya Moi akiondoka yameleta utatanishi mkubwa sana katika sekta ya uchumi wetu. Mhe. Shariff Nassir alipendekeza kwamba mhe. Katana Ngala awe Makamu wa Rais. Hatukufanya hivyo kwa sababu tulikuwa tunataka majimbo. Tulifanya hivyo kwa sababu Wazungu walitaka kujua wananchi wa Kenya wanamfikiria nani kuwa Rais Moi akiondoko. Ndipo tuliposema hivyo sasa hoteli zimejaa. Hiyo nikuonyesha ya kwamba mhe. Katana Ngala alipotajwa tuu Wazungu walijua huyu akishikilia na akiwachiwa uongozi basi Wazungu watakuwa na imani na yeye na kwamba wataishi hapa bila wasi wasi. Lakini hata baada ya hoteli hizi kujaa kuanzia wiki hii Wazungu wengi wameanza kurudi kwa sababu wananchi wengi wameanza kuyataja majina mengi. Wanataka tuu kujua ni nani atachukua uongozi.

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to talk of irrelevancies which are different from what we are supposed to be debating?

**Mr. Maitha:** Bw. Naibu Spika ninaeleza umuhimu wa idara ya ujasusi katika nchi yetu. Idara ya ujasusi inatakiwa kueleza mambo yanayoweza kuendeleza uchumi. Kwa hivyo idara ya ujasusi inatakiwa ielezwe ni kwa nini---

**Mr. Munyasia:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Maitha is misleading this House. He has told this House categorically that the tourists are not coming at the Coast because of reports about malaria being prevalent at the Coast and that the intelligence service should have informed the Minister for Health to issue

that statement. Now he tells us a minute later that the hotels are full because Ngala is going to be the President of this country. Can you protect us---

*(Laughter)*

**Mr. Deputy Speaker:** Order! Of course, hon. Maitha has every right to express his opinion. He did say that both malaria and hon. Ngala's popularity were applicable.

**Mr. Maitha:** Bw. Naibu Spika, ninakushukuru sana kwa kunisaidia. Kwa hivyo utaona kwamba idara hii ya upelelezi ni idara muhimu ambayo inaweza kuendesha nchi ikawa kimya ama ikawa na misukosuko. Kama tutakuwa na watu ambao wanajuwa sheria za ardhi katika idara hii, kwa mfano hasa kule Pwani watu wameitwa waingiliaji ardhi kwa miaka 30. Bunge hili limepitisha miswada mingi kuhusu Pwani kwamba uskwota umalizike. Kume kuwa na kamati ya Bunge ya Uchunguzi Lakini unakuta kwamba kama idara ya ujasusi ingemueleza Rais kinachosumbua watu wa Pwani basi mara moja Waziri wa Ardhi angekuwa ameelezwa, wakaketi na Mkuu wa Sheria na wakaleta sheria hapa Bungeni ya kuondoa uingiliaji wa ardhi Pwani ulioletwa na Ordinance Act ya 1908 ambapo chini yake, Waafrika hawakuruhusiwa wakati ule kudai ardhi yoyote kule Pwani. Aliyekuwa anaruhusiwa kudai ardhi alikuwa ni Muhindi na Muarabu. Wakati ule ni Mazrui ambao ni maaskari wa Waarabu ndio walikuwa wakiandikisha ardhi. Waafrika kama vile Wagiriama walipelekwa kule Nyika Plateau wakakaa huko. Baadaye ndipo wamerudi huko Pwani. Mwaka 1966 kama unavyojuwa sisi Wapwani hatukuwa Wakenya mpaka 1966 kwa sababu hata Kenya ilipopata uhuru sisi tulikuwa bado tuko mwambao. Hii ni historia ambayo idara ya upelelezi ingemueleza Rais naye angemwita Waziri anayehusika na Mkuu wa Sheria na mambo yangemalizika kwa sababu angemueleza vile watu wanaumia.

Ordinance Act imeumiza watu kwa sababu ndiyo iliyoleta Title Act na mambo hayo mengine kule Pwani, hasa Mwambao. Baada ya Kenyatta kuitawala nchi hii, aliruhusu White Highlands kununuliwa na Waafrika. Lakini kule Pwani hakurusu watu kununua ardhi. Aliandika barua kwa Sultani hata baada ya Malkia kulipa ridhaa kwa Sultani kwamba sisi turudi Kenya. Na hapo Serikali ya Kenyatta ingesema wazi kwamba ardhi yote irudi kwa Wagiriama na watu wa Pwani. Hakufanya hivyo. Aliandika barua kwamba Waarabu na Wahindi waendeleo kuwa na freehold. Ndipo hata leo unaona Muhindi mmoja ana hekari 10,000 na Mwarabu ana hekari 20,000. Halafu mnalia eti watu wananyakua ardhi. Mtu akichukuwa hekari moja Pwani mnapiga kelele. Yule Mhindi na Mwarabu ana hekari 20,000 na hakuna mtu yeyote anayesema chochote. Vitu kama kuwafukuza watu katika ardhi yao ndio Idara ya Upelelezi inatakiwa kuvieleza. Mimi ninazungumza kwa uchungu kwa sababu Mawaziri wa KANU wako hapa.

Hapa Bunge Wamijikenda wana Wabunge 11 kutoka kati ya Wabunge 21 wa Mkoa wa Pwani. Hii inamaanisha wanaunda asilimia 60 ya uwezo wa kupiga kura. KANU ikija kule inawaambia Wamijikenda, wakifuatwa na Wataita, Wapokomo na Wabajuni watoe kura. Lakini baada ya kura wao husahau na kuleta matajiri kuwafukuza kutoka mashamba yao na wanapigwa na polisi. Ningetaka wale waliokuwa wakitafuta kura kutoka kwa Wagiriama wajue kuwa hamungekuwa na Serikali sasa kama hamungepata Wabunge kule Pwani waliopigwa kura na Mijikenda, Wataita na Wapokomo.

Bw. Naibu Spika, watu wale ambao walipigia KANU kura, mnaenda kuwapiga kama kule Magarini juzi. Msomali mmoja amenunua ardhi karibu ekari 300. Amefukuza familia karibu 10,000 ya Wagiriama. Hakuna mtu amepiga kelele wala kusema lolote kwa sababu yule mtu ana pesa. Sasa, mtu mmoja aliye na pesa, anasikizwa. Ikifika wakati wa kupiga kura mnatafuta watu wapige kura. Vita vinavyotokea Pwani si kwa sababu ya ukabila peke yake, bali ni unyonge wa Serikali kwamba sheria zake zingine hazieleweki. Haya ndiyo mambo Idara ya Upelelezi inatakiwa kuelimisha Serikali; imwambiye Rais, "kwa nini Wagiriama wale waliokupigia kura na viti vya KANU, sasa wanaumizwa? Lazima uwatetee". Na ni kwa nini ni Rais peke yake anasema? Kwa nini awe na Mawaziri ambao hawasemi kwamba mtu fulani alifanya hivi?

Bw. Naibu Spika, kuhusu mambo ya uchumi, kwa nini Halmashauri ya Bandari inaongozwa na watu wengine isipokuwa watu wa Pwani? Kwa nini Idara ya Upelelezi hawasemi? Watu wa Pwani na wao waunde kampuni ambayo wataruhusiwa kupata vifaa vinavyouzwa na Serikali? Kwa nini sasa kuwe na kampuni ambayo imetoka hapa bara na watu wote na Wakurugenzi ni watu wakutoka bara na wananunua bandari ambayo iko Kilindini na Idara ya Upelelezi haijui. Hata kama tunataka "nationalism", jana tumepiga kura hapa tukasema "pastoralists" wawakilishwe katika Tume ya kubadirisha katiba. Tulipiga kura kwa sababu wao ni wengi, Moi akiwa ndani. Tukawahurumia tukawapa hizo kura zao. Na ikiwa Kilindini inauzwa pale, na sisi watu wa Pwani tuko kule na hamtuambii chochote, Idara ya Upelelezi haisemi cho chote, mnafikiri sisi tutapiga kura kwa KANU au kwa Chama chochote mpaka mwaka 2000?

Mambo kama haya tatatufanya sisi watu wa Pwani tujitenge na kuunda nchi yetu kama Eritrea. Tuko tayari kufanya hivyo kwa sababu mambo ya uonevu kama haya, ndiyo imefanya mpaka nchi zingine zijisikie

kwamba hazijatambuliwa. Na ni jukumu la Idara ya Upelelezi kusema kwamba jambo hili linaweza kukasirisha watu au jamii fulani. Mambo haya yanaweza kukasirisha jamii fulani.

Bw. Naibu Spika, ni jukumu la Idara ya Upelelezi kuona kwamba matatizo yote ambayo yanaweza kuiweka nchi hii pamoja, yametekelezwa, kama vile mashamba, uchumi---

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member, who seems to understand very well about the Intelligence Bill to threaten that he may secede, that the Coast may secede. Is that in order? I am not taking this lightly, because hon. Maitha is known to organise clashes at the Coast!

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order, hon. Ruto!

**Mr. Maitha:** Mr. Deputy Speaker, Sir, the hon. Member knows very well that I have not organised clashes at the Coast. Wacha nimjibu vizuri, mimi nataka ndugu zangu waelewe kwamba ni Idara za Upelelezi za nchi zote ndizo zinaweza kuleta nchi pamoja. Ethiopia iligawanywa na Eritrea kwa sababu ya mambo kama haya. Watu walichocheana. Somalia imeharibika kwa sababu Idara ya Upelelezi "ilikufa". Kila mmoja alikuwa ameleta fitina ya ukabila akisema, "huyu ni Mgiriama, huyu ni nini" na hawakuwekwa mahali pamoja ndio nchi ikaharibika.

Kwa hivyo, ninasema---

**The Minister for Education** (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir. My good friend Mr. Maitha took an oath in this House that he will defend the Constitution of this land as by law established. Is it in order for him to evade answering the hon. Member who stood on a point of order really, because he has made a very serious allegation? He was talking about "secessionism" that "jimbo la Pwani litajitenga". Is he aware that this is really un-Constitutional?

**Mr. Deputy Speaker:** Order! Order! In fact, it was my fault; I should have intervened because what hon. Maitha said was clearly out of order and un-Constitutional! There is no opinion about what the Constitution says--- Order, hon. Members! Let us not make a mountain out of a mole hill. He did say, that "watu wa Pwani watajitenga". That means "secessionism" in English. I do not know what it says in Kikuyu! But it means "taking away a part of a country called Kenya".

*(Laughter)*

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. Is the Chair in order to state that he does not know how to say "secessionism" in Kikuyu while looking at me?

**Mr. Deputy Speaker:** Order! Order, hon. Munyasia! Continue, but hon. Maitha, you are out of order!

**Mr. Maitha:** Mr. Deputy Speaker, Sir, I apologise if I was out of order, but I thought I said that the pain of the coastals, if you are a squatter for 35 years and you have---

**Mr. Deputy Speaker:** Order! Order! Do not explain, if you have apologised!

**Mr. Maitha:** Bw. Naibu Spika, ingawaje nimeomba msamaha, Serikali kupitia kwa Idara ya Upelelezi ni lazima ichukue matatizo ya wananchi wa Kenya hii, na kuzijulisha Idara zinazohusika kwa njia ambayo watasaidiwa. Si vizuri kwa watu wa Pwani kuishi kama maskwota kwa miaka 35 kwa sababu ya sheria ambayo inaweza kuletwa Bungeni na kurekebisha, na watu wakawa wananchi bila wasiwasi. Ni watu wa Pwani tu peke yao ambao wanaitwa "maskwota" na ni wao pia kila wakati wanadhulumiwa na kufukuzwa katika ardhi yao. Ni kwa watu wa Pwani Serikali imeshindwa kutatua tatizo la maskwota. Kwa nini kuwe hivyo?

Idara ya Upelelezi lazima iwe na watu wenye ujuzi wa kueleza Serikali kwamba sheria zinazowafanya watu wa Pwani kuwa maskwota ni lazima zirekebishwe, na hiyo ni rahisi. Hata kama kuna Wabunge ambao wanawakilisha, lakini Idara ya Upelelezi pia inaketi na Rais kila siku na kuona pahali gani watu wamekasirishwa na mambo madogo madogo.

Kila asubuhi, Mkurugenzi Mkuu wa ujasusi huwa na habari za Kenya nzima. Anajua ni watu gani wamekasirika, ni watu gani wana raha na ni watu gani wanapanga njama gani, hizi habari zote anazo, na ndio ninasema, niko na wasiwasi ya kwamba ikiwa hatuponi sasa sisi watu wa Pwani, hakuna mtu atakayetuponyesha.

Bw. Naibu Spika, pia ninalalamika vikali sana kwamba Idara hii ndiyo inaweza kutuponyesha kwa sababu Mswada huu unakuja na unatakiwa utatizwe na ninaunga mkono. Ninafuraha ya kwamba ikiwa wale watakoachaguliwa katika Idara hii, watakuwa na elimu ya kutosha kuchambua mambo ambayo yanaweza kusaidia nchi hii, kama wale wanaoibia mabenki. Ni juu ya Idara ya Upelelezi kumwita Waziri wa Fedha, kumwambia kwamba wamegundua na kupata watu fulani hawajalipa madeni. Badala ya kutoa kwenye magazeti sisi tusome,

mambo kama hayo yanazungumzwa kiofisi na yananyamazika.

Si aibu mtu kutolipa deni la benki. Tunaona ajabu watu wanaripotiwa kwa magazeti eti hawajalipa deni. Hicho ni kitu kidogo ambacho kinaweza kufanywa kiofisi kuisha. Mambo mengine yanatia aibu na yanafanya Serikali hii kuwa katika aibu kwa sababu kitu kidogo kinachoripotiwa kwa magazeti kinatuharibia sifa katika nchi za nje. Kama madeni yaliyoripotiwa kwenye magazeti juzi, yametuharibia sana kwa nchi za nje; Wazungu wanaona sisi tuko na pesa na tunakula sisi wenyewe. Wao wako na madeni katika benki ambayo wamekopa na hawajayalipa na si aibu. Lakini sisi tumejiaibisha wenyewe, na haya yote ni kwa sababu ya kutokuwa na Idara kama hizo ambazo zinaweza kutupa mawaidha vizuri ili Mkuu wa Sheria aifanye kazi yake vizuri, pamoja na mawaziri na hata Rais ajisikie kwamba yuko nchi ambayo ina amani, usalama na mambo yote yanatekelezwa sawasawa.

Bw. Naibu Spika, mbali na hayo, kumekuwa na mambo ya kuwatesa wananchi. Hivi sasa, wananchi wanafikiria kwamba sheria ikipitishwa, watarudi kupigwa na kuteswa kule Nyati House. Mambo kama haya sasa lazima tuwe na ustaarabu. Na kwa vile ambavyo tunaendelea katika Mswada wa Katiba, ni lazima Special Branch watusaidie. Sisi watu wa Pwani ambao tunataka kuzungumzia Katiba, tuweke mambo yetu ya ardhi na kila kitu. Tunataka Special Branch waeleze Rais kwamba hawa wametaka mambo haya. Hata kama kuna wengine kama vile, Mashirika Yasiyokuwa ya Serikali (NGOs) ambayo yamejificha na kuja kule Pwani ili kujaribu kuwavuruga watu ili waseme mambo ambayo wanayataka. Sisi watu wa Pwani tutasema mambo yale ambayo tunayataka na kwengineko watasema yale wanayotaka. Yafaa Special Branch wamweeleze Rais, idara inayohusika, au Mkuu wa Sheria kwamba wananchi wenyewe wanataka mambo haya. Pia wakati karatasi zinaletwa, ziwe za ukweli kuhusu mambo yaliyozungumzwa katika wilaya mbali mbali, ambayo ni yale watu wanataka katika Katiba. Idara ya Special Branch iko na kazi kubwa. Sio kusema kwamba Bw. Maitha amesema hivi, huko Pwani na ni mambaya. Hapana! Chukueni maoni yangu na kuyajadili hapa. Yakipatikana ni mabaya, yakataliwe, lakini sio kunifungia katika seli kwa sababu nimesema kwamba Serikali ya fulani ilikuwa mbaya. Zingine zimetuumiza kweli, watu wameuliwa katika Kenya hii na hakuna uchunguzi uliofanywa.

Watu wameuawa na tunajua. Bw. Ngala, aliuliwa na watu wengi wameuliwa na hakuna uchunguzi ambao umetanjwa. Lakini tunaona kwamba lazima watu wafuatwe kwa makosa madogo. Mambo kama haya yanakasirisha watu. Na Special Branch lazima impatie mawaidha Rais kila wakati, kwamba mambo mengine yanaudhi na kukasirisha watu.

Kwa hayo machache, ninaunga mkono, Bw. Naibu Spika.

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. This Bill is long overdue. It should have come to this House a long time ago because for a long time, the functions of intelligence and police have always been different and in most cases, there has been conflict of interests particularly in the districts. This is one of the most important Bills that has been brought to this House and I am sure it will go through this time.

Mr. Deputy Speaker, Sir, of late, we have realised that some of the intelligence officials have sometimes been used badly, by either businessmen or politicians to harass others. There are cases where you get that somebody has got a debt or he owes somebody something and he decides to use some of the junior officers to harass that particular person so that they can be paid. These are the things that Special Branch or intelligence officers should not be involved in. We have seen cases where rich tycoons, particularly in Kenya, have put some of these officers almost on their own payroll and they just go round harassing everybody, particularly in the rural areas. Instead of doing their jobs, they are answerable to certain individuals. If they can be committed to their work, the way they are supposed to be, this department will help this country.

Mr. Deputy Speaker, Sir, Kenya is known to be an agricultural country. Today, the country is collapsing economically because of too much importation of sugar and maize. If the Special Branch had advised the Government against the importation of sugar and maize and other agricultural goods early enough, maybe our agricultural sector could not have collapsed. This is because right now, a bag of maize in Kitale is costing Kshs350 and yet the cost of producing one bag is almost Kshs1,000. So, by next year, majority of the people who usually grow maize will not be able to produce any maize. It is the same thing with sugar. So, if the Intelligence people are supposed to advise the Government on how it should run its activities and what should be done to make Kenyans happy, they should be advising the officers concerned. The Government should also be able to listen, particularly, the Ministers. They should listen and advise accordingly because if we continue like this, we are going to collapse one of these fine days.

We have had clashes all over for the last two to three years. Kenyans believe that if the intelligence had advised correctly, since they are all over the country; in the locations, sub-locations and even in the district, the clashes could not have occurred. This is one of the mistakes that has brought our country down. It has shown that our intelligence system is either not active enough, or they have neglected their duties. That is why some of these

things erupt every now and then. Otherwise, this is a very important department and if they were doing their job correctly and if we politicians were really listening to their advice, most of these things should not be happening today.

Mr. Deputy Speaker, Sir, we have always talked about corruption all over. We on the Government side have always been under attack by Members of the Opposition, accusing us of being the most corrupt Government than any other. It is now coming to our notice that even some of the Members who have been talking very loudly are the ones who have been very active---

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister in the Office of the President to deny that this Government is the most corrupt and yet yesterday we read in the papers that in his own office, there was a scandal of Kshs300 million?

**The Assistant Minister, Office of the President (Mr. Gumo):** Mr. Deputy Speaker, Sir, anything that comes in the papers in some cases has no proof. There are investigations being carried out about the matter which the hon. Member is alluding to and if there will be any proof, then the people who are concerned will be convicted.

**Mr. Deputy Speaker:** In any event, that could not have been fraud, so those people are not corrupt, they are thieves.

**The Assistant Minister, Office of the President (Mr. Gumo):** Thank you, Mr. Deputy Speaker, Sir. It looks as if corruption has become so deeply rooted to the extent that, if we do not cleanse ourselves, including the Opposition side, then we do not know which direction we are taking. This is because we know very well that one of our Members here, particularly in the Opposition, has been advocating against corruption. In yesterday's and today's newspapers, we read about him being the most corrupt than even all of us.

**An hon. Member:** Who is that?

**An hon. Member:** Mr. Muite!

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. General Gumo to discuss an hon. Member without moving a substantive Motion? He has said clearly that it is a Member of this house.

**Hon. Members:** He has not named the hon. Member!

**Mr. Ndicho:** He has said clearly, he is an hon. Member of this House!

**Mr. Deputy Speaker:** Order! He must name an hon. Member in order to infringe our standing orders. So, if he is just talking about an hon. Member---

**The Assistant Minister, Office of the President (Mr. Gumo):** Thank you Mr. Deputy Speaker, Sir. It is very clear that this hon. Member has been one of the hon. Members who have been on the fore-front, advocating against corruption. In my mind, I never ever thought that a person like this one would be corrupt at all. It is unfortunate, because it is only the other day when he, with other Opposition MPs were in my constituency, at Karura Forest, attacking everybody and this Government, yet yesterday he was the one on the defence. I wish he was here, maybe he could have told us. Because if it was somebody else, this particular hon. Member would have come here demanding a Government Statement. But this time, it is his turn.

**Mr. Munyasia:** On a point of order, Mr. Deputy Speaker, Sir. Many of us on this side of the House are Opposition Members of Parliament. Hon. Gumo is talking about an hon. Member from the Opposition who is corrupt. All of us on this side of the House are now looking at one another and wondering who is who. Would it not be in order to ask Mr. Gumo to be a little bit more specific, so that those of us who are clean, can be exonerated?

**The Assistant Minister, Office of the President (Mr. Gumo):** Mr. Deputy Speaker, Sir, the hon. Member was mentioned yesterday on KTN television and even in today's newspapers. It is very clear, and I am sure---

**Mr. Raila:** On a point of order, Mr. Deputy Speaker, Sir. I am sure the hon. Member knows very well that the Standing Orders say, newspapers cannot be quoted as an authority in this House. I think, the hon. Member has gone a little bit too far, referring to an hon. Member's name constantly, appearing on KTN television and the newspapers. Could he be asked to name that hon. Member?

**The Assistant Minister, Office of the President (Mr. Gumo):** Mr. Deputy Speaker, Sir, I am sure every hon. Member knows him, and I do not need to mention his name because he has been mentioned on KTN television and his name appeared in the newspapers. Even the amount of money in question is "big enough" to attract anybody!

*(Laughter)*

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. Is it not right that you guide the House, because it is against the Standing Orders to name an hon. Member here, unless it is by a Substantive Motion? It is not right to say either hon. So-and-So, hon. Muite or any other person. It is not right.

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order! Of course our Standing Orders forbid us from making references to fellow hon. Members in a derogatory manner or casting aspersions on their character, without moving a Substantive Motion. But when hon. Members leave others in no doubt as to who they are referring to, then, really they have done all that it takes to name an hon. Member. So, hon. Gumo, if you do not wish to name the hon. Member who you referred to, then stop talking in parables.

**Mr. Raila:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Sunkuli has just made reference to Mr. Muite, and I am not sure that, this is the hon. Member, Mr. Gumo was referring to. But hon. Muite has actually issued a statement today, in which he has denied ever having any kind of association with Mr. Kamlesh Pattni. Is it now in order for the hon. Member to continue talking about hon. Muite without bringing a Substantive Motion?

**Mr. Deputy Speaker:** Order! If it is hon. Muite that was being referred to, then let us be fair. I do not see anything corrupt in receiving Kshs20 million from somebody who has it and wishes to give it to you or giving it to a person who can render him professional services. We have no details as to how this business ever came into being. So, let us stop it there. Let us concentrate on discussing the Bill.

**Mr. Munyasia:** On a point of order, Mr. Deputy Speaker, Sir. Since July, 1993, Mr. Muite was quiet about Kamlesh Pattni until only recently.

**Mr. Deputy Speaker:** Order! Order, hon. Munyasia! I will not allow you to discuss another hon. Member, so, will you withdraw those remarks about hon. Muite?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I did not make any remark, I only made an observation, that since July 1993, when he is said to have received the money---

**Mr. Deputy Speaker:** Order, hon. Munyasia! Do not make it any worse than it already is. We are discussing the National Intelligence and Security Service Bill, and I have already made a ruling that if you do not wish to name the hon. Member you are referring to in respect of this Bill or corruption, do not talk in parables, but you have now gone a step further. I am saying, I will not allow you or any other hon. Member to discuss another hon. Member in those terms. Never!

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I had only picked it from hon. Sunkuli and hon. Raila, but I do not wish to pursue that matter.

**Mr. Deputy Speaker:** So?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, the observation remains true, but for now, let us leave it at that.

**Mr. Deputy Speaker:** Order! Order! This is not a laughing matter. You are referring to an hon. Member like yourself. So, you put yourself in his shoes. It is not very pleasant. So, I wish you to withdraw.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I withdraw the observation for now.

**Mr. Deputy Speaker:** Thank you very much. No more points of order. Proceed hon. Gumo!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I was referring to the same hon. Member, because, these are some of the issues this National Intelligence and Security Service Bill is concerned with. If the intelligence service was doing its job very well, a person like this one should have been taken to court long time ago. Why I refer to this particular hon. Member, is because he has been persistent---

**Mr. Deputy Speaker:** Order, hon. Gumo! Let me now tell you, hopefully for the last time, that you will not refer to an hon. Member who you cannot name. If you want to refer to that hon. Member, name him and then proceed.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, since you and other hon. Members are insisting that I must name him, I am prepared to name him. The hon. Member is hon. Muite. He was referred to as having received Kshs20 million from Mr. Kamlesh Pattni.

*(Applause)*

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. I have documents here which are a

chronology of events and even the agreement of the loan. That was somebody who owes this Company called "Multiphasic Export Company", Mr. J.N. Mburu. In the whole of this documentation, the hon. Muite was bailing this character from problems and this money never went to hon. Muite.

**Mr. Deputy Speaker:** Order! Order, hon. Members. We are not discussing hon. Muite. Hon. Members must be extremely careful, and avoid picking up stories from newspapers and using them as factual information. Your Standing Orders forbid you from doing that. You cannot come into this Chamber and say you have read this or that in the newspapers and believe it be the gospel truth. The Chair will not accept references to newspapers as authority for statements being made here, and that is the ruling. So, hon. Gumo, you proceed with no reference to that newspaper report.

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you, Mr. Deputy Speaker, Sir. Well, although you have ruled, but---

**Hon. Members:** Wachana na hiyo.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, since you are the boss---

*(Laughter)*

We shall continue from there. But the intelligence service is supposed to protect this country from all evil activities. It has been the habit of people whom we know not to be very clean to talk as if they are angels. This is why this country has been ruined because people keep on murmuring, casting aspersions on the character of others, yet, he himself maybe worse than everybody else. If we want to make this country prosper, the intelligence service of this country must be alert and they must come forward and try to clean whatever evils that are there, because they are supposed to be the back-bone of this country. It has happened many times that even if you talk about people, we have seen cases where maize or sugar has been imported into this country, tax is waived and after three days, the ship dicks. So, you wonder whether this ship took two days to move from India, Europe or America to Mombasa. Because of this, our farmers have been left in a very awkward position and even the sugar factories right now are almost closing. That is why we feel that this particular Bill should be passed and make the intelligence service be on its own, so that they do not have excuses. In most cases, they have said that they reported and the police did not take action. I think they should also be given some powers that if the police do not take action, they should be able to arrest, because any Government that cannot bite is not a Government. I have heard so many Members of this House talking of the President, the Government, but if you have a Government which is not powerful, nothing will function at all. So, we need to invest a bit of powers in the Commissioner-General so that he can have powers to arrest and if possible, even to charge in court. If we do not do that, he will be just as useless as he is today. You know, Africans are always very hardened and if they are not squeezed a bit, things will go wrong. You must remember that before the IPPG---

**Mr. I. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Assistant Minister is becoming racist. He is referring to the Africans as hard and they have to be "squeezed". He seems to be justifying the excesses of the current intelligence system. What does he mean by "squeezing" Africans? Can he elaborate?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, we have seen cases where even chiefs have stolen and are kept in the remand for even one year and if they are not "squeezed", they will never admit their crimes.

**Mr. Deputy Speaker:** Order! Order, hon. Gumo. The point the Member is making is that, are you advocating torture as a means of extracting information?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I am not advocating torture. There are so many ways of "squeezing". It could be interrogation---

*(Laughter)*

Mr. Deputy Speaker, Sir, I think you will bear with me. We have people whom you can get committing a certain crime and they will never agree unless you use other means. There is no way they will accept.

**Mr. Shaaban:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member, as an Assistant Minister in this Government, to advocate for Kenyans of African origin to be tortured? We are worried! He is saying that Africans should be "squeezed" or should be tortured. Is he in order?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I never mentioned torture anywhere. When I say "squeezing", you can "squeeze" in a different way without torturing.

**An hon. Member:** Point of order!

**Mr. Deputy Speaker:** Order! Hon. Raila.

**Mr. Raila:** Thank you, Mr. Deputy Speaker, Sir. I am very happy to make some remarks about this Bill. I hope I am going to support it at the end of my contribution. I do not intend to be very long. But I think this is a very important Bill because intelligence is a very important institution in a country. The reason why we are doing this so belatedly has something to do with the way our entire security system has evolved since independence.

Mr. Deputy Speaker, Sir, we inherited a Police Force that had been recruited and trained by the colonial authorities to serve their own purposes. The colonial Police Force was not really meant to provide security to the people. It was a Police Force that was meant to be used for oppression of the natives. So, it was supposed to advance the interests of the colonial power which was using this country as a cheap source of their raw materials and as a market for their manufactured products. Therefore, that Police Force was anti-people and that thinking has not changed. The thinking that you have to load it over the people has not changed, that the police are bosses, not the servants of the people, and therein lies the problem. For instance, if you are in London and you lose your direction, the next thing you do is to go to a Bobby Police and you ask for direction and the police will tell you go straight, turn left, right and then straight and you reach your destination.

Mr. Deputy Speaker, Sir, in Nairobi, if you lose direction and go to a policeman for assistance, the first thing that you will be asked is: "Wapi kitambulisho". The second thing is that, you will find yourself in a police cell. The third thing is that you will be charged in a court with vagrancy. So, I am saying this as a prelude to what I want to say because the Attorney-General has said it clearly that since 1970, the security intelligence activities have been carried out by the Directorate of Security Intelligence which was established by a Presidential Charter on 17th April, 1970 and reviewed in 1979. So, now, the intelligence service itself is an offspring on that police force and it has operated without any kind of sense of direction and without any properly defined powers and structures and that is why we have had these problems.

Mr. Deputy Speaker, Sir, first, the countries which have succeeded properly are those that have come up with clearly defined structures of responsibilities of an intelligence service. First, intelligence basically presupposes that, this institution has the capacity to acquire better intelligence information than any other institution in the country. It therefore means, that you must recruit into that force, people who are themselves intelligent and not high school drop-outs. So, if you now really want to set up a proper intelligence service, the first thing that you have to look for after you have achieved a structure, is the people that you are going to put into that service. That is, what calibre of people are you going to put in there? Are you going to carry over the people who have been responsible for the mess that we have now or are you going to make a fresh beginning, filtering and sieving those who are salvageable and removing those who you think are not salvageable?

Mr. Deputy Speaker, Sir, I want to give two historical references which I think are important. One, is that, the Government itself needs to have proper confidence in the institution that we are going to establish and ensure that, it has the capacity to gather intelligence information on the basis of which the Government will act to ensure that the country is properly and better governed. I will give an example of Stalin and Hitler. Stalin and Hitler signed an agreement at Yalta under which Hitler assured Stalin that, Germany would never attack the Soviet Union. So, because of this, Hitler knew that he was now insulated. He could with impunity, attack Poland and after attacking Poland, then turn his machines westwards through Belgium, Holland and to France. At that time, the Russian intelligence service gathered information to the effect that, Hitler was actually intending to attack the Soviet Union as soon as he was done with France. When this information was given to Stalin, he did not believe it. Instead, he said that his intelligence service wanted to create bad blood between him and his good friend Hitler. So, he had these people hanged. Later on, when Hitler was ready to turn his machines eastwards again, the Soviet Union was completely unprepared and this led to massive loss of lives. Six million Russians died in that war.

Mr. Deputy Speaker, Sir, the other example is to be found in the battle of-- However, I will leave that for a moment, since I will come to that later. So, I am saying that it is important that, if the Government wants this institution created, it must have confidence in that institution and must be prepared to act on the basis of intelligence information that has been gathered and made available to the Government. Now, I want to say something about the force that we want now to reform through this Bill. This is because it would be meaningless to bring a Bill here and let it make this House waste a week consuming a lot of taxpayers money, if it is not going to end up in re-ordering, reshaping and a proper restructuring of the force that we have today. Our force today as I have said, consists of people who are themselves wedded to the past and it needs to be transformed. I have myself been to Nyayo House and I said sometimes earlier about two weeks ago that, the people who constructed Nyayo House thought that they were actually doing it in the interests of this country. First, a lot of money went to that elaborate structure because we have in the dungeons down there, cells with automatic doors. That is, the doors are

electric. Once you have been pushed in, they close automatically. These walls are soundproof so that, they can do anything with you inside those cells with impunity and the light is very high up there in the ceiling.

**The Minister for Local Authorities** (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Raila, knowing fully well that the Bill deals with very sensitive issues, to in fact start dwelling on those sensitivities which are best left to the rest of those people who are in that service?

**Mr. Raila:** Mr. Deputy Speaker, Sir, we are in a transition from one era to another and I think it is now generally agreed that, whereas in the past there was some opacity, there is need for us now to throw some light on those things, for us to be able to create a better system of governance. I am saying that, the intelligence system in this country can work more effectively without having to resort to those archaic 15th Century kind of methods that were used in medieval Europe. I think we have intelligent members in the force that can be able to provide the service without recourse to those kind of repressive methods that were used in Nyayo House. That is the reason why I am saying this so that, we ourselves as a nation can put it to rest. It is a phase of our history that we cannot wish away but the thing is as the late Kenyatta said, let us forgive but let us not forget but let us move forward. So, I am saying this with a light touch. When Mr. Anyona and I were taken to the 23rd floor, we were blindfolded and when they removed the blindfold from my eyes, I saw men sitting there in a row and I like hon. Anyona, thought that they were men from the moon. Now, the nature of the type of interrogation itself in those days was one which I would say, very primitive. One would want to see a force that is much more modern. I am saying this because other countries have committed similar mistakes. The Securitate of Ceaucescu; we had the Tonton Macoutes of Papa Doc Du Vallier of Haiti; we had Savaks of the Shah of Iran. In fact, the Shah did not even know what the Savaks were doing. He was later on surprised to understand the kind of things that his own intelligence forces were doing when he was now already forced into exile in the United States.

Mr. Deputy Speaker, Sir, I think that, it is important that we define clearly, the limits and the functions of the force and this has been done very well in this Act. There is something else that the intelligence service should do and that is, dealing with economic saboteurs. Quite a lot of emphasis has been laid on economic sabotage. This is because the people who engage themselves in looting of public property are sabotaging the economy of the country. The sufferer is the common and innocent man, who is down there and it is the responsibility of the intelligence service to do this. It is possible in fact, for them to prevent some of these acts of economic sabotage from being committed. This is because they have the capacity to know. They are supposed to have prior information and that is why they are the intelligence force and they can make that information available to the Government. If the Government does not act on the basis of that information, then the intelligence cannot be blamed. This is one of the areas where I think they can be more effective.

Mr. Deputy Speaker, Sir, if the Government does act on the basis of that information properly, there will be no need to set up an anti-corruption authority. This is because intelligence officers will themselves be doing the work for the Government. If the intelligence officers get this information and avail it to the Attorney-General and he does not act, he will not act even if he gets the same information from my friend, Mr. Harun Mwau. So, the security intelligence must see it as part of their responsibility to deal with economic sabotage. What else are we creating internal security intelligence for? Those who make political noise should not be seen as enemies of the country.

I am happy to note here that political activities are not part of the functions of the security intelligence service which this Bill is seeking to create. In fact, now, intelligence officers will be required to be completely de-linked from any political party. In the past, security intelligence officers saw themselves as part and parcel of the ruling party. Anybody who criticised the ruling party was seen by them as an enemy.

Opposition was criminalised in their world. So, whoever tried to criticise the ruling party was seen to be trying to destroy the Government. That is the only reason why myself, Mr. Kenneth Matiba and Mr. Charles Rubia were incarcerated at Kamiti Prison. We were arrested for merely saying that time had come for Kenya to go multiparty. To them, that was an act of treason. It warranted six security intelligence officers to camp outside my office at Agip House from morning to evening to question whoever was coming to see me. They told me that they did not want to harm me so long as Mr. Matiba and Mr. Rubia did not come to see me. There were also some officers stationed outside the offices of Mr. Matiba and Mr. Rubia, who would not allow me to see the two politicians. I asked the officers the law they were using to do that to us, and they said that they had instructions from above. We were eventually arrested. I was initially taken to Kasarani Police Station. Later on, I was blindfolded and taken to Nyayo House, where I was served with a detention order at 1.00 p.m. By 2.00 a.m, I was in my cell at Kamiti Prison. These are some of the things we do not want to see happen again. We want the Government to respect the peoples' right to freedom of expression.

I would like the Attorney-General to listen very carefully to something which I will not tire reminding him of. I may not agree with what he has to say, but I shall defend unto death his right to say it. This is important

in institutionalising democracy. I think we are now all agreed that multiparty political system has come to this country to stay, and the best way to safeguard it is to create strong institutions that will ensure fair play. If there is fair play, there will be no need for employing other methods. It is only when those other avenues are closed that people resort to different methods.

Mr. Deputy Speaker, Sir, when President Nelson Mandela was charged with trying to overthrow the apartheid Government of South Africa and being a member of a violent movement, he said that there was no room for violence in his heart, and that he hated violence because violence begets violence. He, however, added that when all other peaceful avenues for protest and dissent had been closed, they decided to answer violence with violence. So, we do not want to create conditions that will make it necessary for our people to take to the streets. It is the responsibility of our security intelligence service to detect matters that can create tension, which may lead to such situations. They should also make it possible for the Government to defuse such tension before it reaches explosive stages. In my view, this is very important, and I see it as part of the work of the security intelligence service.

Mr. Deputy Speaker, Sir, I promised that I was not going to be long. I agree with a number of provisions contained in this Bill. I agree with the definition of security, and that the service should recruit its staff in consultation with the Public Service Commission. However, care must be taken to ensure that the criteria that will be used in recruiting the officers of the service will be nothing other than qualifications and merit. Whoever is going to be recruited into this service should merit the appointment in terms of qualifications. Let us not use other considerations, because we are talking of a very sensitive institution where we want to see excellence. Therefore, in recruiting the service's staff, favouritism based on ethnicity should take a back seat. We do not care which tribe the staff of the service will come from so long as they merit appointment. This must be a national institution which will be representative of the people of Kenya. It must begin by being people-friendly.

Mr. Deputy Speaker, Sir, the law says that a suspect is innocent until proved guilty by a court of law, and not that one is guilty until proved innocent by a court of law. One of the things this Bill is seeking to proscribe is torture. I am saying this with a very heavy heart because I know that torture has been the tool by which officers of the Directorate of Security Intelligence have been extracting information from people. I know some people who were subjected to the cold chamber in Nyayo House for weeks. When they felt that they would die, they agreed to plead guilty to preserve their lives. Then, they were taken to court at 6.00 p.m, where a court took the plea of guilty quickly, and then the convicts were locked up. By the time their relatives knew what was happening, the convicts were already imprisoned at Kamiti Prison.

So, officers of the service must desist from using torture. Many Kenyans found themselves in prisons not because they committed offences, but merely because they could not bear any longer the amount of torture that they were being subjected to in Nyayo House. In Nyayo House, there are rooms with different colours. One room has its walls and floors painted with black paint, another one is painted red, and another room is painted white. The colours define the category of torture you fall in. They also determine how you are to be treated. You are treated in a very friendly manner when you are in the white cell. If you become difficult, you will end up in a black cell. Once we pass this Bill, we will be able to create a more responsive intelligence service for our country.

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

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to support this Bill and I will do so in few words.

This Bill has come at a time when many, many changes are taking place in this country. This Bill does, in fact, advance the course of transparency in running the affairs of this country. It has been stated by the Mover and several subsequent speakers that the Special Branch has not been operating under any particular law. It was a Charter that President Kenyatta signed in 1970 and it was renewed by President Moi in 1979. This has gone on and many people, including the leader of NDP, have ably stated what they believe the Special Branch has been doing. There is absolutely no need at all saying that the Special Branch has not made mistakes in the past. But suffice it to say that whatever mistakes have been made in the past must be left behind and we all concentrate in building our country for the future.

I listened to hon. Kathangu speak, and I got the impression that he did not understand what the Bill was all about. The Bill is about transparency and setting up a law that is going to ensure that the Special Branch operates within the law. My colleagues, particularly in the Opposition, who have been talking about the rule of law, do, in fact, appreciate that this will initiate the rule of law so that people will know where their powers are and where their powers are not.

I can see that we are slowly reaching a national consensus on many issues. Yesterday we passed a Bill that will put in place a Commission that is going to look into the Constitution of this country. Today I can see and

I can guess that we might as well pass another law that is, therefore, going to correct some of the fears that have been held by some of my colleagues.

Mr. Deputy Speaker, Sir, that is very crucial because this country has changed a lot, and I must admit that multi-partyism has brought a lot of change. It has not just brought the change in the face of Kenya, it has also brought the change in some individuals because I can now see that people, who would never dare mention the word "democracy", are even nowadays quoting the American Constitution. This change must be harnessed so that we have a good country for the future. I want to agree with all those who said that when the Director-General's office is set up and persons are recruited into the security services, that we have people who are qualified. Director-General should source people who are qualified in the fields of economics, politics and in different fields that would be necessary for running the country.

First and foremost, the security intelligence is supposed to cater for the state, and the state should cater for the nation. That is very crucial because once people go to elections, they elect people they trust, and they elect an ultimate person they trust who is currently called the President. Once that happens, then, the country must vest in that President the trappings of his office, including the powers to look after the security of this country. This particular law ensures that the President is officially given the powers to look after the security of this country because he is the ultimate keeper of our security. I am happy with any provision that makes the Special Branch independent, but it must not also make it "almighty". It must be able to keep it within the confines of democracy and the law.

Mr. Deputy Speaker, Sir, but while I am saying that it is important to have quality in terms of who is recruited, let us not bury our heads in the sand because this country is made up of communities. I want to call them communities because some people do not want me to call them "tribes". There are no green houses for qualified people. There are no places where qualified people grow and other places where qualified people do not grow. If we want to take care of the security of this country, let us look for qualified people, but let us look for qualified people throughout this country, so that we do not have an intelligence service that is made-up of qualified people from only one community.

I do not agree myself that it is just the documents of qualifications that are necessary. Those are necessary, but nowadays in this country, there is absolutely no district that you can go and not find a professor or a qualified person in economics and so on. So, it is necessary to realise that in a country like ours, you cannot merge the whole nation and call it one country and then start selecting at random without making sure that you take care of the balance of the country, because then you will be perpetuating the inequities that we brought from 1963.

The trouble that we had from 1963 is that we did not all begin from one place. In 1963, there were people who had the benefit of colonial education, there were people who had only one benefit, that their districts were locked out from any influence whatsoever. Once we took over Independence, we recruited people on the basis that those who were educated by the colonialists should run the country. The Civil Service is top-heavy with communities that got advantages before. Even today, there are still people who can stand up in this House and say, that learning is the only thing that matters. However, before you provide learning to everybody else; it is not the only thing that matters. It is as fallacious as that expression that talks about population.

Mr. Deputy Speaker, Sir, we all took an oath here to protect the Republic of Kenya and we are not talking about secession. But there are some realities which are there, that when we became the Republic of Kenya, we did not all really become the Republic of Kenya voluntarily. The Berlin Conference of 1885 just came and arbitrarily forced us into one country and we are all engaged in the exercise of nation building. This nation can only survive if we realise that it is made up of communities, so that we do not keep saying that let us do this in accordance with laws that are by nature or description discriminatory. So, I would encourage that when the Director-General does appoint persons, let him appoint the most qualified people, but throughout the country. That will be able to help us. The Force should, therefore, go ahead and start dealing with the actual problems of this country. We want the problem of corruption to be handled and handled properly. Let the intelligence burst this myth of "corruption" because some people have tended to think that corruption is a KANU problem. Everyday, it is clear that corruption is not a KANU problem, it is a Kenyan problem, that there are people who are corrupt even in the Opposition. I have always stood up in this House and said that, at least, Members of my of generation should stop throwing corruption to one side because there are many people who have made their wealth in ways that we could all question. The encouragement of corruption begins when people start throwing it on one political party because many who participated in the elections promised their communities that it is now their time to eat. That notion of promising the community that "it is our time to eat" is wrong; it is actually the perpetuation of corruption. I hope that we shall be able to gather enough intelligence to propel our country forward.

So, Mr. Deputy Speaker, Sir, this Bill is intrinsically tied up with the whole change that is taking place in the Republic of Kenya and we would like to advance. The constitutional change is going to take place in 1999 and

most of the following year. We hope that we can be able to fit in-between, laws that will be consistent with the Constitution that we think is going to be there. With those few remarks, I beg to support.

**Mr. Munyasia:** Thank you, Mr. Deputy Speaker, Sir. At the outset, I would like to state that I support the Bill. In some cases, the Bill looks so good that one wonders whether it will be effected as it is. I do come from a Constituency where people have suffered so much under the Special Branch officers as they existed within the Police Force. The Constituency is Sirisia. This especially happened during the time of the called FERA. During FERA period, old men would be picked by the Special Branch officers in the middle of the night or in the very early hours of the morning. One of the victims was an old man called Mr. Jonathan Baraza, a senior chief during the colonial times and he was 84 years old at that time. Mr. Baraza was taken to some place by the Special Branch officers, stripped naked, his testicles tied with a string and after that, they started hitting it with some little hammer. They then said that he would have to say what he was doing. The old man was accused of training the FERA guerrillas. But the question is: At the age of 84 years and being a former colonial senior chief, could he do that? No, he had no knowledge about the guerrilla warfare. But, that was what the Special Branch officers were doing to him.

Mr. Deputy Speaker, Sir, therefore, I read with a lot of pleasure the statement under Clause 15. It states: "No officer of the Service shall in the performance of his functions or exercise of his powers under this Act subject any person to torture or to any other cruel, inhuman or degrading treatment---" I say to myself that there will be a relief on Kenyans from this kind of human rights abuse. But, I am disappointed with Sub-section (2) under that Clause which states: "An officer who contravenes any of the provisions under Sub-section (1) commits an offense and shall on conviction be liable to imprisonment for a term not exceeding three years." There is nothing else except "a term not exceeding three years!"

**An Hon. Member:** You want more!

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, under the other rules we have passed, these people might be some of those who will have to serve under the Community Service Order sentence. So, these people might not even be imprisoned at all, and that is why I think we are not serious. I mean, inhuman treatment by the Special Branch officers is what all of us condemn and that is what we have known these people for. So, if we were serious about changing the conduct of these officers, I thought that we should have proposed a stiffer penalty for them. Under Clause 18, it says for other offenses like this: "Any person guilty of violating that particular Clause will be imprisoned for a period not exceeding 14 years." I would have wished that those who will be found guilty of torture be also subjected to such a stiff penalty. This is the only way we shall show Kenyans that we are very sorry about what has been happening in the past. Under the same Clause (15), it states: "No officer of the Service shall engage in activities of any political party or act as an agent of any such party." Indeed, the Special Branch has been the armed wing of KANU. In 1995, we had a by-election in Webuye which attracted the Chairman of KANU also to come and campaign. When the Opposition beat KANU in that by-election, all the Special Branch Officers were transferred, some of them to fairly remote places as a punishment. Their offense was that they had allowed the Opposition to win that seat. So, they were expected to use all their force to ensure KANU got the seat. I also do remember one time when we had just won a small by-election of a civic seat, the Special Branch officers were ordered to beat up our supporters who had filled the gallery. So, I am happy to see that there is a provision made that these officers will now have to be independent and that they must not regard themselves as appendages of any political party. But, my only doubt is that if this KANU party continues to be in the Government, I do not know whether they will effect this Bill. I am saying so---

**The Assistant Minister for Foreign Affairs (Mr. Muchilwa):** On a point of order, Mr. Deputy Speaker, Sir. I do not really want to interrupt my good friend, but is he in order to mislead this House that the Special Branch officers favoured KANU in the Webuye By-election when in fact the opposite is the case? The Opposition mislead everybody and made it such that---

**Mr. Deputy Speaker:** Hon. Muchilwa, there is no point of order there. You are simply arguing with the hon. Member.

**The Assistant Minister for Foreign Affairs (Mr. Muchilwa):** Mr. Deputy Speaker, Sir, there is really a point of order which I am trying to make because I was nearly lynched during that time as there was no security. As a result--

**Mr. Deputy Speaker:** Order, hon. Muchilwa! Whether you were nearly lynched or actually lynched, that does not constitute a point of order. Proceed, Mr. Munyasia.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I would not have liked to even inform the people about the details of what happened including the attempts to lynch hon. Muchilwa when he was found dishing out money. But, that is beside the point.

(Laughter)

**The Assistant Minister for Foreign Affairs** (Mr. Muchilwa): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member is misleading the House by saying that I was found dishing money when in fact I was just surrounded in a polling station because the Opposition supporters thought that, that particular polling station should not have a KANU representative.

**Mr. Deputy Speaker:** I agree with you hon. Muchilwa. He is casting aspersion on your character and that is out of order.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I do not think I would do that. I had said that I do not wish to talk about anything over my friend. But, that is the gist of the information that I had.

Mr. Deputy Speaker, Sir, I was saying that the Special Branch has been an arm of KANU and that I am happy because there is at least a provision here. My only fear is that this Government does not usually do what is in the law. Last year, we did spend a lot of time amending some Acts, especially the Chief's Authority Act. We did also amend the Police Act where we said that there will be no torture; that was last year. On 7th November, 1997, the President gave Assent to that Bill and it was supposed to commence at that time. Up to now, the chiefs are still torturing people and operating cells at their offices. I did bring a Question recently about a person in my area who was killed in a chief's office. The Chief's Authority Act, Section 120 states: "Any chief who will operate a cell will be guilty of an offense and liable to imprisonment." Nothing has so far happened to effect this directive. This person I am talking about was killed at the chief's office and so the chief was operating a cell. But, this Government will not take action against that.

Mr. Deputy Speaker, Sir, the law is there against those who practise witchcraft. Those who admit to have participated in witchcraft are supposed to be deemed as criminals. In 1994-95, there were people in Webuye Constituency who, before the court and on oath, admitted that they had conducted *Khulia Silulu* which is some kind of witchcraft.

(Laughter)

The judges did say that this was a criminal offense. We also said that the Attorney-General should now take these people to court. To date, those people are still free, nothing has been done. That is why in Mr. Njoka Mutani's case, you find people again coming up and admitting that they gave him the head of the cock.

**The Attorney-General** (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say those people were not taken to court, when in fact, they were taken to court before a Kakamega magistrate?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, because I asked a Question in this House, they took them for one weekend and on the following Monday, they released them. Upto now, the Attorney-General says they are still investigating the case; when the men admitted in the High Court here---

**The Attorney-General** (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is he in order to say that they just went to the police cells and were released on the following Monday when they were actually taken before the court?

**Mr. Deputy Speaker:** Hon. Munyasia, if they were actually taken before a court, then your concern has been answered. They may not have been convicted.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, they did not continue with the case. They were just in remand for a little while and they were released. I am saying that this Government should have shown, by example, that they are willing to effect the law; to put this law into effect. When we were in the IPPG last year, the Attorney-General promised that they were going to retrain the police because old habits die hard. The police in Kenya do not know any other way of investigation except through what hon. Gumo called "squeezing a bit". That is how they get information from people. They use torture! The Attorney-General promised that they were going to retrain them and we went round informing the people that the police were going to be retrained. Todate, there is no retraining of the police and they are still using torture.

**The Attorney-General** (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that the police are not being trained and retrained when he knows very well, and I said so, at a senior officers meeting at Mbagathi, that the manual for training is now ready and that a crash programme is to begin in training police officers on issues of human rights? That is in addition to the usual training they normally get at Mbagathi on human rights.

**Mr. Deputy Speaker:** Order, hon. Attorney-General. That is information which you are giving and not a point of order!

**The Attorney-General (Mr. Wako):** Is he in order to insinuate this and yet, I know that he normally reads newspapers and he knows what is going on? He ought to have been aware. Is he in order, therefore, to say that nothing has happened?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, through my own investigations, I know that this manual was ready in March this year and we are now in December. You see how reluctant they are? In March this year, the manual was ready and by December, the retraining has not started. I am worried about that delay because we need these officers of the Special Branch to begin behaving in a much civilised manner. We do not want them to continue with torture. If it is taking so long to retrain the police, I do not know how long it is going to take with the Special Branch. Those boys have been worse than the police.

I will support this Bill because it is good and I wish that this Government will effect it. But I am appealing to Kenyans that they should not continue to have faith in that particular Government. We would be better if we took over the Government and that is why we had better hurry up so that we take over and save the situation. I wish to conclude my contributions at that because other hon. Members are going to contribute.

With those few remarks, I beg to support.

**Mr. I.Ruto:** Thank you very much Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute on this Bill. I will just be brief in my contributions.

Mr. Deputy Speaker, Sir, I have read the Bill which was presented before this House in 1996 and the one before the House now. The introduction of this Bill is quite timely and I think it is in order for us to pass it the way it is. There could be a few amendments but the important landmark about this Bill is that it is now going to demystify the intelligence service in order to give it a statutory mandate. As we are aware, the current intelligence service which is in operation is based on a Presidential Charter and it has no proper legal backing. What has been happening is that members of this force, who are also policemen, have not been able to appreciate and to understand the importance and need for an intelligence service that is in the interest of this country. This Bill is going to ensure that this particular force understands its work and I would like to propose that there should be serious recruitment for new officers and new training and we should not simply pass the Bill and transform the entire force as it is today to render that service.

Intelligence gathering involves various areas of the economic activity of this country. My friend, hon. Maitha expounded on this very well. I think if there is proper training, they will be able to do that. From the onset, we must be able to divorce intelligence gathering from the police force. The police are trained on completely different lines. They may be good at investigating certain criminal activities but their minds will always be "clouded" when they are even asked to gather information on such areas like economic matters. We need to understand a few other things, but security intelligence is not necessarily spying on opponents. Security intelligence is about the security of the State and threats to constitutional order.

Mr. Deputy Speaker, Sir, there will also be need to subject this service to a Committee of the House. I would probably think that there is need to establish such a Committee so that the democratic process is respected and that there is a way to check on the excesses and the possible excesses of this force. If we leave it entirely the way it is, even after passing this Bill, I think we will not have served any purpose. From the onset, we need to "demystify" their role. As of now, the Special Branch is well known for torture. It is known for "squeezing" like hon. Gumo was saying. I hope that was with a light touch because, being an Assistant Minister, I would like him to lend credence to the fact that "squeezing" is officially accepted. But I believe that he was mentioning that with a light touch and the force should forget all about this and only gather intelligence as is necessary. They should move on and look at threats to various areas like tourism and agriculture.

Mr. Deputy Speaker, Sir, even as of yesterday, there was simmering discontent of farmers in the milk-producing areas. The intelligence service should have been able to give proper information. We heard and we even read in the papers the Managing Director of KCC telling the whole country that there were "hooligans" who were out to attack KCC. Farmers travelled all the way from their rural homes thinking that they were going to be paid their money in Nairobi and they were even ready to go shopping in Gikomba open market. But we are told there are 50 year old thugs coming here with their briefcases from the rural areas. There is total misinformation and the public is left to believe some of the misinformation. The Intelligence Service should be established, but the most important thing is to ensure that the constitutional review--- Mr. Speaker, Sir, I understand time is up.

**Mr. Deputy Speaker:** It is not really up, but we are approaching the end very fast.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I find it very difficult to contribute under such circumstances.

Thank you very much, Mr. Speaker, Sir.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Let us be brief because I must call upon the Mover to reply in another five or so minutes. Proceed, hon. Ndicho!

**Mr. Ndicho:** Mr. Speaker, Sir, I stand to support this Bill, and appreciate the changes that have been going on in this country. The changes that we are now experiencing started in earnest around 1990, when hon. Raila, as he has said here, hon. Keneth Matiba and hon. Rubia for the first time talked about the need to have multi-partism in this country. They were tortured, detained and everything was done to them. Today, about eight years later, the same Government is now bringing a Bill here to say: "Okay, what Matiba, Raila and Rubia wanted, have it!" So this Government has got a moral obligation to apologise to Mr. Matiba today, who is suffering, although he has healed considerably. The Government has got a duty to apologise to Raila Odinga and Mr. Rubia, who lost his voice in detention. They must be compensated handsomely. The likes of people like hon. Wanyiri Kihoro here, hon. Murathe---

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member for Juja to tell us that Mr. Matiba is sick, while Mr. Matiba himself has even told us that he is as fit as a fiddle, and shown it even in the television?

**Mr. Deputy Speaker:** Hon. Wanjala, you have a very good sense of humour. But sometimes, do spare us so that we can go on with business. Proceed, hon. Ndicho.

**Mr. Ndicho:** Thank you, Mr. Deputy Speaker, Sir. I said that Mr. Matiba got sick in detention. He has healed considerably and I am saying that the Government must apologise to him and compensate the people who suffered and died. There are so many people who died in the hands of the Special Branch. Their families are still languishing in pain and sad memories of their loved ones. My own brother, the third born from me was killed in 1990, just because he went and said: "Yes, we want many parties". My family languishes in pain because of the killing of my brother. Fortunately, the Opposition and all of us--- It is very good that hon. Kihoro brought that Motion. This is because we know everybody who did what. Before Jesus Christ comes back, we shall ask them to account for what they did. They were talking about powers from above. The powers from above will not be there that time. They are going to pay for it. They must pay for it.

Mr. Deputy Speaker, Sir, I support hon. Sunkuli that the Intelligence service in this country should be protecting this nation and not the President and Ndicho. Even if I become the President tomorrow, let the Intelligence service protect this nation and not me. The current Director that we have is a very good man. He came from the Army to the Police Department. The Act says that you cannot be appointed when you are not a police officer. You must understand the police laws. There are the secrets of the police. I do not know whether my friend Mr. Boinet underwent the oath of the protection of the police secrets. What I am saying is that we should have somebody from the Intelligence Service. Let them not be picked just because they are friends of so and so. They should not be thrown there because this is a recruiting department. I would like to echo the sentiments of an hon. Member who said that the Special Branch should have known what the economic saboteurs were doing and alert the Government to stop the business of looting the country. Today, we are lamenting about a character called Kamlesh Pattni. Where was the Intelligence Service when he stole the Kshs58 billion, which has thrown this country into economic disarray? Where was the Special Branch? We have been told here, and it is very unfortunate, that names were brought here for people who owe the National Bank of Kenya billions of shillings. The Intelligence Service ought to have been there to advise the Government that it is bad to take a telephone and call Mr. Lion: "Patia hiyo". It is very bad! It was also illegal even for the banks to divulge that information because the customer's reputation has been dented. I am telling the Government to pay for these loans.

I have got a friend of mine who confided to me that he borrowed Kshs4 million, and paid Kshs6 million by 1992. Then, the same Government printed money in 1992, throwing the interests into the sky. Nobody could pay. It is the same Government that caused the non-payment of these loans by printing money, and making it impossible for the people to repay the loans. He told me that even if all the members of his whole clan and sub-location are sold, he cannot get the Kshs98 million he is being asked to pay. So, the debtors should know that before we take over the Government, they should pay the National Bank of Kenya the money that they owe to it. This is because many people will not be able to pay. Where was the Special Branch not to let you know that what you were doing will be counter-productive at the end of the day.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** On a point of order, Mr. Deputy Speaker, Sir. I know you do not like humour, but is it in order to day dream in this House; the way hon. Ndicho is driving the politics of revenge, and imagining that he is ever going to be in the Government?

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, we know that hon. Sunkuli is now at the height of his war

against hon. Ntimama, to be made a Minister, in waiting for him to be the Vice-President. You will not be the Vice-President.

*(Laughter)*

So, can you please keep off this matter? All that we are telling the Special Branch, and that is going to be formulated by this House is this: They should advise the current President to leave a legacy for the general welfare of the people of this country. We know that the biggest evil that has happened in this country is land grabbing. If the Special Branch was kind enough to save this nation from the grabbing of public utility land, the President of this country could not have gone with the dents that he shall go with. I am on record in this House for saying some people were forging the President's signature to acquire land. After I said that here and I was thrown out, three people were sacked from the Land's Department. The Intelligence service ought to have known that what they were doing was not for the good of this country. We want to meet the President in Kimathi Street, Tom Mboya Street, Moi Avenue and say: "Jambo Mzee. How are you? How are you doing now?" But now, those characters are putting that man in a very bad position. He does not get out of his house. They should advise him.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Order hon. Members. If you look at the time, we have only about 20 minutes left on this Bill. It is only fair that I should now call upon the Mover to reply.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to give five minutes of my time to hon. Keah.

**Mr. Deputy Speaker:** Hon. Minister, since when did you take over my job of recognising the Members to speak?

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, allow me.

**The Assistant Minister for Finance** (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for permitting---

**Mr. Deputy Speaker:** I have not permitted you.

**The Assistant Minister for Finance** (Mr. Keah): Mr. Deputy Speaker, Sir, do permit him to permit me to speak for three minutes.

**Mr. Deputy Speaker:** Alright, go ahead.

**The Assistant Minister for Finance** (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for your generosity. I want to emphasis four major points which I think are very important. The first point is the issue of being factual with information. I want to emphasis Clause 15(1), it says:-

"No officer of the Service shall -

(a) engage in activities of any political party or act as an agent of any such party."

Mr. Deputy Speaker, Sir, if it is possible at the Committee Stage, I suggest that we make a proviso that if they give false information, they should really be taken to task. During the election of 1992, I suffered on that score. Therefore, officers who give false information should be punished for it.

The other issue is on torture; if an officer tortures anybody, the imprisonment of three years is not enough. It should be more than three years as it has been suggested by some hon. Members. In fact, he should be jailed for 14 years.

I want also to emphasis the point of professionalism; we would like accountants, lawyers, doctors, police, businessmen, bankers and so on to be recruited in this Service. All these groups of professionals should be part and parcel of the Service.

The other issue is on ethics. There ought to be ethics entrenched in this particular Service. Unless we have professional ethics, then it will be a disaster.

Mr. Deputy Speaker, Sir, the other point is on capacity building. Not only should we have professionals, but they should be continuously trained. I am saying so particularly because of the issue of transition. The serving officers should be re-interviewed and given specific training.

Finally, Mr. Deputy Speaker, Sir, one of the biggest tasks this Service will have is to deal with the issue of corruption in this country. I think corruption is one of the biggest insecurity that we have in this country for the future generations.

Mr. Deputy Speaker, Sir, the title is too long. Could they come up with another title, for example, National Security Intelligence (NSI). This one will be more appropriate than what we have at the moment.

Mr. Deputy Speaker, Sir, I want to thank hon. Madoka, for giving me five minutes. With those few remarks, I beg to support this Bill.

**The Minister of State, Office of the President** (Maj. Madoka): Thank you, Mr. Deputy Speaker, Sir. I would like to take this opportunity to thank hon. Members for their very constructive contributions to this Bill. Particularly, I want to thank those friends or hon. Members from both sides of the House who have gone through the experience of the Special Branch, and are supporting this Bill. In fact, it is those hon. Members who really should support this Bill. We are trying to ensure that whatever happened to people who went through the hands of the Special Branch, particularly before the multiparty era, does not happen again. Sincerely, I would like to thank these hon. Members for their support.

When I moved this Bill in this House, I mentioned quite a number of things and, therefore, I do not want to go back to them. Unfortunately, some of the amendments proposed by some hon. Members in their contributions were in fact taken care of by the Parliamentary Departmental Committee. Whereas they have not been shown in the Bill, they have been taken care of by the Parliamentary Departmental Committee, and will come up at the Committee Stage tomorrow. However, I do wish to highlight some points which certain hon. Members raised.

First of all, there was a question of lack of a proper structure, and some hon. Members proposed that we need a deputy director. I would like to assure this House that there is a proper structure which we have developed. There is the position of the Director-General and the Deputy Director-General. We also have Directors of economic affairs, information technology, national intelligence academy, external intelligence, internal intelligence, operations and administration. So, we have a set up structure, which we will follow. Therefore, people should not fear that we do not have a proper structure.

Mr. Deputy Speaker, Sir, hon. Members also expressed fear on the current staff. I would like to say that there will be a transitional period when we will move into the new service. I certainly agree that we have looked at the title of the service, which at the moment is definitely lengthy. I know that the Parliamentary Committee suggested that we should have a "National Intelligence Service", but we will give it a thought. We are likely to bring up an amendment and call it a "National Security Intelligence Service".

During that transitional period, we need competent staff. This will be stipulated clearly in their terms and scheme of service, which will state the qualifications required. We will need economists, scientists and so on. So, we will have very specialised people in the service. These people will also undergo a special training to ensure that they fully understand their role. That is why we are setting up this special unit behind the General Service Unit (GSU) Headquarters, where people will be properly trained so that they would know their exact role. I am sure that once we have such people in the service, it will perform well.

There is another fear about the existing staff, but I would like to say that certain people within the service at the moment will be carefully looked at. Those who will fit within the new set up will be retained in the service. However, those who will not fit in the service will possibly be returned to the Police Force. So, everything is being looked at.

Certainly, I agree on the matter that was raised by hon. Munityasa about torture. We agree that three years punishment for torture is too short a period. Maybe, it should be 14 years, or possibly, life sentence. The Attorney-General will certainly look at this issue and we will bring it up again.

We all agree that security intelligence is important for any Government. Members have got to appreciate that the head of the intelligence service must be able to communicate to the Head of State confidently. The Head of State must have confidence in the head of the intelligence service. Therefore, we have said that the Head of State will nominate the head of the intelligence service. I did say when I moved the Bill that certainly we accept the principal of possible vetoing. Once the machinery of vetoing comes up in the new Constitution, then this will automatically fit it. I would like to appeal to hon. Members that let it be as it is and if it does come up then these things will change. Hon. Kathangu expressed fear and said that this Bill should possibly wait until the whole Constitution process is over. I do not agree with those sentiments because whatever will come up as a result of this constitutional review, many Acts will have to change and it will be an automatic process. If the new constitution reduces the powers of the President and introduces vetoing of certain offices, then all the other Acts will change. The Constitution will not discuss particular Acts. The main body of the Act is important and we should accept that. Any other changes which come up later will automatically be adopted.

There was the question of assets. I appreciate that it was not clearly stipulated that the present assets will automatically be handed over to the new service. After this we do not want to hear of Special Branch because this will bring back bad memories. We will be talking of a National Intelligence Service and I am sure with that many Members will forget. I was told not to say they will "forget", but I ask them to forgive. We will certainly look at that. There is also the question of the term of service for the director-general. Initially it had been suggested as one term of six years, but when we discussed it with the Parliamentary Committee we felt that we should make provisions for two terms of five years. Obviously, he does not necessarily have to serve those two terms, but if it is

the wish of the President to continue having the same person if he lasts two terms then maybe, we should allow that to happen. Again we have made that provision that it should be a maximum of two terms of five years each.

There is also the question of the scheme of service. Initially it has been proved that the director-general will be responsible for setting up the scheme of service. We are making amendments to say that it will be in conjunction with the director of Personnel Management and the Public Service Commission. This will ensure that is not left up entirely to the director-general. I do not wish to say any more beyond that. I hope that when we come to the committee stage we will be able to put up the various amendments and discuss them at that particular stage.

I beg to move the Bill.

*(Question put and agreed to)*

#### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until 10th December, at 2.30 p.m.

The House rose at 8.55 p.m.