

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th July, 2006

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The Assistant Minister for Health (Dr Machage): Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table:

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2001, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Jomo Kenyatta University of Agriculture and Technology for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Teachers Service Commission for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Council of Legal Education for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya National Library Services for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya National Library Services for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Capital Markets Authority for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Industrial Research and Development Institute for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Industrial Research and Development Institute for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the National AIDs Control Council for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General---

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has said that he is laying those Papers on the Table but has he laid them? When will he lay them?

Mr. Deputy Speaker: Mr. Assistant Minister, where are the Papers?

The Assistant Minister for Health (Dr. Machage): Mr. Deputy Speaker, Sir, I said that

the following Papers will be laid on the Table of the House today, Thursday, 6th July, 2006. They are bulky. Those Papers will be laid on the Table before the end of this sitting.

Mr. Deputy Speaker: I think hon. Members have a point! You have said that the Papers will be laid on the Table. What assurance is there that the Papers will be laid? I propose that no matter how bulky they are, it is incumbent for this House to see what is purported to be laid.

(Applause)

In due course, I will require that those Papers be laid on the Table as bulky as they are!

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. This matter is like substantiating a statement made on the Floor of the House. The Assistant Minister has made a statement that the Papers will be laid. Why could he not carry them here? We have orderlies who could have brought those Papers here so that they could be laid.

Mr. Deputy Speaker: I have ruled on that matter! The matter is over! I have said that those Papers should be laid before the end of Question Time; otherwise, we will assume that they have not been laid!

*(The Assistant Minister was ordered
to lay the Papers on the Table
later in the course of the sitting)*

NOTICE OF MOTION

INTRODUCTION OF TRADE CO-ORDINATION AND PROMOTION BILL

Mr. Syongo: Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, aware that the Distributive Trade Sector and related services account for more than 20 per cent of the country's GDP and employment, and considering that the Distributive Trade Sector is a primary catalyst and facilitator of sustainable growth of the manufacturing, agricultural, livestock and fisheries sectors; concerned that in spite of its pivotal role in the economy, distributive trade is presently conducted haphazardly due to lack of structured institutional and legal framework, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Trade Co-ordination and Promotion Bill to provide for the establishment of External Trade and Internal Trade Co-ordination and Promotion Authorities respectively, the National Chamber of Commerce and the Joint Trade Advisory Board and for their functions and related matters.

QUESTIONS BY PRIVATE NOTICE

COST OF REPAIRING NYAYO STADIUM/JKIA SECTION OF MOMBASA ROAD

Mr. J.K. Kilonzo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) How much money has been spent to repair the stretch of Mombasa Road between the

diversion to Jomo Kenyatta International Airport and the Nyayo Stadium?

(b) Considering the importance of the road to the country, what is the Minister doing to ensure the repairs are of high quality?

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

(a) A total of Kshs26,369,120 has been spent to repair the 13.5-kilometre dual carriageway stretch of Mombasa Road between the diversion---

(An hon. Member whistled)

Mr. Deputy Speaker: Order! We must have decorum in the House! There is an hon. Member who is whistling there! Who is that hon. Member?

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

(a) A total of Kshs26,369,120 has been spent to repair the 13.5-kilometre dual carriageway stretch of Mombasa Road between the diversion to Jomo Kenyatta International Airport (JKIA) and Nyayo Stadium.

(b) The Government of the People's Republic of China has given a grant of Kshs1.5 billion to the Kenya Government for improvement of the road from the JKIA to the United Nations Environmental Programmes (UNEP) Headquarters in Gigiri. China Road and Bridge Corporation has been commissioned to carry out the works which will include construction of an additional lane on each carriageway from the JKIA to the Nyayo Stadium roundabout.

Mr. J.K. Kilonzo: Mr. Deputy Speaker, Sir, I do not need to underscore the importance of this road. Of late, there seems to be a new way of repairing roads in this country. The Ministry officials use chalk to mark the sections to be repaired, drill it and patch it up. That road has become very uncomfortable because it is uneven. Is the Assistant Minister satisfied that the quality of repairs done on that road are of high quality? If not, who was the contractor who did that work? What remedial action will the Assistant Minister take against that contractor?

Eng. Toro: Mr. Deputy Speaker, Sir, I agree that one feels uncomfortable when travelling along the repaired section of Mombasa Road. However, those sections required repairs. Unfortunately when the repairs were done, it was not possible to make them smooth. That is why there is discomfort. However, it is far much better than when the road had potholes. With the Kshs1.5 billion grant from the People's Republic of China, the Government will add another lane from the JKIA to Nyayo Stadium so that we can have three lanes on either carriageway. There will be an overlay on Uhuru Highway to end the discomfort. The recarpeting of the road will be done by the same contractor and that will be the solution to what the hon. Member is worried about.

Capt. Nakitare: Ahsante, Bw. Naibu Spika. Ukiwa na ng'ombe wa maziwa ni lazima umtunze. Utalii ni kama ng'ombe wa maziwa katika nchi ya Kenya. Barabara ya kuelekea kiwanja cha ndege ni kama ng'ombe wa maziwa katika nchi yetu. Barabara hii inaleta pesa. Wizara ina mipango gani katika miaka mitano ijayo ya kutengeza barabara zinazoelekea mbugani na viwanja vya ndege?

Eng. Toro: Mr. Deputy Speaker, Sir, we have a programme to ensure there is easy access to the JKIA. The money we will use to upgrade the road from the JKIA to the UNEP Headquarters in Gigiri falls under that programme. The other programme the Ministry is implementing, which hon. Members will witness soon, is the building of an over-pass from Bunyala roundabout to Westlands. This means that the people who will be travelling from Mombasa or the JKIA will not be held along Uhuru Highway. The Southern by-pass will also be constructed. The same concessionaire will charge toll fee from the people driving along Uhuru highway and who will use

the over-pass and the Southern by-pass. Those are improvements that will be done very soon. They will improve the services to the JKIA and Mombasa.

Mr. Balala: Thank you very much, Mr. Deputy Speaker, Sir. This Ministry has been giving lip services to this country. Could the Assistant Minister confirm the dates of commencement of the airport and the Limuru Road projects? When will they start? How long will they take so that we can save the face of this country and this City?

Eng. Toro: Mr. Deputy Speaker, Sir, this one will start latest, in mid-September. The addition of the extra lane between the airport and Nyayo Stadium will take up to December. The rest of the works will be from Nyayo Stadium through Museum Hill to UNEP where we will have expansion of the carriageway to about seven metres. The design is underway. Unfortunately, the design is being done in China and we have to send our comments once it is done and that will take a bit longer than we had stated.

Mr. J.K. Kilonzo: Mr. Deputy Speaker, Sir, the Assistant Minister has not told us who the contractors of this work were. The Kshs1.5 billion which the Republic of China have given as a grant has been given to China Roads and Bridges Construction Company. Those repairs were not done by the same company. In view of the fact that the Assistant Minister has accepted that the road is in a bad state, could he compel the contractor to go back and repair that stretch of the road?

Eng. Toro: Mr. Deputy Speaker, Sir, these were local contractors who did the work. It is only that it is uncomfortable to drive along those sections. Otherwise, the work was done properly and that is why, unlike before, where you could see patches being done and they would wear off after about a month or two, those patches are permanent. They will not wear off. It is only that it is uncomfortable to drive on that road, but the work was done to the best standard.

Mr. Deputy Speaker: Next Question.

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Hon. Members, when time allocated for a Question has lapsed, we have finished with the Question. Do not try to ask a supplementary question through a point of order.

Mr. M. Maitha: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member wanted the names of the contractors. Even if they are many, why can he not mention a few of them?

Mr. Deputy Speaker: That is a good question, but not a point of order. Anyway, Eng. Toro, could you respond to it?

Eng. Toro: Mr. Deputy Speaker, Sir, there was Kabuito Contractors and S.S.S. Mehta, just to name two contractors who were working on that road.

Mr. Deputy Speaker: But you said they were two. What is the other one?

Eng. Toro: Mr. Deputy Speaker, Sir, I said that those are the ones who were working. The hon. Member wanted to know whether there are some contractors who have been doing bad work. Those are contractors who are already doing other works for the Government.

RETRENCHMENT OF STAFF BY KBC

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

(a) Could the Minister confirm that 260 employees of the Kenya Broadcasting Corporation (KBC) have been retrenched?

(b) Could he table the list of those affected giving a breakdown according to departments?

(c) What was the criteria used to select employees for the retrenchment exercise?

The Assistant Minister for Information and Communications (Mr. Wamwere): Mr.

Deputy Speaker, Sir---

(Applause)

I do not understand why I have to be congratulated twice. I thought that I had answered my maiden Question, so I do not understand the reason for the applause.

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

(a) It is true that 253 workers have left the Kenya Broadcasting Corporation and not 260, in a staff rationalization exercise that was approved by the Government. The first and second phases of the exercise were implemented last year in which 121 employees left the corporation. The current exercise is the third phase of the programme which has seen 253 employees leave the corporation.

(b) While tabling the list of staff who are being retrenched, I wish to inform the House that the process of restructuring the KBC is ongoing with a view to attaining optimal staffing levels that will deliver services to Kenyans in the liberalised broadcasting sector. Some of the officers identified for early retirement are idle capacity due to changes in broadcasting technology. As much as we are sympathetic with their plight, the Government is unable to retain them in the corporation on philanthropic grounds.

(c) The criteria used to select the affected officers was as follows: Inadequate academic qualifications or lack of minimum O level certificates, 53 employees; lack of professional qualifications, 41 employees; outsourced services or artists, 35 employees; modernisation of operations, technological changes, 60 employees; poor performance, 4 employees; lack of potential for career progression, 5 employees; and, excess staff, 25 employees. Twenty out of the retrenched staff did not have any academic qualifications at all.

(Mr. Wamwere laid the document on the Table)

Mr. Khamisi: Mr. Deputy Speaker, Sir, while I may not want to dispute the explanation given by the Minister, could this exercise not have been done in a more humane way? The affected employees were neither given notice nor even given an explanation as to why they were being sacked. They were given letters on a Friday and told to vacate on a Monday. Is this the way that this Government wants to operate?

Mr. Wamwere: Mr. Deputy Speaker, Sir, I had a meeting this morning with the affected workers and they raised these same complaints that the hon. Member is raising. I do concede that the process could have been carried out more humanely. I do not personally agree that it is fair to retrench someone without letting him or her know. Now that this has happened, all we can do is have some kind of discourse with the affected workers and promise that next time this will not happen.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Assistant Minister concedes that he personally does not agree with the sacking of these employees. If he is "Minister enough", could he direct the KBC to take back those employees?

Mr. Deputy Speaker: Hon. Members, Mr. Wamwere has been a champion of workers' rights, particularly because he used to bring to the House Questions concerning workers in sisal estates and so on. Could you address yourself to this problem in view of your track record?

The Vice-President and Minister for Home Affairs (Mr. Awori): On a point of order, Mr. Deputy Speaker, Sir. Did you hear what the hon. Member said? He said that if Mr. Wamwere is "Minister enough". Who is "Minister enough"?

Mr. Deputy Speaker: Why did you say that, Mr. Sambu?

Mr. Sambu: Mr. Deputy Speaker, Sir, I wanted to know if he is an Assistant Minister who is committed to the rights of workers. He is now serving in a Government which told Kenyans that it would create 500,000 jobs, now why is he allowing this retrenchment to take place? Is he Minister enough?

Mr. Deputy Speaker: Order, Mr. Sambu! You are now going beyond the Question.

Mr. Wamwere: Mr. Deputy Speaker, Sir, I want to state that I remain committed to the plight of Kenyan workers. This is precisely why I am in the service of this Government. I think that the hon. Member did not quite get what I said. I agreed that the process could have been done more humanely but in his question he seemed to imply that I had disagreed with the retrenchment exercise.

Mr. Deputy Speaker, Sir, in fact, there is a difference between the two. While one was done because it was considered absolutely necessary for restructuring of the KBC, I still stand by what I said, that to the extent that the affected workers were not informed in advance, I think that should not have happened.

Mr. Ndolo: Mr. Deputy Speaker, Sir, the Assistant Minister has told this House that last year they retrenched about 121 workers. After retrenching those 121 workers last year, the sports unit at KBC was disbanded. Even now, they do not have a sports unit. Some of those workers who were retrenched were re-employed. Could the Assistant Minister confirm to this House whether the reason why a few were re-employed was because of the World Cup? Is that not corruption? Why were they re-employed?

Mr. Wamwere: Mr. Deputy Speaker, Sir, last year I happened not to be in the same position that I am, although I know that the Government has institutional memory. That memory does not tell me that what the hon. Member claims happened, took place. If he gives me more information about it, I could make enquiries and later bring an answer here, to his satisfaction.

Mr. Mwandawiro: Bw. Naibu Spika, ninasikitishwa sana na sera mbaya za Serikali dhidi ya wafanyakazi. Sera hizo mbaya zinamfanya hata ndugu yangu Wamwere kujibu Swali kama hili vibaya, ili kujaribu kuonyesha kana kwamba huo ndio msimamo. Kuna mipango gani ya kuwalipa marupurupu yao na ni kwa kiasi gani?

Mr. Wamwere: Bw. Naibu Spika, msimamo wangu ni ule ule kiitikadi, na sidhani ya kwamba nimejibu swali hili kimakosa. Kulingana na habari ambazo nimepewa, hao wafanyakazi ambao wameachishwa kazi wamelipwa marupurupu yao. Kulingana na orodha ambayo ninayo wanalipwa marupurupu hayo kuanzia kiasi cha Kshs100,065 had Kshs400,010.

Ningetaka kukiri ya kwamba, nia ya Wizara ilikuwa ni kuwalipa zaidi, lakini kwa bahati mbaya Serikali ikawa haina pesa ambazo tulikuwa tumewaomba. Natumai ya kwamba nchi yetu ikitajirika wafanyakazi hawa wataweza kupewa mishahara ambayo itawasaidia kujikimu watokapo kazini.

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Members, it is now 3.00 p.m. We have, therefore, spent half an hour on two Questions.

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

Mr. Deputy Speaker: Order! You do not have to shout loudly. I can hear you. What is your point of order?

Mr. Bahari: Mr. Deputy Speaker, Sir, this is a case of redundancy which is guided by Kenyan laws. Is it in order for the Assistant Minister to talk of only allowances which he does not even spell out properly? There is an obligation on the part of the Government on this issue.

Mr. Deputy Speaker: Order!

Mr. Kombe: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to suggest that the KBC employed people who did not have the required qualifications?

Mr. Wamwere: Mr. Deputy Speaker, Sir, some of these things happened during the tenure of the last regime, including the tenure of the hon. Member at KBC. The package that was paid to each individual worker was based on three months basic salary in lieu of notice, a golden handshake of Kshs120,000 and severance payment of 15 days basic salary for every completed year of service, two months basic salary as transport allowance and earned leave as at 30th June, 2006. I hope that will help to clarify the matter that the hon. Member was trying to raise on a point of order.

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to impute improper motives on another Member? Could he say exactly what happened during the tenure of the hon. Member? He is imputing improper motive on an hon. Member. He should either substantiate or withdraw his allegation.

Mr. Deputy Speaker: Mr. Wamwere, you have been challenged. You said that it happened during hon. Khamisi's tenure. What is your position on that?

Mr. Wamwere: Mr. Deputy Speaker, Sir, I am doing this with a heavy heart. I would have wished that I did not have to do it. But now that I have been challenged, I would like to state that during the tenure of the hon. Member, there were three employees, namely, Eric Ponda, Stephen Mrima and Alfred Kiti who were hired on grounds that were not exactly straight. Eric Ponda was a former fuel pump attendant at KBC. He was taken to the newsroom on tribal basis, being a person from his village. Previously, he had numerous disciplinary cases, among them loss of fuel, absenteeism in the newsroom and incompetence. Stephen Mrima was retrenched on account of absenteeism over a long period of time. Previously, he had several disciplinary cases. Thirdly, Alfred Kiti was a former driver to the hon. Member when he was Managing Director. Mr. Khamisi transferred the driver to the newsroom and designated him as News Editor. Since he was unable to cope with journalistic duties, he was retrenched on account of incompetence. Again, I regret that I had to do that.

Mr. Deputy Speaker: Order, hon. Members! You are standing on points of order challenging the Assistant Minister to substantiate his claims, and now you want me to stop him. There is no way I can do that.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I have to clear my name before I ask the last question.

Mr. Deputy Speaker: You can do so under Standing Order No.69 by issuing a Personal Statement.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I insist that I should defend myself, first, because the allegations that have been made here are completely false and I want to prove to him that they are false.

Mr. Deputy Speaker: Order, Mr. Khamisi. You have the right to issue a personal statement to clear any matter that has been raised on the Floor of the House. For now, ask your last question.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I will reluctantly ask a question because I feel that my reputation has been put on the block here. The allegations are completely false. I never employed Mr. Ponda, Mr. Kiti and the other gentleman.

Mr. Deputy Speaker: Order, Mr. Khamisi! Ask your supplementary question. I have already ruled on that issue.

Mr. Khamisi: Could the Assistant Minister confirm or deny that this retrenchment had nothing to do with the criteria that he has mentioned, but has everything to do with the fact that the

Government wants to replace these people with politically-correct individuals in readiness for the next General Elections?

Mr. Wamwere: Mr. Deputy Speaker, Sir, if you look at the list of the workers who have been retrenched, I do not know what their political dispensation is. We have not talked about replacing these retrenched workers with others. If it will happen, those others are still out there, nobody knows what they believe in politically. Therefore, I think his suggestion that this is a political exercise is truly far-fetched.

ISSUANCE OF ID/VOTERS CARDS
TO NEP RESIDENTS

(Mr. M.Y. Haji) to ask the Minister for Immigration and Registration of Persons:-

(a) Is the Minister aware that there are many people from Ijara and other parts of North Eastern Province currently taking shelter in refugee camps in Daadab?

(b) Is he further aware that these people have been denied registration and issuance of ID cards and as a result cannot access voters' cards?

(c) What measures will the Minister take to ensure that these people are issued with ID cards so as to participate in the on-going voter registration exercise?

Mr. Deputy Speaker: Hon. Members, Mr. Haji has requested that due to his inability to ask this Question at this time, the Question should be deferred until later. Mr. Haji is out of the country. Therefore, the Question is accordingly deferred.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.264

TERMINAL DUES FOR
MR. JOSEPH M. NGULA

Mr. J. M. Mutiso asked the Minister for Labour and Human Resource Development:-

(a) whether he is aware that Mr. Joseph M. Ngula ID/No.2431424 was an employee of Sunset Hotel of P.O Box 43665, Nairobi and was dismissed from service on 22nd May, 2005; and,

(b) what measures the Ministry took to ensure Mr. Ngula was paid his terminal dues and other benefits he was entitled vide the joint meeting of 8th August, 2005 at Nyayo House Labour Office (Ref. MI/TU/NRI/RJT/05/1).

Mr. Deputy Speaker: Is the Minister not there? I will leave this Question till the end then.

Question No.270

TERMINAL DUES FOR
MR. JOSEPH MUSYOKA

Mr. C. Kilonzo asked the Minister for Labour and Human Resource Development:-

(a) why Mr. Joseph Musyoka and four others were declared redundant by Timber Sizers Limited;

(b) why the labour office in Nairobi stopped handling their cases even after they perused the company records and established that the workers were to be paid a total of Kshs110,406.25; and,

(c) when Mr. Musyoka and the others would be paid their terminal dues amounting to Kshs110,406.25.

Mr. Deputy Speaker: I notice that the Minister is still not here. Maybe the Leader of Government Business can guide us on what to do.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, may I seek your indulgence to defer this Question to Tuesday next week and I will ensure that the Minister is here.

Mr. Deputy Speaker: Very well. The Question is accordingly deferred.

(Question deferred)

Question No.417

MEASURES TO ASSIST POOR
FARMERS INCREASE FOOD PRODUCTION

Mr. Arungah asked the Minister for Agriculture what specific measures he is taking to assist poor farmers increase food production, given the high poverty level in the country, poor access to farm credit and high cost of inputs that has led to food insecurity.

The Assistant Minister for Agriculture (Mr. Kembi-Gitura): Mr. Deputy Speaker, Sir, I beg to reply.

Increasing food productivity and food security is a core function of the Ministry of Agriculture and most of its activities relate to this function. The Ministry is taking the following measures to assist poor farmers increase food production.

1. It purchased seeds worth Kshs300 million in the financial year 2005/2006 and distributed to poor farmers in several districts.

2. A programme is in place to multiply orphan crop seeds to be distributed in ASAL regions.

3. Revival of Agricultural Finance Corporation (AFC) loaning to farmers at a reduced interest rate of 10 per cent per annum.

4. Revitalising extension services throughout the country with increased staffing, funding, provision of transport, vehicles and motorcycles, and introduction of unit extension methodologies.

5. Improved funding on research services to enhance training of farmers through the revival of farmers' training centres.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We cannot hear the Assistant Minister. I urge that you consult in lower tones.

Proceed Assistant Minister!

The Assistant Minister for Agriculture (Mr. Kembi-Gitura): Mr. Deputy Speaker, Sir, the sixth step, is the revival of agricultural mechanization system and, finally, the introduction of

water harvesting.

Mr. Arungah: Mr. Deputy Speaker, Sir, I am very disappointed. This is a very important Question since it affects every member of the community in every corner of this country. But my colleagues are not interested. They are consulting loudly. I can hardly hear the Assistant Minister.

Mr. Deputy Speaker: Could you ask your question?

Mr. Arungah: Mr. Deputy Speaker, Sir, does the Ministry have any plans to go to villages and identify the poorest of the poor and give them seeds and fertilizers, so that they can grow enough food for themselves? Is the Ministry waiting for pictures to appear on televisions before it can buy food to give to them?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, as I stated, in the last financial year, the Ministry of Agriculture distributed seeds worth Kshs300 million in 50 districts in all the provinces in the country, except Nairobi. I have a list to show how these seeds were distributed.

The Ministry has also intensified the deployment of agricultural extension staff and rationalised the same. Only early this year, the Ministry hired 300 new extension officers who we appreciate are not sufficient. The Ministry is seeking to continue to recruit more of such officers so that we reach as many farmers as possible in the rural areas and increase the productivity of food.

Mr. Omingo: Mr. Deputy Speaker, Sir, the Assistant Minister has actually given an explanation to the effect that the work that is being done in terms of food security in answering the Question--- This is questionable. What is the deliberate policy of the Government to ensure that there is food security, so that we do not have to do fire-fighting to import food from elsewhere?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, this is not fire-fighting in the least. The reason that the seeds were given in the last financial year, was not with a view to making Kenyans dependent, but because there was drought. Most of these are seeds that could do well in Arid and Semi-Arid Lands (ASALs). The deployment of Agricultural Extension Officers, as I have stated; the development of orphaned crop, that is, the crop that has not been commercialised in the past, the opening up and revitalization of the farmers training colleges and, particularly the extension services, are meant to make agriculture a sustainable development for the farmers and the rural folks in this country.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for those specific measures he has mentioned, to encourage farmers to produce food. One measure he has mentioned is the revival of farmers training centres. It is common knowledge that these centres have been abandoned, for example, the Katumani Farmers Training Centre and one other centre in Embu. He needs to be specific as to whether he has set aside money---

(Loud consultations)

Mr. Deputy Speaker: Before the Assistant Minister answers the question, could hon. Members on the Front Bench on my right, please, consult in low tones.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I had not finished my question. Could the Assistant Minister tell us the specific proposals he has put in place this financial year to revive these training centres?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, if the hon. Member checked the Printed Estimates for this Financial Year, he would note that there is a vote for Kshs87,537,410, specifically to go towards the rehabilitation and redevelopment of the farmers' training institutes. If he would like me to give him the specific figures of how this has been distributed, I can do it. But they are 16 of them in almost all the provinces. I do not think there will be any point for me to go through them. But if he wants to see the list, I have it.

Mr. Arungah: Mr. Deputy Speaker, Sir, the Assistant Minister says they will spend

Kshs300 million to buy seeds. I would like him to explain the rationale of setting aside Kshs300 million when I know for a fact that during the last drought Kshs8 billion was spent to feed those people who were hungry. Why is the Ministry setting aside a paltry Kshs300 million?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I regret, I did not hear that question completely. Because it is an important question, maybe, the hon. Member could repeat it.

Mr. Arungah: Mr. Deputy Speaker, Sir, the Assistant Minister has talked about setting aside Kshs300 million to buy seeds to give the poor farmers. But I do know that during the last drought, the Government spent Kshs8 billion to feed about two million Kenyans. How could he justify setting aside a paltry Kshs300 million compared to spending Kshs8 billion to combat drought? If the Kshs8 billion could be given to support farmers in input, we could feed up to 20 million Kenyans.

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, with a lot of respect to the hon. Member, I do not understand how he co-relates the Kshs300 million spent on buying seeds and the Kshs8 billion spent on famine support. The intention of the Government is not to make Kenyans dependent on it. But we had a very serious drought last year. We also had little rain. As I said, the seed that was given, worth Kshs300 million, was mainly for food crops that would do well in the drought-prone areas. The idea was to make people have enough food to feed themselves immediately after the drought and short rains. So, with respect, I cannot understand how the relationship between the donations or gift of Kshs300 million for seed, could be related or equated to the amount of money used to alleviate the drought and famine that was in the country last year.

Mr. Deputy Speaker: Next Question by the Member of Parliament for South Mugirango Constituency!

Question No.375

IMPLEMENTATION OF REP
IN SOUTH MUGIRANGO

Mr. Omingo asked the Minister for Energy:-

(a) how many projects have been supported in South Mugirango Constituency by the Government under the Rural Electrification and donor-funded programmes for the years 2000/2001 to 2005/2006;

(b) how many projects are earmarked to benefit under Phase II of the French-funded programme and how much money has been allocated to each project; and,

(c) when the programme under "b" will commence.

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

(a) There were no projects implemented in South Mugirango Constituency between the year 2000/2001 and 2001/2002. However, the following four projects have been fully funded by the Ministry of Energy since then and are in various stages of implementation. Nduru High School is completed. Ongecha Market, health centre and Co-operative office is in progress. Nyatike Health Centre and Kiorori Secondary School projects have not yet started.

(b) The total number of projects earmarked for implementation under Phase II of the French Funded Rural Electrification Programme at an estimated cost of Kshs2,871,000,000 are 156 countrywide. In south Mugirango Constituency, the projects include: Nyamaiya and Ekona Markets, Monianku Dispensary, Etago Market and the divisional headquarters, which are estimated to cost Kshs33.94 million. Also included are Bokimai Health Centre, Ramoya Secondary School,

Iringa Co-operative, Etago Secondary School and Health Centre and Machongo Market, at an estimated cost of Kshs18.86 million.

(c) The programme has already started with the hiring of a consulting engineer who commenced the services on 24th April, 2006. A tender for consultancy services in design, survey and way leave acquisition was advertised on Thursday, 29th June, 2006, and is scheduled to close on 31st July, 2006. Construction is projected to commence by the end of November, 2006.

Mr. Deputy Speaker: Mr. Omingo, with such a lengthy answer, do you still have a supplementary question?

Mr. Omingo: Far from it, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Go ahead!

Mr. Omingo: You heard the Assistant Minister say that nothing has happened under the Rural Electrification Programme since 2002. I want to point out to the Assistant Minister now that even the one which has just been completed was commenced by the previous regime, who were actually campaigning to recapture the seat after the death of my late brother. This Government has not factored anything to the constituency from 2000. Even now, it appears as if no funds are being voted to that Ministry to benefit the people I represent. Is the Assistant Minister satisfied that the funds allocated to this Ministry sufficiently cover the entire Republic, including South Mugirango, because he has said that nothing has been done?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the hon. Member is used to making allegations that he cannot substantiate. I can undertake to go to his constituency and launch these projects to prove to the people of South Mugirango that this Government has really put in money and we are working there. Saying that we have not started does not mean that nothing is being done. I have clearly indicated that these works commenced, not only for South Mugirango, but for the whole country. On 24th April, 2006, we instructed the consulting engineers to start. That is a fact and he is doing that for the whole country, and South Mugirango is in Kenya.

Secondly, Mr. Deputy Speaker, Sir, on 29th July, 2005, we all witnessed in the newspapers that we tendered out and the work is progressing for the whole country, and South Mugirango is in this country. So, his allegations are not true.

Mr. Deputy Speaker: Last question, Mr. Omingo!

Mr. Omingo: Mr. Deputy Speaker, Sir, in as much as the Assistant Minister is struggling to defend himself, it is true that, that constituency has been marginalized since Independence. We are most of the people in the dark in this Republic. We are in the dark because of preferential treatment of political correctness or otherwise. Having said that, the Assistant Minister has allocated a total of Kshs50 million under Phase II of the French Funded Rural Electrification Programme, which is actually a donor-funded programme. Is the Assistant Minister satisfied that Kshs50 million is sufficient to cover the area, given the small amount and the level at which we are in terms of electricity coverage?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, this Government allocated Kshs1 million to Nduru High School to complete it, and Kshs6.3 million to Onyancha Market, Health Centre and Co-operative Office and works are in progress. Nyatike Health Centre was allocated Kshs5 million by this Government and Kshs2.5 million went to Kereri Secondary School. I have also indicated that over Kshs50 million through the French Programme is going to the same constituency. That is a total of over Kshs70 million. The hon. Member has something to settle with hon. Nyachae, who thinks he is fighting him. He wants to tell the people of South Mugirango that when hon. Nyachae was the Minister for Energy, those projects--- It is not in order to come here and fight your personal wars.

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

Mr. Deputy Speaker: Order! Order! Order! There is no reason why hon. Nyachae's

name should be dragged into this Question. Mr. Assistant Minister, have you finished answering the question?

Mr. Omingo: He should withdraw and apologize!

Mr. Deputy Speaker: Order!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, sometimes it is good to take people where they belong instead of fighting political battles on the Floor of the House.

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

Mr. Deputy Speaker: Order! Order, Mr. Omingo! Would you sit down? I have already addressed the Assistant Minister on the matter of dragging hon. Nyachae's name into this Question. I really do not know how hon. Nyachae's name comes in.

Mr. Omingo: Out!

Mr. Deputy Speaker: Order! Order, Mr. Omingo!

(Laughter)

Mr. Kiunjuri, how does hon. Nyachae's name come into this issue?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, hon. Nyachae was the Minister for Energy. There have been allegations from the hon. Member that he suspects that those projects were removed. So, I am in order to drag hon. Nyachae's name into this Question.

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

Mr. Deputy Speaker: Order! Order, Mr. Omingo! Would you sit down? The moment this House moves into the direction of mudslinging and name-calling, I think we will be making a serious mistake. When a Question is asked, it should be answered in the manner in which it is asked. I do not want us to continue with that matter.

The matter is closed, Mr. Omingo.

The Minister for Roads and Public Works (Mr. Nyachae): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Wow! Mr. Nyachae, what is it? I thought I was protecting you.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Deputy Speaker, Sir, when my name is mentioned about Kisii, nobody should be bothered. So, can it rest because whenever the people of Kisii have a problem, my name must be mentioned somewhere. So, let us not bother about that!

(Laughter)

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

Mr. Deputy Speaker: All right. Since I have given Mr. Nyachae a chance to speak, I will also give you a chance. What is it?

Mr. Omingo: I want the Assistant Minister to state what he knows about the projects that are ongoing in Kisii. Is he in order to mention my name in bad light in this House without bringing a substantive Motion? I demand an apology from this gentleman!

(Laughter)

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, you heard the allegation---

Mr. Deputy Speaker: Did he mention your name?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I said right from the beginning that the hon.

Member made allegations that he cannot substantiate. I am still calling on the Chair to ask the hon. Member to substantiate his claims that we have not allocated any funds to his constituency. I have already laid some documents on the Table showing the projects ongoing in his constituency. I am requesting this House to take action against any hon. Member who is misleading it. Who is misleading this House, is it the hon. Member, who is not capable of substantiating his claims or the Assistant Minister?

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

Mr. Deputy Speaker: Mr. Omingo, I am not going to allow you to have a verbal exchange on the Floor.

As far as the Chair is concerned, Mr. Omingo asked a Question on electricity supply in South Mugirango. He claims that there is no project but the Assistant Minister has said that there are projects and he is ready to lay the documents on the Table to prove that the projects exist. As far as the House is concerned, that is enough. We do not need any further substantiation.

Next Question by Dr. Ojiambo!

Question No. 434

FREQUENT TRANSFER OF
MR. WELLINGTON OBWAMO

Dr. Ojiambo asked the Minister for Education:-

(a) whether he is aware that a primary school headteacher, Mr. Wellington Obwamo, was transferred thrice during the month of September, 2005;

(b) whether he is further aware that consequent to these frequent transfers, the KCPE mean score for 2005 at his original station, namely Nangina Mixed Primary School, dropped from 271 to 261; and,

(c) why the teacher is on the TSC payroll if the Ministry deems him unsuitable to serve.

The Assistant Minister for Education (Dr. Mwiria): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware of the transfer of Mr. Wellington Obwamo from Nangina Mixed Primary School to Obiero Primary School, Losholo Primary School and back to Nangina Mixed Primary School between September, 2005, and 3rd October, 2005.

(b) The drop in the KCPE mean score of the school may not have been attributed to the transfer of the teacher since he was out for a short time. There are many other factors that explain a drop in performance. The results of the last four years also indicate that performance has not been constant and the results have been fluctuating.

(c) The transfer of a headteacher from one school to another is a normal administrative process. Teachers are only removed from the payroll on disciplinary circumstances, on attaining the retirement age and on medical grounds.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, I am glad to note that the Assistant Minister is aware that this teacher has been transferred severally. However, I am disappointed that he does not know that the said teacher is still being tossed around like a football in a World Cup match. He was at a school called Munyanja. He was moved from there to Osieko and is now being threatened to be transferred to Bungoma. The Ministry of Education should be a model Ministry in terms of discipline and consideration for workers. Does he know that the said teacher is a husband and father to somebody, and that he is also a human being?

Dr. Mwiria: Mr. Deputy Speaker, Sir, Dr. Ojiambo has asked me whether I know that this

man is a husband to a wife. I now know. I would like to say that we have realised that the situation is getting serious. Even the pupils of the school complained, and he has since been re-routed back to that school. If there is any reason to suspect that he is being victimised, I would like to know because we would not accept that to happen. We would like the teacher to be settled for his own sake, the sake of his family and that of the pupils of the school.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to state the Ministry's policy on transfer of teachers in the middle of the term and at any other time when the children are at school. The facts are that children at Nangina Mixed Primary School have been engaged in running battles whenever teachers have been sent to that school to replace this headmaster. The children have been reported to have picked up stones and sticks, and chased away any new teacher. Currently, the children are at home and are being re-admitted one by one. They have been asked to go back to school with their parents to sign that they can stay with the new teacher.

Could the Assistant Minister stick to the Ministry's policy of not transferring teachers, particularly headteachers, in the middle of the term?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we do not like to disrupt learning whenever it is possible. However, sometimes there are reasons for transferring teachers. There are times when local communities and politicians demand such transfer, while at other times transfers are effected on disciplinary grounds. Sometimes we cannot avoid it. However, where we realise that it is pointless to transfer teachers mid-term, especially in cases where it is a problem for most of the students, we try to keep the teachers in those schools. That is why, for example, this teacher has been re-routed to his former school. We hope that he will stick there. In case of any problem, we will follow up the matter with the District Education Officer to ensure that the children are not victimised.

Mr. Deputy Speaker: Hon. Members, I would like to seek your indulgence that we defer the Questions by Eng. Nyamunga, Mr. Ojaamong and Mr. Rotino to Tuesday next week, because we are already past Question Time.

Question No.392

STALLING OF CONSTRUCTION
WORKS ON ROADS E220/E1120

(Question deferred)

Question No.029

MEASURES TO ADDRESS
CORRUPTION IN JUDICIARY

(Question deferred)

Question No.387

REHABILITATION OF ROADS
IN EASTLEIGH AREA

(Question deferred)

Mr. Deputy Speaker: Next will be for the Minister for Trade and Industry to issue a Ministerial Statement on Uchumi Supermarkets Limited, but before he does so, I want to re-visit the issue of laying of documents on the Table by Dr. Machage.

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2001, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Jomo Kenyatta Foundation for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Jomo Kenyatta University of Agriculture and Technology for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Teachers Service Commission for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Council of Legal Education for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Health (Dr. Machage) on behalf
of the Minister for Education)*

Annual Report and Accounts of the Kenya National Library Services for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya National Library Services for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the
Minister for Gender, Sports,
Culture and Social Services)*

Annual Report and Accounts of the Capital Markets Authority for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Industrial Research and Development Institute for the year ended 30th June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Industrial Research and Development Institute for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Health (Dr. Machage) on behalf of*

the Minister for Trade and Industry)

Annual Report and Accounts of the National Aids Control Council for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Health
(Dr. Machage) on behalf of the Minister
of State for Special Programmes)*

Mr. Deputy Speaker: Thank you very much, Dr. Machage.

MINISTERIAL STATEMENT

PROGRESS ON ATTEMPTS TO REVIVE UCHUMI SUPERMARKETS

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, on Tuesday, last week, I promised this House that I would come back with a comprehensive Ministerial Statement on the state of play in our attempts to revive Uchumi Supermarkets Limited.

Rather than give detailed accounts of reasons why we want to do this and the benefits of doing it, which I believe I did in my previous Ministerial Statement on the supermarket chain, this afternoon, I wish to do two things: First, I will give an account as to why our initial optimism to re-open the supermarket chain within a week did not materialise and, secondly, inform this House of the current status and where we are headed.

Mr. Deputy Speaker, Sir, at its last meeting, the Cabinet approved the revival of Uchumi Supermarkets, subject to a rescue plan that is acceptable to Government. On the basis of that approval, myself and my colleague at Treasury, together with the members of the Rescue Task Force, consulted on the development of a draft rescue plan. After the approval of this rescue plan by His Excellency the President on 21st June, we sent the same to the other stakeholders. Principally, the secured creditors, the suppliers, the landlords, the workers and former shareholders of Uchumi Supermarket Limited.

This process turned out much more protracted than I had originally expected. Among other things, while we have a shared sense of the need to revive Uchumi Supermarkets Limited, we have fairly recent memories of what happened to Kenya Farmers Association; that, once a company is in trouble, and Government injects in some money, all manner of creditors to that company rush to put their hand on the money that arrives first. So, it was important for us, on the basis of the rescue plan, to develop an enforceable legal instrument; a framework agreement, on the basis of which all the interested parties will commit themselves, that once we agree on the priority use of the earliest resources available, they should not push to the front of the queue to try to liquidate their interests.

Mr. Deputy Speaker, Sir, while many of them fully welcomed this, there were still some issues that the task force had to deal with. Beyond the re-capitalisation and the revival of Uchumi Supermarkets Limited, most of the stakeholders of the company had insisted that they want a management that leads to a viable private sector-driven Uchumi Supermarkets Limited of the future. For this reason, the process of recruiting a new management had to be much more inclusive than interviews of the task force.

So, we asked for the establishment of an interviewing panel with representatives from the creditors, suppliers and the former management, to sit together with the representatives of

Government and shortlist the people who were interested in management positions and interview them. This was concluded fairly well last week but when the names were proposed to the creditors, who are the employers of the receiver manager, who have a veto on any interim management of company trading under receivership, they wanted to do their own due diligence, and that slowed us down. They even suggested certain changes in the rankings and the priorities of persons to be employed.

Mr. Deputy Speaker, Sir, I am glad to inform this House that, at long last, this afternoon, we got the concurrence of all the stakeholders - the creditors, the suppliers and the task force - on the team of persons to become the interim managers of Uchumi Supermarkets Limited.

Secondly, we have succeeded in getting all the suppliers to agree on the schedule of prepayment of small creditors and more importantly, on how to use the resources that come as trading capital, and payment of pending bills. Number three and perhaps the most difficult one, we have had to deal with rather strange questions. Some of the sensitive issues negotiated with suppliers and creditors under which concessions have been paid, where there was treatment of indemnity and counter-indemnity, the flow of Government funds and shareholder funds in the rescue plan, resolving these matters required very protracted negotiations which ended at 3.00 p.m, this afternoon.

Mr. Deputy Speaker, Sir, I am glad to inform this House that on the last of the most contentious issues, this afternoon, we finished the concurrence of the principal creditors and we have entered a framework agreement between the task force and the Government on one side, and the creditors on the other. So, on the basis of that, members of the task force have just completed inspecting the Uchumi Stores, to ascertain the stock levels and practicality of reopening. I have said the gates will reopen. But, I thought, with your concurrence, that if we appoint managers--- I could have given their names here but some of them have not been informed officially. Unlike in the past, I would rather people were informed of their appointments before putting the issue in the public domain. So, tomorrow, we will announce the names of the interim management team and I want them to be involved so that jointly, with the new management team, creditors and suppliers, we will announce the exact date on which Uchumi will reopen.

Mr. Deputy Speaker, Sir, I want to restate that our intention is not to return Uchumi to Government control. The Government, as a custodian of Government interests, believes that the best way to privatise Uchumi is as a going concern. We are working with old stakeholders to have it operational and look for a strategic partner to get in and retreat from equity participation.

*(Dr. Oburu and Mr. Raila stood
up in their places)*

Mr. Deputy Speaker: Are you standing on a point of clarification or a point of order? There are two Odingas who are standing.

Proceed, Mr. Raila!

Mr. Raila: Mr. Deputy Speaker, Sir, I would like the Minister to clarify something. The Minister is on record saying that he will spend Kshs640 million to try and revive Uchumi Supermarkets. There is already a Cabinet decision which, according to the Constitution, the Cabinet spends money which has been approved by this House. It is only this House that can authorise expenditure from the Consolidated Fund. Does the Minister intend to bring the matter before this House so that he can get a resolution or where else will he get the money from, to fund the revival of Uchumi Supermarkets?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, while hon. Raila was out of this country, I dealt with that issue. The issue was that, the Government would not

get money from the Consolidated Fund to invest as an investment. However, on the basis of a well-deeply-felt attitude in this country that Uchumi going under is a pain to a national brand, the Government was willing to take out of the Civil Contingency Fund, money to loan. The account being operated under the auspices of the receiver manager is receiving this, not as an equity, but as a loan from the Government on the basis of a rescue plan that was agreed by all shareholders that once the company turns around, the Government will get back its money. We are not investing in shares.

Dr. Oburu: Mr. Deputy Speaker, Sir, on Tuesday this week, Dr. Kituyi, the Minister for Trade and Industry---

Mr. Deputy Speaker: Order, Dr. Oburu! If you want to make a personal statement, I will give you an opportunity to do so. I am aware that you want to make a personal statement, under Standing Order No.69. However, do you have any clarification you want to seek from the Minister?

Dr. Oburu: Mr. Deputy Speaker, Sir, I do not have any clarification to seek.

Mr. Deputy Speaker: I will then allow Dr. Oburu to issue a personal statement under Standing Order No.69.

PERSONAL STATEMENT

ISSUANCE OF COMMITTEE SUMMONS THROUGH THE PRESS

Dr. Oburu: Mr. Deputy Speaker, Sir, this week, the Minister for Trade and Industry, Dr. Kituyi, made a personal statement in this House in regard to him being summoned by myself as the Chairman of the Finance, Planning and Trade Committee. I want to say that my Committee has never, and does not intend in future to summon anybody, leave alone a Minister or any hon. Member of this House, through the media. What happens is that we inform the public about what we are doing and can even say that a certain person is being expected to appear before the Committee. That is just for the information of the public but not intended to summon the Minister.

We know that according to the National Assembly Powers and Privileges Act, Section 14(1):

"The assembly of any outstanding committee thereof, may, subject to provisions of sections 18 and 20, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person."

We also know that Section 15(1) gives the Speaker and the Clerk, purely administrative role to do the summoning, and it states as follows:

"Any order to attend and give evidence or to produce documents before the assembly or committee shall be notified to the person required to attend or to produce the document by a summon under the hand of the Clerk, issued by the direction of the Speaker."

My committee has strictly adhered to that provision and we have never gone out of it. Dr. Kituyi was summoned under the hand of the Clerk of the National Assembly, vide a letter dated 22nd June, 2006, inviting him to come and it reads as follows:

"The Departmental Committee on Finance, Planning and Trade is charged with the responsibility of investigating, inquiring into and reporting on all matters relating to public finance and national planning, trade, commerce and industry, tourism promotion, wildlife among others. During its meeting on Wednesday, 21st June,

2006, the Committee resolved to meet with the Minister for Trade and Industry."

The date proposed is Thursday, June 29th, 2006, at 10.00 a.m in committee room No.9 at Parliament buildings. The letter goes on to read:

"The Committee would like to be appraised on the circumstances leading to the collapse of Uchumi supermarkets chain and its proposed revival."

The letter was signed by Mr. Ndindiri.

Dr. Kituyi replied on the 27th June, 2006, in a letter addressed to Mr. Ndindiri, the Clerk of the National Assembly. The letter read:

"I have just received your letter dated 22nd June, 2006 about the meeting discussed this Thursday. Before this, I have been reading in the media statements about my being summoned by the Departmental Committee. This habit may work with some people's egos, but it is not right.

Secondly, I am leading the Kenyan delegation to a World Trade Ministerial conference in Geneva. I depart tonight and return Thursday 4th July, 2006."

If that is a summon through the Press, then I am not aware. My committee has never summoned anybody to appear before it through the media and we, as a committee, sat down after receiving the letter and said that we shall allow Dr. Kituyi to come to our Committee at the time of his convenience. Therefore, I want to clarify that the issue about me was not right. On the issue raised by Dr. Kituyi regarding the appraisal, the matter is before my committee and I am wondering whether it is right to make these updates, when we have information that is contrary to what the Minister is saying. We have information to the effect that the Kshs640 million---

Mr. Deputy Speaker: Order, Dr. Oburu! I want to interrupt you. I want you to understand that we approved your statement on the basis of what you presented to us. But now, you are going beyond the statement that we approved. So, could you, please, restrict yourself to the statement that we approved? Finish your statement!

Dr. Oburu: Mr. Deputy Speaker, Sir, that is the end my Personal Statement. I would like to state that we are not going to invite Dr. Kituyi. If he wants to come, he can come and give us the information that he wants to give. But we have gone very far in investigating the matter. My Committee does not believe that the measures he is taking will revive Uchumi Supermarkets. We believe that, that is going to be another--- That is because there was another Kshs1.2 billion that was given, but it went down the drain.

Mr. Deputy Speaker: I wish you had said that when Dr. Kituyi was issuing his Ministerial Statement.

The Minister for Trade and Industry (Dr. Kituyi): Could I seek clarification, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: No! Mr. Minister, look at Standing Order No.69. There is no debate on a Personal Statement. I remember very well that you made a Personal Statement on that day, and Dr. Oburu was not given a chance to seek clarification. I think the matter rests there.

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. I respect your ruling on this issue. But when Dr. Oburu was making his Personal Statement, he indicated that when you address the Press and say that you will summon a Minister, it does not amount to "summoning through the Press." I would like your ruling on that issue because tomorrow, another hon. Member will summon a Minister at a funeral, yet, according to Dr. Oburu, that does not amount to summoning. When you speak to the Press and tell members of the public that you will be summoning so-and-so, is that not summoning through the Press?

Mr. Deputy Speaker: I would like to draw the attention of the House to the ruling of the Chair on that matter, when it was raised by Dr. Kituyi. The Chair was very elaborate on the matter. Mr. Speaker said that matters of this House should not be raised in certain quarters. I advise hon.

Members to look at the HANSARD because the ruling was very elaborate. Matters relating to Committees are now very clear. We have said, time and again, that we are going to adhere very strictly to matters of Committees and summoning. Any hon. Member or chairperson who purports to say something about a Minister being summoned will be ignored by the Clerk of the National Assembly. I hope that will not happen because it would not be in the interest of this House. So, let us be very strict with the rules of the House. I am sure we will run the affairs of this House very well.

The Minister for Trade and Industry (Dr. Kituyi): On a point of order, Mr. Deputy Speaker, Sir. Dr. Oburu has just mentioned something that was a matter of concern to me, when I issued my Statement earlier in the week. The matter is: How do we deal with a situation where the Chair instructs a Minister to bring a Ministerial Statement to the House and, in the period before that Ministerial Statement is issued, a Committee of the House asks him to appear before it and discuss matters which he is supposed to report to the House. Dr. Oburu's concern was: Why am I speaking here when the Committee is dealing with the matter? I have asked myself: Who do I go to? The Speaker has asked me to issue a Statement in Parliament and the Committee is asking me to go and present it before them, and not the National Assembly. I did not get a clear ruling on that matter.

Mr. Deputy Speaker: Yesterday, the Chair made a ruling on a matter related to that. The Committee works for the House [**Mr. Deputy Speaker**] and, therefore, the House is the supreme authority when it comes those matters. That is because, eventually, the Committee reports to the House. But be that as it may, even when a Minister makes a Statement in the House, there is no harm in him presenting that Statement to the Committee. The Statement is the property of the House and it is for the betterment of this nation. The Chair made it very clear that, where there is conflict between the House and the Committee, the House prevails. That is because the Committee works for the House.

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, I agree with that sense. I have not made any reference as to whether there is a conflict between appearing before the Committee and coming to the House. When I received a letter from the Clerk of the National Assembly, I wrote back and said that, on the day that I was requested to appear before the Committee, I was going to be in Geneva. When I came back, I wrote to the Clerk of the National Assembly to say that I am available and ready to meet the Committee. So, I have not said that I will come to the House and not appear before the Committee. I have just said that, potentially, there could be a situation where a Member, like my friend has said, would think that he should not be talking here, when the Committee wants to meet him. That can be a bit tricky.

Mr. Deputy Speaker: Now, the last one!

Mr. Poghio: Mr. Deputy Speaker, Sir, allow me to seek clarification on the same issue. The Committee of the House needs to finish its task and, at the same time, the Minister wants to implement his plans. Does the Chair see the conflict in that? The operationalization of Uchumi Supermarkets re-opening and the Committee's remarks need to be linked together, so that one party is not seen like it is trying to run away with the matter while the other one is still with it!

Mr. Deputy Speaker: I do not see any conflict because the Minister is ready to meet the Committee at any time. It is up to the Chairman to follow up the matter. But the Minister cannot delay the re-opening of Uchumi Supermarkets until the Committee makes a report. I think it is in public interest that the matter of Uchumi Supermarkets be dealt with expeditiously. At the same time, the Committee may also speed up its work to finalise the matter.

Next Order!

COMMITTEE OF THE

WHOLE HOUSE

(Order for the Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE KENYA MARITIME AUTHORITY BILL

The Temporary Deputy Chairman (Mr. Poghisio): Order, hon. Members! We are now in the Committee of the whole House. We are going to start with the Kenya Maritime Authority Bill. I would like to remind those hon. Members with amendments to just say: "As they appear in the Order Paper", so that we do not spend a lot of time repeating them.

Clause 2

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended by deleting the word "chairman" and substituting therefor with the word "chairperson".

The word "chairman" should be substituted with "chairperson" wherever it appears in the Bill.

(Question of the amendment proposed)

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Chairman, Sir, we accept that. It is in order.

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

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

(Clause 2 as amended agreed to)

Clause 3

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 be amended -

(a) in subclause (6) by deleting the words "in Mombasa" and substituting therefor the words "at the port on Kenya's Coast";

(b) by inserting the following new Subclause (7)-

"(7) The Authority shall establish branches at main inland waters".

(Question of amendment proposed)

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Chairman, Sir, we support the proposed amendment.

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

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

(Clause 3 as amended agreed to)

(Clauses 4 and 5 agreed to)

Clause 6

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

THAT, Clause 6 be amended, in Subclause (1) -

(a) by deleting the first paragraph (b) and substituting therefor the following paragraph (b) -

"(b) the following persons or their representatives-

(i) the Kenya Navy Commander;

(ii) the Director of the National Environment Management Authority; and,

(iii) the Director of Fisheries."

(b) by renumbering the paragraphs appearing immediately after sub paragraph (b)

(iii) as paragraphs (c) and (d);

(c) by inserting the words "but not entirely restricted to" immediately after the word "to" appearing in the second line of the renumbered paragraph (d);

(d) by inserting the words "nominated by industry players and maritime unions and" immediately after the word "harbours" appearing in the fourth line of the renumbered paragraph (d).

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, whereas we appreciate what the Committee had in mind, we must oppose this amendment. That is because the people the amendment is proposing to remove and substitute with other--- First of all, this Act is subject to the State Corporations Act---

The Temporary Deputy Chairman (Mr. Poghisio): Excuse me! I think I should have proposed the amendment before you started contributing.

(Question of amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, whereas we appreciate what the Committee had in mind, their attention was not drawn to the provisions of State Corporations Act. That Act makes it mandatory for the Minister in charge to be

represented on any Board. It also makes it mandatory for the Attorney-General to be represented in the Board. That also applies to the Minister for Finance. I am sure that, if the attention of the Committee was drawn to that, they would not have come up with this amendment.

Secondly, including the Kenya Navy Commander in the Board is going to politicise our armed forces. We are very proud of our armed forces. There is also confusion between navy matters and merchant matters. This Act is dealing with merchant shipping. It has nothing to do with our armed forces.

With regard to NEMA, it is the co-ordinator of all environmental matters. If you put it on the board of a corporation which it supervises, we will see a conflict of interest. In fact, it will water down their role as the overall protector of our environment. The same argument applies to the Fisheries Department. The Kenya Maritime Authority officers supervise fishing. They supervise facilities, construction, equipment and fishing vessels. Having them on the Board will dilute their role. They might be opposed to some of the measures introduced by the Kenya Maritime Authority. In fact, it is like asking *matatu* operators to be on the Transport Licensing Board (TLB). We are saying that, that is not necessary and we oppose the amendment.

Mr. Rotino: Mr. Temporary Deputy Chairman, Sir, I do not think the argument being put forward by the Assistant Minister is valid. The names that are being proposed to be added to the Board are: The Kenya Navy Commander, the Director of NEMA and Director of Fisheries. The argument is simple: Who are the chief advisers? Who is going to assist in controlling piracy? It is the Kenya Navy. NEMA are experts in environment matters and they will give advice on how to tackle oil spills. That will help the Authority.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, without necessarily opening debate, I want to support the Assistant Minister in opposing the amendment. If you look at the intention of the Bill, it is to create and an Authority that will monitor, regulate and co-ordinate activities in the maritime industry.

Mr. Temporary Deputy Chairman, Sir, the Kenya Navy carries out activities in maritime areas. It cannot then go and sit on the Board to regulate and monitor itself. The same thing applies to the Fisheries Department. NEMA is an overall watchdog and regulator of the environment in the country. It cannot sit in the Board because, from time to time, it will be overseeing the activities of the Board. I think the proposed amendment does not add any value to the Bill. If, anything, it creates avenues for potential conflict of interest and we should oppose it.

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

(Clause 6 agreed to)

The Assistant Minister for Transport (Mr. Githae): On a point of order, Mr. Temporary Deputy Chairman, Sir. You have left out Clause 6(b). There is a proposed amendment.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Chairman, Sir. We do not want to be held hostage on these proposed amendments. If those who propose them do not move them, then you should leave them out and we move on!

The Temporary Deputy Chairman (Mr. Poghisio): Mr. Moi, are you coming back?

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, we have finished with one of the issues of bringing in the---

The Temporary Deputy Chairman (Mr. Poghisio): That means then we have dealt with Clause 6(a) and (b)?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): We did not deal with (b).

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, we did not deal with part (b).

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, we support the proposed amendment. I wish to thank the Chairman of the Departmental Committee on Energy, Communications and Public Works for highlighting this anomaly to us.

The Temporary Deputy Chairman (Mr. Poghisio): So, is it Clause 6(b), (c) and (d)?

The Assistant Minister for Transport (Mr. Githae): On a point of order, Mr. Temporary Deputy Chairman, Sir. We seem to be running into a little difficulty. We have left out Clause 6 (c) and (d).

The Temporary Deputy Chairman (Mr. Poghisio): But we dealt with them!

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, we were talking about the renumbering which is on Clause 6(b). The Mover did not propose the amendments on Clause 6(c) and (d).

The Temporary Deputy Chairman (Mr. Poghisio): I put them together.

The Assistant Minister for Transport (Mr. Githae): No! Mr. Temporary Deputy Chairman, Sir, Clause 6(b) is dealing with the renumbering only.

The Temporary Deputy Chairman (Mr. Poghisio): I told the person who was proposing the amendments that if they appear together on the Order Paper, he should just say: "As it is in the Order Paper". That is how he proposed it and that is how we put it. I even put the Question on Clause 6(b), (c) and (d) together, and that is what was voted on.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Chairman, Sir, he referred to Clause 6(b) and (c), but here there is some confusion. If you read the proposed amendment on the Order Paper, you will find that there is a reference to the amendment in Clause 6(b), where they refer to paragraphs (c) and (d). When you go overleaf, there is also an amendment referred to as (c) and (d). We thought that he was referring to the first (c) and (d) and not the second (c) and (d). We accept the amendments as proposed on the Order Paper under Clause 6(b) to amend (c) and (d). But then, there is a further amendment noted as (c) and (d). As far as we are concerned, these amendments have not been moved yet.

The Temporary Deputy Chairman (Mr. Poghisio): What is wrong with the way we have put it?

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, it will be fundamentally wrong because Clause 6(c) is completely different. We are opposing the amendments in Clause 6(c) and (d). We accepted the renumbering, which is basically a typographical error of Clause 6(b). So, in Clause 6(b), we are just renumbering the subclauses because they are repeated.

Mr. Temporary Deputy Chairman, Sir, Clause 6(c) and (d) are substantial amendments. The mistake that has been done is that Mr. Moi did not move the entire clause. He moved Clause 6(a) and we thought that we were only dealing with that particular section. Then we moved to Clause 6(b).

The Temporary Deputy Chairman (Mr. Poghisio): I want to make it clear that our rules make it difficult for us to proceed and we have to think of what to do. If it really does not change the substance--- When we were doing that, you were all attentive when I said "(b), (c) and (d)". I even asked if we should put them together and you all said "yes". Then I did.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Chairman, Sir, maybe I can make a further clarification here. You asked us whether we accepted the amendment to paragraphs (c) and (d), which are erroneously marked as (a) and (b). Having done that, we were waiting for the Mover to propose the new (c) and (d), because they do not appear in the Bill at all.

After amending them to read as (c) and (d), we are now ready to discuss the content of the new (c) and (d), which do not appear here at all.

The Temporary Deputy Chairman (Mr. Poghisio): If you remember, I proposed that Clause 6(b), (c) and (d) be part of the Bill. That is what was passed!

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, Clause 6(b) is subject to two interpretations.

The Temporary Deputy Chairman (Mr. Poghisio): In fact, it has been amended.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, you have proposed that Clause 6(c) and (d) be part of the Bill, which are, in fact, enumerated by the same paragraph, which reads:-

"By renumbering the paragraphs appearing immediately after sub-paragraphs (b) (iii) as paragraphs (c) and (d);"

This is what we are talking about. Sections (c) and (d) are also mentioned in the same clause. He has not yet moved the renumbered Clause 6(c) and (d).

The Temporary Deputy Chairman (Mr. Poghisio): Unfortunately, it is not going to be easy for me to revisit an issue on which we have voted and a resolution arrived at.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, we have not dealt with the renumbered Clause 6(c) and (d). What you have said is correct because Clause 6(b) refers to three sections, but after renumbering, we have not dealt with the renumbered sections (c) and (d). The purpose of this amendment was to renumber the various sections because we do not have (c) and (d) in the Bill.

The Temporary Deputy Chairman (Mr. Poghisio): I want you to understand that the whole of Clause 6 has been amended by you. I finally put the Question that Clause 6 as amended be part of the Bill and you agreed to it. You will have to go back to the time before I put the Question.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, as I said, the Mover did not move the entire Clause 6. He has been moving it in parts. He only moved Clause 6(a) and (b).

The Temporary Deputy Chairman (Mr. Poghisio): Order! As I consult, I want to tell you that that Clause has been dealt with. In fact, those things should have come in as I was proposing. I remember keeping quiet for a while after proposing the Question since I expected somebody to rise and raise the matter before I put the Question and nobody rose. Somebody should have stopped me before I said: "Clause 6 as amended be part of the Bill", for which you all said "Aye" and, therefore, we have passed the matter. We need to move to the next set of clauses. Now, unless otherwise advised, it is difficult for us to go back on what we have voted unless we go back to the way we do it in the Standing Orders. It is like re-opening debate on a Question which has already been proposed and dealt with.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, in any event, even Standing Order No.1 would not apply in this particular instance because it is not a matter about which no procedure has been provided for. You proposed the Question very clearly. When the Mover was reading through subclause (b)--- As you went to the other one you asked him: "Do you do it as per the Order Paper"?, which were subclauses (b) (c) and (d). The Question was proposed in very clear terms and carried when it was put. Since the hon. Attorney-General is here with us, he will help them when the Bill becomes law to bring amendments if they so desire. That is the only avenue open to them and not arguments.

The Temporary Deputy Chairman (Mr. Poghisio): Hon, Members let me say this and it is my position: Clause 6 as amended was proposed, the Question was put and carried. Maybe the Attorney-General can help us. Once you reach that stage where you have actually proposed, put

and carried or even negated the clause, it is finished. It is a clause.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, the Mover did not mention subclauses (c) and (d). So, we were only discussing Clause 6 (a) and (b). I said that the mistake that happened is that he moved it in bits and pieces. If we do not deal with subclauses (c) and (d) then the amendments in subclauses (a) and (b) will contradict each other because in one area we are removing certain bodies from being in the board and then in the other area we are saying we can reappoint. It will be a total contradiction.

The Temporary Deputy Chairman (Mr. Poghisio): Hon. Members, let us move on because we are repeating the same thing. We are not getting anywhere with this one. We are moving in circles.

The Minister for Water and Irrigation (Mr. Katuku): Mr. Temporary Deputy Chairman, Sir, since I heard hon. Gedion Moi move only two subsections of this clause, I think you should allow him to move the whole clause as it is. He should be honourable enough and move the whole Clause as it is.

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I think honour is not here. I think the Minister should be the last one to talk about honour. Anyway, I did speak on that but as my hon. colleagues say they can amend it further if they feel very strongly about it but we should move on.

The Temporary Deputy Chairman (Mr. Poghisio): Hon. Members, I think the intention is not to derail anything. The intention is that our rules do not allow us and I am consulting if there is anything out of it. However, our rules do not allow us to go back and revisit this issue. So, it does not matter how much more you say.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, it is not that the rules do not allow us. It is because we have not dealt with the whole clause. We have only dealt with Clause 6 (a) and (b).

The Temporary Deputy Chairman (Mr. Poghisio): No, we have! I could not have put the whole Question then.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I am sorry I was not following the discussions because I was preparing for my own Bill which appears later. However, if you said: "Clause 6 be amended as it appears on the Order Paper" and not as it had been moved, then I would say that the whole thing has been done.

The Temporary Deputy Chairman (Mr. Poghisio): That is the way hon. Moi moved it.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, then the whole thing is over.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, just to recollect, we had already dealt with the proposed subsection (b) and negated it. When the Mover came to move the next subclauses (c) and (d), the Question was proposed, put and carried by even the hon. Members on the other side.

The Temporary Deputy Chairman (Mr. Poghisio): Hon. Members, by the way, when the Mover, Mr. Moi, was going to Subclause (c), I remember telling him to just state as per the Order Paper because you do not have to read what is already on the Order Paper. If I remember he went exactly by those words. However, we will try and see later if there is a process. Like I said, I will consult and let you know if we can come back to it.

Let us proceed!

(Clauses 7, 8, 9 and 10 agreed to)

Clause 11

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 11 be amended in subclause (1) -

(a) by inserting the words "for a period not exceeding three years" immediately after the word "office" appearing in the third line;

(b) by deleting the full-stop appearing after the word "appointment" in the fourth line and inserting the words "but shall be eligible for reappointment for a second but last term on the recommendation of the Board immediately after the word "appointment".

(Question of the amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, it is now very clear that the Mover has moved the whole clause and not bits and pieces as happened to the other one and so we will respond to the whole Clause.

We have no problem with the proposed amendment in subclause (a) but for the subclause (b), we want to delete the words after "appointment" in the third line so that it reads:

"By deleting the full-stop appearing after the word "appointment" in the fourth line and inserting the words "but shall be eligible for re-appointment" and we stop it there so that we do not make it mandatory that the person must only serve for a maximum of two terms. It should be upon the appointing authority to extend his or her term or not. If the person has performed well then he can be given another term.

The Temporary Deputy Chairman (Mr. Poghismo): Mr. Githae, now, what are you saying about this clause? Are you supporting it?

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I am proposing a further amendment to Clause 11(b).

Mr. Muturi: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Assistant Minister says he is ready to move a further amendment to Clause 11(b) in the manner that he has proposed. However, he should be advised to put it in writing so that we know what it is that he is proposing. We are not opposed to the further amendment.

The Temporary Deputy Chairman (Mr. Poghismo): Mr. Muturi, are you saying we should deal with things---

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, Mr. Githae has said they have no problem with the amendment to Clause 11(a), but he wants to move a further amendment to Clause 11(b) so that the words, "for a second but last term on the recommendation of the Board" immediately after word "appointment" are deleted.

The Temporary Deputy Chairman (Mr. Poghismo): Mr. Githae, just for ease of this matter, please, move the further amendment so that we know how the clause should read.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, as I said, we have no objection to Clause 11(a) as amended, but on Clause 11(b), I would like to move a further amendment as follows:-

THAT, Clause 11(b) be further amended to read as follows:-

(b) deleting the full-stop appearing after the word "appointment" in the fourth line and inserting the words, "but shall be eligible for re-appointment."

The other words, "for a second but last term on the recommendation of the Board" immediately after the word "appointment" should be deleted.

The Temporary Deputy Chairman (Mr. Poghismo): So, you want a situation where there is no time limit?

The Assistant Minister for Transport (Mr. Githae): Yes, Mr. Temporary Deputy

Chairman, Sir.

Mr. Moi, do you have anything to say on that further amendment?

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, does that mean that the Assistant Minister does not want the words, "Re-appointment on the recommendation of the Board" in the Bill?

*(Question of the amendment
to the amendment proposed)*

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, we have no problem with that further amendment.

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I would like to support my colleague. However, we wanted to put a ceiling on the maximum period of office because longevity breeds complacency and corruption as we all know. However, we are in agreement with the Assistant Minister.

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

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

(Clause 11 as amended agreed to)

(Clauses 12, 13 and 14 agreed to)

Clause 15

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended by inserting the following new subclause:-

"(7) The Authority shall adhere to a strict mail audit trail for all its business plans and correspondence."

(Question of the amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I appreciate the concerns the Committee had to propose this amendment. However, our view is that trying to put audit trails, business plans and correspondence in a Bill of Parliament is not right. If we want to amend the business plan and correspondence we have to re-visit this Bill in future.

Mr. Temporary Deputy Chairman, Sir, I am proposing that we should delete this clause so that the business plans, correspondence and audit trails will be in the business charter of the organisation rather than putting it here. We have never come across audit plans and correspondence being part of a Bill.

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, our main reason for having this was that we wanted to avoid a blame game between the Minister and the Authority where everything is crystal clear. However, we will not "fight" it.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, you are putting the Question as amended in the Order Paper, but I have proposed that we delete

this clause---

The Temporary Deputy Chairman (Mr. Poghio): Mr. Githae, that is the Question I am putting and then you will have to vote for or against it.

*(Question, that the words to be inserted
be inserted, put and negated)*

(Clause 15 agreed to)

(Clause 16 agreed to)

Clause 17

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 17 be amended in subclause (1) by inserting the words "in consultation with the Board" immediately after the word "Minister" appearing in the first line.

(Question of the amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, we appreciate the intention of the Committee in trying to make the organisation transparent and accountable. However, if you put the words "in consultation with the Board" then we will get a stalemate because the Minister will only intervene when, in his view, something goes wrong, for example, if they want to buy something that is over-priced. So, if you say, "in consultation" he will only intervene when something is really "dead",. It is like saying: "I want to sack you, can you, please, accept that I sack you?" We are opposing this amendment because it will bring a stalemate. The Minister will only intervene in a case where something is wrong. To ask for the Board to accept, will be a contradiction.

*(Question, that the words to be
inserted be inserted,
put and negated)*

(Clause 17 agreed to)

Clause 18

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

THAT, Clause 18 be amended by deleting subclause (1) and substituting therefor the following new subclause (1) -

"(1) The funds of the Authority shall be derived from-

(a) such sums as may from time to time be appropriated by Parliament for the purposes; and

(b) such fees, fines, levies or other charges as the Minister may approve from time to time."

Mr. Temporary Deputy Chairman, Sir, we propose a small amendment to clarify where the

organisation will be getting its revenue from. In addition to getting grants from the Treasury, it will also be in a position to impose fines and levy some charges. We are, therefore, saying that we put a new Clause as given in subclause 18 (1) and (2) just to clarify that the organisation can impose fees, fines, levies and other charges as the Minister may approve from time to time. That is just to clarify!

The Temporary Deputy Chairman (Mr. Poghisio): As a matter of interest to the Chair, I have noticed that the Minister and the Assistant are moving the amendments from the same Ministry. Can you make up your minds which one of you is going to do so?

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I have moved that amendment.

The Temporary Deputy Chairman (Mr. Poghisio): I think for all amendments, just one of you should do it.

An hon. Member: They are applying collective responsibility!

The Temporary Deputy Chairman (Mr. Poghisio): Yes, through one person! So, you should decide which one!

Mr. Muturi: They are using excessive force!

(Laughter)

The Minister for Transport (Mr. Makwere): Mr. Temporary Deputy Chairman, Sir, Mr. Githae will continue.

The Temporary Deputy Chairman (Mr. Poghisio): That is correct.

Proceed, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, in as much as I--

The Temporary Deputy Chairman (Mr. Poghisio): Order, Mr. Muturi! I need to first propose the Question of the amendment.

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, in as much as it appears like it is obvious, I just wanted to get a clarification from the Assistant Minister in Clause 18(b), where they propose that the funds will be derived from, among others, such fees, fines, levies or other charges as the Minister may approve from time to time. I just wanted to ask the Assistant Minister to explain because there is a risk. If the Authority is created and the Minister approves that it will be imposing fines, we run the risk of that Authority operating on nothing else other than just fines. Those fines could be excessive. I do not know whether the Assistant Minister has considered this point so that possibly we could leave out the issue of fines. Or if fines are going to be imposed, they still be treated as fines imposed in courts which operate as Appropriations-in-Aid (A-in-A).

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I would like to thank the hon. Member for that concern. This is the normal thing in all maritime organisations. They get their revenue from imposition of fines and levies because they will give certain standards. If foreign ships come to our ports and they do not meet those specifications, they will be fined as a way of making sure that they do not come to our ports, probably, when they are unseaworthy. Again, there is a proviso that it must be approved by the Minister. The amount of the fine and the penalty itself must be approved by the Minister. The Minister will, therefore, take into account whether the fine is excessive and other considerations. The Attorney-General is also represented on the Board. So, by the time the Minister makes those rules, he will also have got an opinion from the Attorney-General. I would, therefore, like to assure

this House that the Minister will not impose excessive fines. They will be reasonable for the purposes of making the Maritime Authority effective.

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

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

(Clause 18 as amended agreed to)

(Clauses 19 and 20 agreed to)

Clause 21

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, clause 21 be amended in subclause (3) by inserting the words "or decrease"
immediately after the word "increase" appearing in the fifth line.

(Question of the amendment proposed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, again, I must appreciate the concern of the Departmental Committee in scrutinising this Bill. However, I think the attention was not brought to the effect of putting the word "decrease". What this means is that if you say that the Board cannot increase or decrease, then we are saying that if, for example, they say they are going---

The Temporary Deputy Chairman (Mr. Poghisio): Are you opposing it?

The Assistant Minister for Transport (Mr. Githae): Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Poghisio): Then you had better come out very clearly and just be brief!

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, we are opposing this amendment because the effect was not brought to the Committee. What it means is that if the Board wants to save some money, they cannot if we also insert the word "decrease". What should be prohibited are the increases and not the decreases.

Mr. Syongo: Mr. Temporary Deputy Chairman, Sir---

(Mr. Syongo moved to the Dispatch Box)

The Temporary Deputy Chairman (Mr. Poghisio): Order, Mr. Syongo! Why are you speaking from there? Just go back to the microphone!

Mr. Moi: *Pole*, Mr. Zaddock!

Mr. Syongo: *Hakuna maneno, siku itakuja!*

(Laughter)

(Mr. Syongo went back to his seat)

Mr. Temporary Deputy Chairman, Sir, I am surprised that the Assistant Minister is actually opposing this. I think the import of the amendment is to give flexibility so that they have the option to increase or decrease. That is something that would be advisable!

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I think the hon. Member did not get the exact implications. We are saying that if we want to use the word "decrease" it means that they are prohibited from decreasing from their estimates. This means that they cannot save any money. If they have said that they are going to buy a particular item at a certain price, they must buy it at that price even if they find it cheaper elsewhere. That is the purpose of the decrease.

(Mr. Syongo stood up in his place)

The Temporary Deputy Chairman (Mr. Poghio): Order, Mr. Syongo! You cannot both be on your feet!

Proceed, Mr. Syongo!

Mr. Syongo: Mr. Temporary Deputy Chairman, Sir, I think there is a word that the Assistant Minister is missing. There is a word "or". We are not saying "decrease". We are saying "increase or decrease".

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, the effect of putting the word "or decrease" means that the Authority cannot reduce their expenses. Under this we are saying that they cannot increase the estimates. However, if we say that they cannot also decrease, we are saying that if they find themselves in a position where they can be able to reduce some of their expenses, then if we say "or decrease" it means they cannot. What should be prohibited are the increases and not the decreases. Decreases are savings and they should be allowed to do so.

*(Question, that the words to be inserted
be inserted, put and negatived)*

(Clause 21 agreed to)

(Clauses 22, 23, 24, 25 and 26 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed)

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of the Kenya Maritime Authority Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE NATIONAL MUSEUMS AND
HERITAGE BILL

Clause 2

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended-

(a) in paragraphs (b), (c) and (d) by deleting the word "universal" wherever it occurs;

(b) by inserting the following new definition in proper alphabetical sequence-
"museum" means a public or private institution which collects, preserves, analyses and exhibits objects of cultural and natural heritage.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended-

(a) by deleting paragraph (m) and substituting therefor the following new paragraph-

(m) in consultation with the National Council for Science and Technology, maintain existing research institutions and establish new ones.

(b) by deleting paragraph (n) and substituting therefor the following new paragraph-
(n) subject to the provisions of the Environmental Management and Co-ordination Act, conduct environmental impact assessments.

(Question of the amendment proposed)

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

*(Question, that the words to be
inserted in place thereof be)*

inserted, put and agreed to)

(Clause 5 as amended agreed to)

Clause 6

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended in subclause (1)-

(a) by deleting the words "any of the public universities" appearing in paragraph (b) and substituting therefor the words "one other university"

(b) by deleting the word "museums" appearing in paragraph (c) and substituting therefor the word "heritage".

(c) by inserting the following new paragraph immediately after paragraph (d)-

(dd) the Permanent Secretary in the Ministry for the time being responsible for defence;

(d) in paragraph (e)-

(i) by deleting the word "two" and substituting therefor the word "three", and

(ii) by deleting the words "in consultation with the Director-General".

(e) by deleting the words "Kenya National Chamber of Commerce and Industry" appearing in paragraph (f) and substituting therefor the words "private sector"

(f) by deleting paragraph (g) and substituting therefor the following new paragraph-

(g) one person appointed by the Minister upon nomination by the Kenya Tourist Board.

(g) by deleting the words "after consultation with the Board" appearing in paragraph (h).

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, in the proposed part (e) of the amendment the Minister proposes to delete the words "Kenya National Chamber of Commerce and Industry" appearing in paragraph (f) and substituting therefor the words "private sector". I wish to query the wisdom of this change. "Private sector" is such a generic term that should not replace something so definite as the "Kenya National Chamber of Commerce and Industry". The term "private sector" is amorphous! This does not appear to be good in law.

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, these changes were done in consultation with the relevant Departmental Committee. It was proposed by the Departmental Committee and as my Ministry that we have "private sector" in place of the Kenya National Chamber of Commerce and Industry.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

Clause 7

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended in subclause (2) by deleting the word "six" and substituting with the word "seven".

(Question of the amendment proposed)
(Question, that the word to be left out
be left out, put and agreed to)

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

(Clause 7 as amended agreed to)

(Clauses 8 and 9 agreed to)

Clause 10

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 10 of the Bill be amended in subclause (2) by inserting the words "on any particular issue" immediately after the word "deliberations".

(Question of the amendment proposed)
(Question, that the words to be inserted
be inserted, put and agreed to)

(Clause 11 agreed to)

Clause 12

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I have proposed an amendment which is to the effect that Clause 12 be deleted. The reason is that, that Clause as it stands now proposes that the Board will be the one to set the allowances of its members. That will be in conflict with the provisions of the State Corporations Act Cap.486. We had an occasion where the Attorney-General addressed the Public Investments Committee (PIC) on that particular matter. It is for that reason that I consulted the Minister before moving this amendment.

(Question of the amendment proposed)

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, it is true that we discussed the matter with the hon. Member. Indeed, we agreed that

Clause 12 should be deleted. The proposed amendment is as it appears in the Order Paper; that is, Clause 12 be deleted.

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

(Clause 12 deleted)

*(Clauses 13, 14, 15, 16, 17, 18,
19, 20, 21, 22, 23, 24, 25, 26,
27, 28, and 29 agreed to)*

Clause 30

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 30 be amended-

(a) in subclause (2) by deleting the expression "forty-eight hours" and substituting therefor the expression "seven days";

(b) in subclause (6) -

(i) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) the District Commissioner shall notify the Minister and the holder of the exploration licence of the application under paragraph (a);

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph

-

(c) the Minister shall appoint a panel of three persons under the chairmanship of the District Commissioner, which shall afford the owner or occupier a reasonable opportunity of being heard in relation thereto, and if satisfied that the applicant is entitled to compensation, shall make an award in his favour in accordance with subsection (4)

(iii) by deleting the expression "District Commissioner" appearing in paragraph (d) and substituting therefor the word "panel";

(iv) by deleting the expression "District Commissioner" appearing in paragraph (e) and substituting therefor the word "panel".

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 31 of the Bill amended -

(a) by deleting the words "three months" and substituting therefor the words "seven days",

(b) by inserting the words "or to the District Commissioner" immediately after the expression "National Museums" appearing in the sixth line.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 32 of the Bill be amended by inserting the words "subject to Section 28" at the beginning thereof immediately before the words "no person".

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

(Clauses 33, 34 and 35 agreed to)

The Temporary Deputy Chairman (Mr. Poghisio): There is a proposed amendment to Clause 6 by Mr. Twaha. Is he in?

Hon. Members: He is not present!

The Temporary Deputy Chairman (Mr. Poghisio): He is not there and so I will consider that there was no amendment.

(Clauses 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 agreed to)

Clause 46

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy

Chairman, Sir, I beg to move:-

THAT, Clause 46 of the Bill be amended in subclause (1) by deleting the word "injuries" appearing in paragraph (a) and substituting therefor the word "injures".

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

Clause 47

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended in subclause (2) by deleting the words "disclaim in writing" and substituting therefor the words "by notice in the Gazette, disclaim".

(Question of the amendment proposed)

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

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

(Clause 47 as amended agreed to)

*(Clauses 48, 49, 50, 51, 52, 53, 54,
55, 56, 57, 58 and 59 agreed to)*

Clause 60

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 60 of the Bill be amended by deleting the words "at any time without warrant" appearing in paragraph (b) and substituting therefor the words "upon obtaining a warrant, at any time".

(Question of the amendment proposed)

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

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

(Clause 60 as amended agreed to)

*(Clauses 61, 62, 63, 64, 65,
66 and 67 agreed to)*

Clause 68

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 68 be amended by deleting subclause (1) and substituting therefor the following new subclause-

(1) No person shall operate a museum except in accordance with a licence granted by the Minister, which shall subject to such terms and conditions as the Minister may think fit.

(Question of the amendment proposed)

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the new Clause 68 be further amended by inserting the word "be" between the words "shall" and "subject".

The amended new Clause 68 would then read:-

(1) No person shall operate a museum except in accordance with a licence granted by the Minister, which shall be subject to such terms and conditions as the Minister may think fit.

Mr. Deputy Speaker, Sir, I think the omission is a mere typographical error.

*(Question of the further amendment,
that the word to be inserted
be inserted, proposed)*

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I sincerely thank my colleague for that correction.

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

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

*(Question, that the word to be inserted be
inserted, put and agreed to)*

(Clause 68 as amended agreed to)

(Clauses 69, 70, 71 and 72 agreed to)

Clause 73

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 73 be amended by deleting the expression "2003" and substituting therefor the expression "2006"

(Question of the amendment proposed)

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

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

(Clause 73 as amended agreed to)

(Clauses 74, 75, 76, 77, 78, 79, 80, 81 and 82 agreed to)

(Schedule agreed to)

Title

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in the Long Title by deleting the following words "amend and".

(Question of the amendment proposed)

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

(Title as amended agreed to)

(Clause 1 agreed to)

The Minister of State for National Heritage (Mr. Shakombo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the National Museums and Heritage Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

**REPORTS, CONSIDERATION
OF REPORTS AND THIRD READINGS**

THE KENYA MARITIME AUTHORITY BILL

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

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

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Transport (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that The Kenya Maritime Authority Bill be now read the Third Time.

The Assistant Minister for Energy (Mr. Kiunjuri) seconded.

(Question proposed)

(Question put and agreed to)

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

THE NATIONAL MUSEUMS AND HERITAGE BILL

Mr. Poghiso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the National Museums and Heritage Bill and approved the same with amendments.

The Minister of State for National Heritage (Mr. Shakombo): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Transport (Mr. Githae) seconded.

(Question proposed)

Mr. Kajembe: Mr. Deputy Speaker, Sir, on behalf my Departmental Committee, I would like to say that we worked very closely with the Minister in making these amendments. I am happy that they have been ratified by Parliament. I call upon the Minister to move very fast and repossess all these areas referred to as national heritage museums. This is because most of the land owned by

National Museums of Kenya, especially along the coastal strip, was grabbed by individuals. He should move very fast and ensure that land is repossessed in order to make our national heritage museums remain beautiful and attractive to both locals and foreign tourists. As we all know, Coast Province is a tourist destination.

There was a delay in making these amendments because there was a change of guard in the Ministry. We will give the current Minister the full support.

Thank you.

(Question put and agreed to)

The Minister of State for National Heritage (Mr. Shakombo): Mr. Deputy Speaker, Sir, I beg to move that the National Museums and Heritage Bill be now read a Third Time.

The Assistant Minister for Transport (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Deputy Speaker: Thank you, hon. Members.
Next Order!

BILL

Second Reading

THE WITNESS PROTECTION BILL

(The Attorney-General on 5.7.2006)

*(Resumption of Debate
interrupted on 5.7.2006)*

Mr. Deputy Speaker: Mr. M. Kilonzo concluded his contribution yesterday. Now, it is the chance for Mr. Muturi to contribute.

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. I wish to say a few things about the proposed Witness Protection Bill.

As some of my colleagues said yesterday, by passing this Bill, Kenya joins the list of other progressive nations around Africa which have for long seen the need towards a law that protects witnesses and, particularly, whistle blowers. I am guardedly using the term "whistle blowers" because, in the Bill, the Attorney-General has not distinguished what kind of offences it is proposed that witnesses will seek protection. In the Bill, the Attorney-General says that it is to protect witnesses or people who are likely to be witnesses, or those who have even recorded statements with the police with regard to criminal offences. I want to congratulate the Attorney-General because, for the first time, in a long time, he has begun to be innovative. There is need for us to be guarded. This is because when we talk about criminal offences, I believe we are not just

talking about those within the Penal Code, but all manner of crimes. Because we are just beginning, it would be good that the Attorney-General considers specifying the kind of offences over which witnesses may seek protection and may be admitted to the witness protection programme.

If this law is not properly applied, and it is made to apply for all manner of crimes, then we run the risk of very many Kenyans being tried for offences whose disclosure has come from people whose identity may remain mysterious forever. If a person is to face a charge of treason, for example, and the person making that allegations runs to court or to the Attorney-General and enters into some memorandum of understanding - and we all know the story about memoranda of understanding in Kenya - that person could actually languish in remand prison for a very long period, and he may never know who made the allegation that he committed this extremely heinous crime. It is for that reason that I would like to suggest to the Attorney-General to specify the crimes for which witnesses may be admitted into this programme. The law is good and I support it.

Mr. Deputy Speaker, Sir, in this country, we know that grand corruption is a serious matter. We are daily being bombarded with stories about this or that person bribing the other, and leaders being accused of this or the other. In my view, grand corruption offences would be some of the best offences to fit in this programme. Witnesses who have evidence that certain conduct or offences under the Anti-Corruption and Economic Crimes Act are being committed should be among the very first to be considered for admission into the Witness Protection Programme (WPP).

Sadly, about two years ago, we saw Transparency International feting some Kenyans, one of them a policeman and another a former employee of the Central Bank of Kenya, for being the very first people who spoke out about Goldenberg. I think he was a very courageous Kenyan. I believe that there are several other Kenyans who may know so much about Goldenberg notwithstanding the so-called Goldenberg Commission of Inquiry Report. It may be the case that there may be very many Kenyans who know much more about Goldenberg, but for fear of being exposed, are still staying out there not disclosing what they know about what happened within the Goldenberg transactions. I can see somebody wanting to tell me that it should appear *mutatis mutandis* with the issue of Anglo Leasing. It is quite possible that there may be quite a number of Kenyans out there, possibly because of their relationship with the people who are alleged to have been involved in that scam, who might not be willing to come forward to the authorities, but who would otherwise be very willing to come forth, of course, I hope not through the Memorandum of Understanding (MoU) but through an inquiry that will be filed in the High Court.

Mr. Deputy Speaker, Sir, I am happy that in the Bill, there is a proposal that an application be made in the High Court to determine whether or not a particular person and/or intended witness would qualify under the programme. My proposal in that regard would be that, an inquiry of this nature, desirable and important as it may be, should be conducted in the same manner that the former preliminary inquiries used to be conducted. This should be conducted only at the level of the High Court and in camera. I am happy that the law provides that such inquiries and applications be heard in camera. It would be futile to expect that a person who seeks protection is exposed to the full glare of the public because they want to make certain disclosures. I appeal to the Attorney-General to consider, maybe when we come to the Committee of the whole House, situations whereby he will have specified the nature of the offences which will entitle a person to qualify under this programme. I am happy that, indeed, the qualification entitles a witness to even change their identity. In that regard, I could appear before the Attorney-General and henceforth cease being known as Mr. Muturi and, maybe, assume a name like Shitswila!

An hon. Member: Or Artur!

Mr. Muturi: Certainly not Artur, Mr. Deputy Speaker, Sir!

(Laughter)

That is a notorious name.

Mr. Deputy Speaker, Sir, I believe that with this programme and, maybe, alongside other proposed reforms that the Attorney-General has come up with, it is quite possible that even some of the small scandals we have been hearing about--- Sometimes we hear that Ministers are being carjacked at night; it is possible that there are people who have information about why they are being carjacked! It is quite possible. That information would not necessarily be about where they are being carjacked, but also why they are being carjacked. It is quite possible that with this law, we will get to know much more about ourselves and other Kenyans too.

Mr. Deputy Speaker, Sir, I support this Bill and I would like to request the Attorney-General to consider my proposals about giving specifics about the kind of offences. Indeed, offences like drug trafficking, like a colleague said yesterday, it is quite probable that even as much as we have concluded the trial in the case of the Kshs6.4 billion cocaine haul, there maybe several others. I believe that there are other people, the real lords, who were involved in bringing that haul into this country and, indeed, several others that have been seen in the country. But the people who may have information or knowledge regarding such activities on account of their connections and/or relationships, would be unwilling or too scared to come up to give the information to the police or even to the Attorney-General. It is also quite possible that as we see people throwing themselves from floors of various buildings here, maybe they are actually committing suicide because they fear for their lives! It may very well be that they have such damning information or evidence against some other people who are highly placed that they think that the only way to save themselves or to survive is by taking away their lives.

Mr. Deputy Speaker, Sir, I support this Bill and with those few remarks, I end my contribution.

Thank you.

The Assistant Minister for Transport (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. Firstly, I must commend the Attorney-General for coming up with this Bill, which is long overdue. If this Bill had been in existence, most of the cases that have been lost by the prosecution or even by the Attorney-General himself would not have been lost.

Mr. Deputy Speaker, Sir, before I come to my substantive contribution, I would like to disagree with my learned colleague, friend and former classmate, who said that it is necessary for the Attorney-General to list all the offences under which the Witness Protection Programme is available.

In my view, we should not go that direction. We should leave it to the discretion of the Attorney-General to decide which offences require witness protection. If he tries to list down the offences in respect of which a witness may qualify for protection, he may miss a very obvious case. I think it is sufficient that the Attorney-General has given certain guidelines under Clause 6(1). It gives the criteria by which the Attorney-General can consider a witness for protection.

Clause 6(1)(a) stipulates the seriousness of the offence to which any relevant evidence or statement relates. To me, this is sufficient. It should be the seriousness of the offence, not necessarily capital offences or any other offence of that nature. So, in my view, we should not take the direction of listing down the offences. We should leave that to the discretion of the Attorney-General because, whether an offence is serious or not, depends on the circumstances.

Mr. Deputy Speaker, Sir, going back to my substantive comments, as I said, this Bill is long overdue. If we had in place the law being envisaged through this Bill, most of the cases that the prosecution has lost due to lack of evidence would not have been lost. A lot of the so-called

"whistle blowers" in Kenya have suffered. These people thought that they were helping the institutions, but most of them were condemned. Employees who revealed evidence against their organisations were dismissed.

Even in the public sector, we are aware of cases where civil servants who volunteered information concerning corruption or illegal acquisition of land were transferred to very remote areas as a form of punishment, instead of them being commended or promoted. If the law being sought by this Bill existed then, it would have protected them.

However, all is not lost because, in this country, we do not have a statute of limitation. A person can be taken to court for an offence that was committed as long ago as it happened. We are not like Germany, where they have statutes of limitation. So, even with regard to those cases where the Attorney-General was unable to proceed with prosecution because he had no evidence, if he were to offer the facilities proposed in this Bill, I am sure he will get people who will be in a position to volunteer information which would lead to successful prosecution of those past cases.

Mr. Deputy Speaker, Sir, an hon. Member who spoke earlier said that in Kenya, nobody honours memoranda of understanding. I think he was talking about political memoranda of understanding. What is being sought by this Bill is more of a contract. The purpose is to ensure that before the Attorney-General commits himself to giving protection to prospective witnesses, he will have an idea of the kind of evidence they will give, so that they do not waste his time. The time for this Bill has now come.

Once this Bill is passed, public prosecution of cases will be successful. As everybody is aware, the main reason why it is difficult to have a successful prosecution of corruption cases is the fact that our anti-corruption laws make it an offence for both the giver and the taker. If you say that you gave a bribe, you have confirmed participating in corruption. Likewise, if you say that you accepted a bribe, you have confirmed taking part in corruption. That is why it is very difficult to get any successful prosecution in corruption cases.

Mr. Deputy Speaker, Sir, in corruption, people do not enter into agreements on what they intend to do or what they intend to give in return when something is done for them. The Witness Protection Bill will come to rectify such weaknesses. According to the Bill, the Attorney-General is given certain powers to protect a witness's identity and provide him with a place for accommodation. The witnesses can be given certain monetary considerations for their subsistence upkeep. So, I think this Bill will help in the fight against corruption.

I can go on talking for long. However, I must say that I support this Bill, which is long overdue.

Mr. Billow: Thank you, Mr. Deputy Speaker, Sir. I also want to take this opportunity to support this Bill. There are not many good things that have come out of this Government, but I think this Bill is one of the positive developments, particularly in the public service. I think civil servants have had major problems with regard to the mischief that the Bill proposes to address. One of our major problems is that we still have laws that deal with secrecy of information. On matters which we think are very important, the law still considers them as secret, and where the law does not, we have seen instructions being issued by the Head of Public Service that, public servants who disclose information or give out documents will face the consequences, yet the law is very clear that when a crime is being committed, we all have an obligation to report it. That is why I support, particularly, Clause 3(1)(b), which says:

"A person who has given or agreed to give evidence, otherwise than as mentioned in paragraph (a), in relation to the commission or possible commission of an offence against a law of Kenya."

In other words, you qualify to be a witness if you agree to give evidence of the commission of an offence. That is very important because a number of civil servants have been punished for

doing precisely that. They find some illegal things going on in the Ministries where they work, and the following day, they are shown the door or action is taken against them. So, we have to weigh the provisions for the secrecy and confidentiality for the sake of public good and morality. We allow, in circumstances where national security is concerned, that certain information should not be shared. However, national security cannot be used to provide a cover-up for many things that go on in the public service. We have seen the example of the Goldenberg scam. There was a whistle blown, even in this House, but nobody took it seriously. The country suffered colossal loss of money. The Anglo Leasing scandal was also reported in this House, but was rubbished the same way and nothing happened until the matter was out in the public domain. The latest issue we have is the one a commission of inquiry is sitting to discuss. We have had many issues happening, even in this House.

As recently as last week, I gave information about a serious scam in tax evasion and money laundering that is going on in Charterhouse Bank. I provided documents here that were not done by me, but by the Republic of Kenya, or none other than the former Governor of the Central Bank of Kenya and the Kenya Anti-Corruption Commission Director, showing the massive illegalities that are going on. Instead of the Government taking action, the Minister stood here and rubbished it. He said it was a mere allegation and that the CBK boss should have taken action himself. So, as we sit here, massive tax evasion is going on.

Mr. Deputy Speaker, Sir, I want to table these documents, particularly the ones that I had mentioned were issued by the Governor of Central Bank of Kenya (CBK).

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

He had given very clear examples. I want to refer to one example. When the Minister came here, he told this House: "There is nothing wrong with that bank. It was just Mr. Billow who was creating stories and that is why we closed it." In the affidavit filed by the same Minister and the CBK Governor in court - a copy of which I will lay on the Table, the Minister and CBK gave 11 reasons why that bank was closed, including everything that is mentioned in the Governor's letter - tax evasion, money laundering and all those other things. That is the same Minister who rubbished things here. Those are the same kind of problems that we saw in Anglo Leasing and that is why this country suffered the loss of billions of shillings. I want to say it very clearly--- I will table these documents because they will explain very clearly what I have been saying.

There is a problem with this matter and the Government needs to take it seriously. It is going to be another major scam, unless we take action now! It could not have come at a better time than this, when we are looking at the Witness Protection Bill. We are coming up with that Bill to address the kind of mischief like the one I am reporting here. If anything here is not factual, let the Government come out and explain why the heads of those institutions, who were charged with the responsibility of taking that action, have said so, but the Minister says: "No, they have not!"

Mr. Deputy Speaker, Sir, we have that problem. That is the reason why I have taken the liberty to re-table these documents. They explain the issues that I have mentioned quite clearly. I think we need to go further, particularly to protect public servants. Civil servants who are involved in - and I want the Attorney-General to listen - high profile sensitive cases need protection because their lives could be in danger. We have seen some examples recently. The Public Accounts Committee (PAC) and even the Attorney-General have given instructions for security to be provided to the former Director of Public Prosecutions because of the sensitive issues he dealt with. Some of them fit the description of this one. Most of them are not provided with security. I think it is important we provide that kind of security, so that people in public service can feel the

obligation to come forward tomorrow and give responses to these queries.

Mr. Deputy Speaker: Just a minute, Mr. Billow. My attention has been drawn to this document, which you have just laid on the Table. They are similar to the ones that you laid. We have these documents! So, why lay them twice?

Mr. Billow: Mr. Deputy Speaker, Sir, there is further evidence that I provided to explain--- The Minister had argued that action was taken on that bank because I simply created some noise which scared the public! The affidavit which is filed there, and which was not tabled last time, clearly shows that there are 11 reasons why that bank was closed. He never gave any of those reasons here. They include tax evasion, money laundering--- Everything is listed there, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Billow, I am just trying to get it right. The document which you have laid now is the affidavit which I have here!

Mr. Billow: The affidavit is the first one! Then, there is the document from the Kenya Anti-Corruption Commission (KACC) which explains those accounts that were used for fictitious purposes. Those fictitious accounts are referred to in the affidavit. Then, attached to that letter from KACC are the specific accounts they referred to. A good example is on page 3 which I have highlighted. There is the letter of the Governor and that of the CBK.

Mr. Deputy Speaker: Very well. Continue.

Mr. Billow: Mr. Deputy Speaker, Sir, what I want to insist is that, in terms of considering witnesses, we need to look at public servants who are in high profile and sensitive security matters. That is very important. We have to consider giving them awards. Somebody like Mr. Githongo should have been given a national award for disclosing the Anglo Leasing scandal. Instead, he was vilified and sent out of this country! He is now languishing in exile. It is a shame on this country.

Mr. Deputy Speaker, Sir, as much as we support the Bill, we want to see commitment on the part of the Government. We want to see action from this Government. That way, they can show that they can actually walk the talk when the Bill is passed.

With those few remarks, I support.

The Assistant Minister for Planning and National Development (Mr. Serut): Thank you, Mr. Deputy Speaker, Sir. I want to align myself to the sentiments that have been expressed by other hon. Members. This Bill has come at an appropriate time. I want to agree that this Bill is about whistle blowers. However, I am concerned with one major issue; that is where information is taken specifically to police officers. That same information is exchanged for cash to the suspects. I have cases where people have been killed by criminals in my constituency for giving information to the police. The same policemen decide to give the same information, together with the names of the informers, to the suspects. I have looked at this Bill and cannot see what action will be taken against those who release confidential police information.

There are those who would like to make quick money. I do not know what mechanism the Attorney-General will use to determine the credibility of a witness. I presume that the Attorney-General's office alone will not be able to determine who is a credible witness. I say so because we have so many people, especially the criminals---

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Deputy Speaker, Sir. I have listened very carefully and most hon. Members are repeating themselves. I think the House has unanimously agreed on this Bill. Would I be in order to request you to call upon the Mover to reply?

Mr. Deputy Speaker: That is up to the House! I will put the question.

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

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, first of all, I want to thank all the hon. Members who have contributed to this Bill for being very positive. I will start with my Seconder, Prof. Wangari Maathai, Mr. Wetangula, Mr. Mutula Kilonzo, Mr. Muturi, Mr. Githae, the Shadow Minister for Exchequer, Mr. Billow Kerrow, and Mr. Serut. We were told that Mr. Muturi and Mr. Wetangula were classmates, and shared the same room. That disclosure has put everything else I was wondering into place. I will not go into that.

However, if we have to fight corruption in this country effectively, that is the responsibility of every Kenyan. It is the responsibility of every person who lives in Kenya to be alert and play his role in the fight against corruption. It is in that light that the Witness Protection Bill will enable those who would, otherwise been fearful, to come forward and report criminal offences. They will be assured of protection. Mr. Serut has mentioned that, in his own constituency, a number of people who have volunteered information to the police have been killed because the police have disclosed that information to criminal elements. He wondered how that has been taken care of in the Bill.

Mr. Deputy Speaker, Sir, I want to inform hon. Serut that this has been taken care of in this Bill under Clause 22. Any person who does that is guilty of an offence and is liable on conviction to a fine not exceeding Kshs500,000 or imprisonment for a term not exceeding three years or both. So, it is regarded very seriously to disclose information to criminal elements and thereby putting into danger the lives of many people.

I also want to thank the hon. Members who pleaded for my office to be strengthened. Obviously, this Bill imposes a lot of work on my office and, therefore, my office will need its capacity to be increased to be able to administer this Witness Protection Programme. In fact, I can go further and state that, at times people who are crusading or want us to perceive that they are crusaders against corruption in this country, a number of whom are not Kenyans at all, tend to focus on one institution to fight corruption. Fighting corruption must involve all Kenyans. This Bill is going to enable us to do that.

Fighting corruption cannot just be one institution. You will find these people talking about one institution and saying that Kenya is doing nothing, and yet they are not saying that we must support all institutions which, in one way or another, are involved in the fight against corruption. That is why I thank the hon. Members who have said that the capacity of my office must be increased.

Mr. Deputy Speaker, Sir, the National Action Plan Against Corruption was launched yesterday and I am glad that there is a recognition in that National Action Plan Against Corruption. As far as the office of the Attorney-General is concerned, the terms and conditions of service of the staff of this office must be increased, commensurate with terms and conditions of service of other institutions within the administration of justice sector.

It is recognised in that action plan that the Attorney-General's office must have adequate staffing levels, particularly in the Deputy Public Prosecutions' (DPP's) Office. It is recognised in that plan that training must be undertaken by the professional staff. Prosecutors should train in specialised prosecution and drafters should train in drafting the laws that are required. It is recognised in that plan that the Attorney-General's office must have adequate modern equipment and technology.

I can assure this House that if this National Action Plan Against Corruption is implemented effectively, the Attorney-General's office will not be found to be wanting. In fact, with the limited resources that we have at our disposal, both in human resources and equipment, we have done our level best and we have ensured that no file, whether it is from the Kenya Anti-Corruption Commission or from the Criminal Investigations Department (CID), stays within the office of the

Attorney-General. Limited although we are in terms of manpower, my staff burns the mid night oil to ensure that decisions are made on those files within at most 14 days, and in most cases within seven days. For example, the KACC is supposed to report on corruption and other economic crimes every quarter of the year. For the quarter ending 30th June, you will find that all the files that went to the Attorney-General's have been acted on.

Mr. Deputy Speaker, Sir, those who shout loudest on issues of corruption should know that the Government is now very much focused on strengthening other institutions involved in the fight against corruption. It is focused on strengthening the Office of the Attorney-General, the Judiciary particularly, and so on and we are on our way there. The Chief Justice has put regulations in place to expedite the hearing of these cases. So, a lot is happening. Therefore, those who are shouting should not just be shouting, but they should be taking cognisance of what the Government is doing to ensure that there are proper investigations and prosecutions, and that they are adjudicated upon properly by the Judiciary.

Mr. Deputy Speaker, Sir, this is a landmark legislation. I can assure this House that this Bill will not be misused in the example that my learned friend, hon. Muturi, said, that one can use it to protect somebody. As I said yesterday, since we can also give financial assistance, one can use it to obtain that financial assistance in a funny manner. First of all, there is a requirement that for somebody to benefit under this law, it must be a serious offence. It is already here. I agree with my "Deputy Attorney-General" that the Attorney-General must be given the discretion on the serious offences and that will be exercised ostensibly.

However, even then, not anybody who just comes forward in order that he may get the benefits of this programme will qualify. This is because whatever information that he gives must be information which has resulted in the bringing out of the corrupt practice or the barons behind drug trafficking in a particular area, and that has resulted in actual investigations and prosecutions. So, not everybody who shouts and says: "Yes, something has happened here" will benefit unless that information that he has given has resulted in tangible terms to unearth a major criminal activity and also to bring the criminal activity, to book.

Mr. Deputy Speaker, Sir, I do agree that this Bill, when enacted, will assist in the apprehension of serious criminals in this country. Let us take, for example, drug trafficking. The type of people we get, and our police are very fast on this, are couriers; beautiful ladies who have been enticed by the barons with money to carry drugs. They are caught at the airport with them and then, of course, we charge and prosecute them successfully. They are even afraid to talk about who the barons are because they fear them. They fear that the barons can get hold of them whether in custody or outside. That is what they fear and because of that fear, they may not be ready and willing to give information to the police, which will result in the arrest of the barons.

With the passage of this Bill, I want to encourage them to come forward because if we have to tackle the drug trafficking problem in Kenya effectively, then we must really net the drug barons and not just the poor girls who are couriers of drugs. The same applies to issues of corruption, terrorism and organised crime. If we have been successful in reducing these serious crimes, then the support of the people who know, and who will not come out in the open because they are afraid, will be necessary and hence the importance of the passage of this Bill.

Mr. Deputy Speaker, Sir, I would like to thank all hon. Members for the very effective contributions they have made on this Bill.

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

(Question put and agreed to)

(The Bill was read a Second Time)

*and committed to a Committee of
the whole House tomorrow)*

MOTION

ADOPTION OF SESSIONAL PAPER NO.1 OF 2006 ON NGOS

The Minister for National Heritage (Mr. Shakombo): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts Sessional Paper No.1 on Non-Governmental Organisations laid on the Table of the House on Wednesday, 28th June, 2006.

Mr. Deputy Speaker, Sir, the draft Sessional Paper being presented is a culmination of five years of wide consultations, jointly undertaken by the Government and civil society organisations. These consultations were done both locally and abroad, especially in those countries with strong civil society backgrounds and which have gone through similar experiences as what we have been through.

Mr. Deputy Speaker, Sir, as you are well aware, the NGOs Coordination Act of 1990 became operational in 1992, before any policy studies were done on the sector. As a result, the Act has a lot of gaps, which has made the management of civil societies in this country very cumbersome.

Secondly, the civil society in this country has grown tremendously and now covers almost all sectors of our economy, and every corner of this country targeting the poorest of the poor. With this phenomenal growth over the last 40 years, my Ministry felt the need to come up with a well thought-out policy that will create an enabling environment that will allow civil societies play their meaningful roles in the national plans. To do this, it was imperative that a comparative policy review be done and a new Sessional Paper be developed.

Mr. Deputy Speaker, Sir, the Sessional Paper has looked at all areas of the civil society and come up with policy guidelines which, when implemented through Parliament's blessings, will:-

- (i) Provide an enabling environment for the civil societies to operate under.
- (ii) Address some of the fears expressed by the civil societies.
- (iii) Enable the Government to manage the societies effectively.

(iv) Enable civil society organisations to be more accountable and transparent, both to their donors, recipients and our society at large.

Mr. Deputy Speaker, Sir, the Sessional Paper is divided into two parts. The first part, which covers chapter one to three, looks at the whole spectrum of: Introduction of the sector, historical background to the sector, the need for policy in the sector, the objective of such policy for the sector, core values of NGOs and the current status of NGOs in Kenya.

The second part proposes 11 policy guidelines which we hope, if implemented, will go a long way in harmonising the organisations in the sector with other sectors like the private and public sectors.

Mr. Deputy Speaker, Sir, at this point, let me highlight some of the main objectives of this draft Sessional Paper. These are:-

(i) This will provide an operational definition of Non-Governmental Organisations (NGOs) so that all non-state actors in the voluntary sector can be taken care of. For example, SDOs, SCOs, pressure groups, CBOs, *et cetera*.

(ii) This will enable for the provision of a broad framework for legal and institutional arrangements to facilitate operations of NGOs in Kenya.

(iii) To propose registration procedures which are transparent and will facilitate better co-ordination of NGOs while, at the same time, safeguarding the freedom of association.

(iv) To strengthen relationships and networks between the Government and the civil society, including the NGOs.

(v) To enhance mechanisms for collaborative relations between NGOs, the Government, funding agencies and other stakeholders.

(vi) To propose and facilitate mechanisms for Government support to NGOs such as funding NGOs activities and contracting NGOs to implement projects on its behalf.

(vii) To promote transparency, accountability and awareness among NGOs themselves, the Government and other stakeholders involved in the sector.

(viii) To facilitate exchange and flow of information on NGO activities in order to maximise utilisation of resources, share experience and findings.

Mr. Deputy Speaker, Sir, this policy will be the basis for the laws to govern the operations of NGOs in Kenya for now and posterity. As I have already indicated, the second part of the Sessional Paper is, indeed, giving policy pronouncements so that the above objectives could be realised.

I am counting on the House to give this important sector a new lease of life through the support of this draft Sessional Paper.

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

Mr. Deputy Speaker: Who is seconding?

The Minister of State for National Heritage (Mr. Shakombo): Mr. Deputy Speaker, Sir, I wish to call my colleague, Mr. Wetangula, to second this Sessional Paper.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Deputy Speaker, Sir. I am rich at heart but poor in material terms.

I wish to second this important Sessional Paper. The duty and the role of the Government is to regulate and lay down a framework, legal, administrative and in any other way, for the orderly running of the affairs of State and affairs within the State.

Mr. Deputy Speaker, Sir, there is no doubt whatsoever that NGOs have played and continue to play a very critical role in the development of the socio-economic and political activities of this country. Equally, NGOs elsewhere have had opportunities and capacities to run parallel governments or even over-run governments. It is important that the NGO sector is regulated sufficiently, to show cohesion in policy, operation but above all, to make them transparent and accountable.

Mr. Deputy Speaker, Sir, the evolution of NGOs in this country, particularly in the late 1970s and throughout the 1980s, was an alternative created by donors and local partners to circumvent what they called "grand corruption" in the Government. We were once told during a meeting by an administrator of a leading NGO that the NGO sector in this country spent up to Kshs48 billion per annum. While we laud evolution of the NGO sector, you and I know that the cancer that afflicts our society has not spared them either. Fraud, corruption and dishonesty have crept into the NGO sector. Some NGOs in this country are today synonymous with corruption and fraud. This is so because of poor regulation and lack of clarity in our policy.

I recall that in 1997, a certain NGO known by an acronym "CRIC" talked to hon. Murungi, hon. Kituyi and myself when we were candidates for a parliamentary election. A character who used to run that NGO, a Mr. Otieno, gave us some token sponsorship of Kshs120,000 each for our election campaigns. He paraded us in a seminar and asked us to laud the role of NGOs in development. Shockingly, after the elections, an auditor from a Norwegian organisation that funded that NGO turned up in my office and asked me to confirm or deny that CRIC had paid hon. Kiraitu, hon. Kituyi and myself Kshs12 million each for parliamentary campaigns. It turned out that Mr.

Otieno had dishonestly misappropriated money in our names after parading us before the Press and paying each of us Kshs120,000. In fact, he had got away with millions using our names.

I believe that he did that to many other politicians, because he was all over the country that time. That is one example of how an NGO representative can be dishonest. There are many other NGOs which are being formed by men and women who carry briefcases and have no offices anywhere. Some NGOs are even creeping into CDF funds. There is no single Member of Parliament in this House who is not being molested in his or her constituency by NGO representatives to fund them. When you ask them what they do, they show you nothing. When you ask them how they will account for the money, you automatically become a bad person. They have become so opaque that if we as Parliament approved the Sessional Paper, that must be followed by radical amendments to the NGO Act to provide for accountable behaviour by NGOs. Everyone of us will be happy to have honestly run NGOs in their constituency, carrying or performing honest jobs that are beneficial to our people. This would take away pressure from us, leaders.

It is very painful to see these fellows who do not have offices carrying briefcases and raking in millions of shillings. These people do not pay taxes; they are not accountable to anybody; and anyone who stands in their way meets their wrath and becomes an enemy instantly. Today, NGOs are the surest avenues in this country for those who want to be elected to Parliament or join politics.

Mr. Deputy Speaker, Sir, you saw what happened the other day to an otherwise respectable NGO called Transparency International (TI), which all of us here have been relying on to give us information and lessons on accountability and probity. We all saw and read what that NGO is going through now. They are not insulated from the vices that we are talking about. We are told that their chief officer has been embroiled in fraud. We are also told that the Board is embroiled in tribalism, and everybody in that NGO is devoid of any credit. If TI, the regulators of regulators, can be caught in that web and the State remains a helpless bystander, only watching as things unfold, then the reason becomes even clearer that this Sessional Paper is desirable and absolutely necessary.

Mr. Deputy Speaker, Sir, we have the HIV/AIDS funds which each one of us is supposed to use in their constituencies. There is not a single hon. Member in this House who does not have a list of unaccountable and opaque NGOs in his or her constituency. Some are called Community-Based Organisations (CBOs) and others NGOs. They go by all sorts of names. The bottom line, however, is that NGOs are non-accountable organisations.

We have to create a situation whereby funds meant for the ordinary people in this country reach them. We must ensure that the evolution and revolution that the Constituency Development Fund (CDF) is doing in this country-- If NGOs are making up to Kshs45 billion to Kshs46 billion per annum, compare that with what hon. Members of Parliament are doing in their constituencies with the CDF money. If only that money went into human development, infrastructural development, education and health, and not to be used to buy Four-Wheel Drive vehicles or squandered on endless and uncountable seminars, which do not achieve anything, then it would greatly improve the economy of this country.

We have been told severally that 98 per cent of Kenyans know that there is HIV/AIDS. They also know that it has no cure and that it kills. However, every CBO and NGO involved in the HIV/AIDS campaigns dwells on seminars. Every day, HIV/AIDS seminars are being conducted. Why would you drag people into awareness of things that they already know? This is what this Paper intends to address. We have developed this country into what Mr. Muturi and I have been calling a "seminar mania". Everybody is just going to seminars to talk about things that were talked about yesterday, last month and last year. We need regulations to be put in place.

Mr. Deputy Speaker, Sir, I have a lot to say about this Paper, but since time has run out, I

will carry on with my contribution on Tuesday, next week.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, Mr. Wetangula will exercise his right to continue seconding the Motion when we resume next time.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 11th July, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.