

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th June, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 251

QUALIFICATIONS OF ASSISTANT CHIEFS

Dr. Oburu asked the Minister of State, Office of the President what literary qualifications must a person possess prior to being employed as a Chief or Assistant Chief.

Mr. Speaker: It is your question, Mr. Shamalla.

The Assistant Minister, Office of the President (Mr. Shamalla): Mr. Speaker, Sir, I do not have it but I believe somebody will be in before we finish Question Time.

Mr. Speaker: I will revisit it. Mr. Martin Shikuku's Question.

Question No.341

AGE OF DISTRICT OFFICER'S CLERK IN BUTERE

Mr. Speaker: Mr. Shikuku is not here? Next Question.

Question No.440

REHABILITATION OF EX-BANDITS

Mr. Speaker: Mr. Shidie is not here? Next Question.

Question No.267

ERADICATION OF CHEATING IN EXAMS

Mr. Speaker: Dr. Kituyi not here? Next Question.

Question No. 038

PAYMENT OF COMPENSATION TO MESSRS NANGORI AND LOWOSE

Mr. Speaker: Mr. Imana is not here? Next Question.

Mr. Gichuki: Mr. Speaker, Sir, first of all, I do not have a written answer.

Question No.311

TERMINAL BENEFITS FOR MR. WAIGWA

Mr. Gichuki asked the Minister for Labour and Manpower Development when will the Ministry pay Mr. Wilson Macharia Waigwa, a National Social Security Fund No. 046766154, a former employee of Kenya Taitex Mills, his terminal benefits.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I beg to reply. The withdrawal benefits of Mr. Wilson Macharia Waigwa have been fully paid.

Mr. Gichuki: Mr. Speaker, Sir, arising from that answer from the hon. Minister, I would only kindly request the Minister to furnish me with the details of the payments of his terminal benefits so that I can get back to the person concerned so that he does not bother me again.

Mr. Masinde: Mr. Speaker, Sir, first of all, this gentleman used two different names. The first time he was called Wilson Macharia. Then the next time he was called Wilson Waigwa. Thirdly he was called Wilson Muigwa. As a result of those contradictions, he had been underpaid for the period 1977 to 1979, 1985 to 1991 and 1993. He was subsequently presented and paid through cheque No. 353499 of 5th July 1996. However, he was to be paid through cheques but both cheques were not cleared for payment because of the differences in the names. This prompted cancellation of the previous cheques and issuance of fresh ones. Now, the fresh cheques are No.374105 and No.375263 of 16th October last year and 29th October. Both cheques were collected personally by the claimant.

Mr. Speaker: Very well. Mr. Oburu, for the second time.

Question No.251

QUALIFICATIONS OF ASSISTANT CHIEFS

Dr. Oburu asked the Minister of State, Office of the President what literacy qualifications must a person possess prior to being employed as a Chief or Assistant Chief.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to apologise for coming late and I beg to reply.

A candidate applying for the post of Chief must, first of all, possess a high leadership quality and integrity. Secondly, he must have the thorough knowledge of the problems in his area. The same candidate for the post of a Chief also must be development conscious, have initiative and drive and should be capable of identifying with the needs and aspirations of the people. They also must preferably be of the age 30 and 45 and be preferably literate.

Dr. Oburu: Mr. Speaker, Sir, the written reply I have from the Assistant Minister is completely different from what he is reading to the House. The answer I have strictly says that for one to qualify as a Chief or an Assistant Chief, he must have KCPE, CPE or KCE and above. That notwithstanding, I would like to inform the Assistant Minister that in my Constituency, I have a Chief who is completely illiterate and he is unable to sign any letter. He cannot even read a Government confidential letter. Can he confirm or deny that the only qualification the Chief requires for employment in Government service is loyalty to the Government and the degree of hatred to the Opposition?

Mr. Sunkuli: Mr. Speaker, Sir, there are so many people who are literate and educated, and they are loyal to the Government. The Chief being originally a traditional post must attract individuals who have high respectability and can command responsibility from the residents. We do take into account so many factors, literacy, of course, would be an added advantage, but basically, it is the quality or calibre of the candidate that we consider.

Mr. Achieng-Oneko: Mr. Speaker, Sir, what is the Government policy in employment of Chiefs and their Assistants in view of the public outcry in favour of a particular person who has applied to become a Chief or an Assistant Chief?

Mr. Sunkuli: Mr. Speaker, Sir, I have already said that a person who would be appointed a Chief should be a person who would command respect from those he would be serving.

Dr. Oburu: Mr. Speaker, Sir, can the Assistant Minister undertake to sack a Chief who is completely illiterate, if I brought such evidence to him?

Mr. Sunkuli: No, Mr. Speaker, Sir, I would not undertake to sack him if that Chief qualifies to be appointed under the other criteria.

Mr. Maore: On a point of order, Mr. Speaker, Sir. Can the Assistant Minister not undertake to mislead the House---

(Laughter)

Mr. Speaker: What does that mean?

Mr. Moore: Mr. Speaker, Sir, the Assistant Minister is misleading the House. Is literacy not one of the qualifications?

Mr. Sunkuli: Mr. Speaker, Sir, literacy could be an added advantage.

Mr. Speaker: Very well. Next Question, Mr. Martin Shikuku.

Mr. Shikuku: Mr. Speaker, Sir, I beg to apologise for coming late.

Question No.341

AGE OF DISTRICT OFFICER'S CLERK IN BUTERE

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

(a) if he could inform the House the age of the District Officer's Clerk in Butere Division; and,

(b) how long the said Clerk has been stationed at Butere Divisional Office.

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

(a) The Clerk in the District Officer's Office at Butere Divisional Office is Mr. Hosea Ongagi who is 52 years old.

(b) The Clerk has been stationed at Butere Divisional Office for the last 16 years.

Mr. Shikuku: Arising from that reply, Mr. Speaker, Sir, is the Assistant Minister satisfied that an officer can stay in one station for 16 years or is he exempted from the Civil Service rules and regulations which stipulates that an officer can be transferred to another station? Why is he there for the last 16 years?

Mr. Sunkuli: Mr. Speaker, Sir, all I can say is that the records show that he has been there for the last 16 years, nobody has ever transferred him and he has never refused to be transferred.

Mr. Nthenge: Mr. Speaker, Sir, since the Clerk has been in that station slightly too long, could the Assistant Minister consider giving him a chance to know other places by transferring him to another station?

Mr. Sunkuli: Mr. Speaker, Sir, for the time being, I have no reason to do so, but if he prefers to do so, then we will transfer him.

Mr. Shikuku: Mr. Speaker, Sir, is the Assistant Minister aware now that the people in this area are fed up with this Clerk and they are complaining? That is why I have brought up this Question. If there are no complaints, why should I bring the Question? If wananchi do not want him, he must be pushed down the throats of the people of Butere! Why? Even the colonialists never did that.

Mr. Sunkuli: Mr. Speaker, Sir, I am not aware of any complaints made to the Government by the public. Maybe they complained to the Opposition which is different.

Mr. Speaker: Next Question. Mr. Shidie is not here. The Question is dropped.

Mr. Moiben: The Question is not dropped, Mr. Speaker, Sir---

Mr. Speaker: Order! You have no business saying that the Question is not dropped when I have already dropped it!

(Laughter)

Mr. Moiben: On a point of order, Mr. Speaker, Sir. Hon. Shidie implored me to ask the Question on his behalf.

Mr. Speaker: Where were you during the first and second time when the Question was called?

Mr. Moiben: He telephoned me, Mr. Speaker, Sir.

Question No.440

REHABILITATION OF EX-BANDITS

Mr. Moiben, on behalf of **Mr. Shidie**, asked the Minister of State, Office of the President, in view of the Government amnesty on illegal arms holders, what plans there are to rehabilitate ex-bandits into normal life.

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

There are no special plans to rehabilitate ex-bandits who have surrendered illegal firearms. However, the

Government expects the ex-bandits to willingly participate in the various socio-economic activities prevalent in their homes as part of their rehabilitation.

Mr. Moiben: Mr. Speaker, Sir, taking into account that some of these ex-bandits were either military fellows who have been trained elsewhere or they were sacked from the Military Service, we find it is very dangerous for these ex-bandits to be left idle. Can the Government consider to employ them even as watchmen?

Mr. Sunkuli: Mr. Speaker, Sir, the Government would not like to give an incentive for banditry, but the Government has already given an incentive by extending amnesty to these persons. Once they have been given the amnesty and they have surrendered their firearms, we expect them to behave like normal Kenyans and rehabilitate themselves in society.

Prof. Ouma: Thank you, Mr. Speaker, Sir. I am glad that the Assistant Minister has said that the Government has asked the ex-bandits to come out. But my question is: Banditry has become a culture of delinquency and decadence and this is very serious matter to have a whole Province under banditry. The other day I went to Lamu and to go to Lamu from Malindi, you have to go by boat because you are told the bandits are there on the highway. We would like to have a country in which everyone springs and can go far. Delinquency and decadence cannot let us go up. There is not going to be any development where there is delinquency and decadence. Can the Assistant Minister consider, if they do not have it yet, giving some sort of inducement to remove these bandits from the bush? Can the Assistant Minister do a systematic job of rehabilitation because there are people who have grown as social defiants so that they can be removed from the bush and rehabilitated?

Mr. Sunkuli: Mr. Speaker, Sir, for the time being, the incentive is the amnesty we have extended. That is already a good step by the Government to make them come out of the bush.

Mr. Maore: Mr. Speaker, Sir, as some of the victims of banditry and cattle rustling, the Assistant Minister knows very well that these bandits need those sophisticated firearms as a way of earning their living. When he asks them to surrender the guns, why does he not tell this House and this nation, they are surrendering those firearms in exchange for what? Amnesty does not arise because they do not fear prosecution. What incentives does he give them?

Mr. Sunkuli: I take the hon. Member's point, but we are trying to balance between two things, namely not encouraging banditry and making sure that we encourage bandits to leave banditry. If you make trade out of it may not be very safe for our people.

Moiben: Mr. Speaker, Sir, these bandits are very dangerous. Can the Government consider giving them an incentive? It can re-locate them from their hide-outs by, for example, giving them employment in Kisumu, away from their hide-outs?

Mr. Sunkuli: No, Mr. Speaker, Sir.

Mr. Achieng-Oneko: On point of order, Mr. Speaker, Sir. It is very important for the Government to re-consider its position and adopt a policy of rehabilitation so as to bring these people to normal life. Somebody who has been in the bush for a long time requires some kind of normalisation through rehabilitation. I happen to have been in such a state, where, after my release from detention, I had to be taken through various stages of rehabilitation until I came back to normal life. So, I know that it is very important to take rehabilitation very seriously. This is why some of the ex-prisoners go hey-wire just because the Government fails to rehabilitate them back to normal life.

Mr. Speaker: Very well, you have made your point. Next Question.

Dr. Kituyi: Mr. Speaker, Sir, first, I apologise for coming late.

Question No.267

ERADICATION OF CHEATING IN EXAMS

Dr. Kituyi asked the Minister for Education what lasting solution he contemplates to end the trend of certain schools consistently cheating in examinations leading to the suffering of some students who otherwise might have had fairly good chances of passing their examinations.

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

It is true that the Kenya National Examinations Council (KNEC), which is under my Ministry, detects cases of cheating by some candidates in certain schools in both the Kenya Certificate of Primary Education Examination and Kenya Certificate of Secondary Education Examination. My Ministry has put the following measures in place with a view to ensuring that cheating in national examinations by certain schools does not recur. One, posting of experienced and vigilant supervisors to areas where cheating has been noted by the KNEC to be prevalent; two, cancellation of the entire examination result of the cheating candidate where proof is obtained instead of the current practice of

cancellation of only the subject result in which cheating was reported or detected; three, closer monitoring of supervision and invigilation of national examinations by the district education officers and four, taking of disciplinary action against head teachers in whose schools mass cheating is involved.

My Ministry is currently putting emphasis on career guidance and in strengthening guidance and counselling in all schools with a view to inculcating virtues and values among students.

Dr. Kituyi: Mr. Speaker, Sir, the gracious lady chose to ask herself one question and answer it, and leave the Question I had asked. I have not asked about punishing students who cheat. I have talked about schools which are perennially involved in cheating. That cannot be a crime of students: It has to be a crime of teachers. If she talks about posting experienced and vigilant supervisors and cancellation of examination results she is talking about dealing with a problem after it has occurred. I have asked for a lasting solution to deal with the schools concerned instead of punishing students who are victims of stealing examinations which is done by teachers. Can she now tell us what lasting solutions she has in place for schools which are notorious for examination cheating, which hurt students who would otherwise have been able to pass examinations without their teachers imposing prepared answers on them?

Mrs. Ndetei: Mr. Speaker, Sir, I think leakage of examinations is a normal human error. It is like the hon. Member asking me what measures the Government has to ensure that there are no thieves in Kenya. This is a human problem, but the measures I have already enumerated are enough to show teachers and students that it is not good to have examinations leaked. What I have said is quite adequate in terms of human errors. I do not think there is anything more we can do about it.

Mr. Ndicho: Mr. Speaker, Sir, the measures the Assistant Minister is going to take are quite devastating. She has said that the Ministry will not only cancel the result of the subject in which there was cheating but will cancel the entire examinations result for schools concerned. The Question has not yet been answered. What permanent solution does she have for situations where only some of the students are involved in cheating while others are not involved? An example is a case where four girls of Komothai Girls High School in Kiambu District were caught exchanging papers and then the results for the entire 80 girls in the class were cancelled. What is she going to do about this case where certain individuals cheat while the other candidates are entirely innocent?

Mrs. Ndetei: Mr. Speaker, Sir, these errors are bound to recur. I have just said that currently the Ministry is putting emphasis on career guidance, counselling and inculcating virtues and values among students. These are human beings: You may train this group today, and then another one comes up tomorrow and leaks an examination. I think the Ministry is doing its best to ensure that these leakages do not occur. At the supervisory level we, as a Ministry, are doing our best.

Mr. Magwaga: Mr. Speaker, Sir, can the Assistant Minister tell the House what methods they use to detect cheating? For example, in the most prominent school in Kakamega District, Musingu High School, which has always been leading in examinations, the KNEC discovered that 108 students cheated. But students cannot cheat on their own. What happened to teachers and invigilators who were involved in the cheating? Students and parents suffer while the people who encourage the cheating are not punished!

Mrs. Ndetei: Mr. Speaker, Sir, I have already said that disciplinary action has already been taken against all heads of schools where cheating has been detected. I have a long list all of all such headteachers.

Dr. Kituyi: Mr. speaker, Sir, arising from what the Assistant Minister has said, first there is no such thing like "cheating in examinations is a normal human thing". We expect the Ministry to inculcate into our children the virtue that cheating is not a normal human quality. It is a reflection of failure because of a leadership that has legitimised cheating. The two most notorious schools for cheating in examinations in Bungoma District are led by headmasters who are rabid KANU supporters. Can the Assistant Minister, who says that she has a list of headmasters whose schools have cheated, tell the House what action has been taken against the headmasters of Kituni and Nabwera Secondary Schools, where the most prevalent cheating in examinations in Bungoma District has occurred?

Mrs. Ndetei: Mr. Speaker, Sir, the information required was not part of the main Question. It amounts to a specific Question of its own. If it is asked I will come along and answer it. But I have a list of schools which have cheated and their headmasters have been disciplined by the Ministry.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Could the hon. Gracious Lady just answer the Question as put? Since she is bragging about having a long list of school heads, can she be specific? I have given the names of the two most notorious schools in Bungoma. What specific measures have been taken against the heads of those schools?

Mrs. Ndetei: Mr. Speaker, Sir, I will come along with the specific action taken. He does not expect me to have it right here for all the headmasters. But certain disciplinary measures have been taken. For these particular two, I can provide the answer, that is not difficult. I will find out and bring it back next week Tuesday, if you so wish.

Mr. Speaker: Very well! Next Question.

Question No. 038
COMPENSATION TO FOR
MESSRS. NANG'ORI AND LOWOSE

Mr. Moiben, on behalf of **Mr. Imana**, asked the Minister for Tourism and Wildlife:-

- (a) whether he is aware that Messrs. Ngijie Nang'ori and John Lowose were critically maimed by a crocodile in Lake Turkana on 23rd May, 1994;
- (b) if he is further aware that, inspite of lodging compensation claim, they have not received any compensation; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what urgent steps he is taking to have the two victims compensated.

The Minister for Tourism and Wildlife (Dr. Momanyi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Messrs. Ngijie Nang'ori and John Lowose were critically maimed by a crocodile in Lake Turkana on 23rd May, 1993.

(b) My Ministry has not received any claim for compensation because the Turkana District Wildlife Compensation Committee has not yet met.

(c) My Ministry has requested the District Commissioner (DC) Turkana, to convene the above Committee and forward their decisions to me for further action.

Mr. Moiben: Mr. Speaker, Sir, I thank the Minister for that very kind answer. These two people, Messrs Ngijie and Lowose suffered 70 per cent degree of disability, as a result of the attack by the crocodile. Can the Minister speed up the compensation process, by making sure that the DC convenes the meeting immediately? The people are now disabled.

Dr. Momanyi: Mr. Speaker, Sir, it is only unfortunate that my Ministry learnt of this case very recently, in fact, two months ago. We have instructed the DC to convene the Committee so that we can have the facts in our office and pay the victims as soon as possible.

Mr. Anyona: Mr. Speaker, Sir, I think half the problems of this nation are caused by the Provincial Administration, particularly by DCs. They do things in their own sweet time and they are not bothered about cases involving small people like these two; these are small people. Can the Minister make it his responsibility to ensure that officers of his Ministry expedite this matter or change the procedure so that these matters are taken out of the hands of this DC?

Dr. Momanyi: Mr. Speaker, Sir, the DC happens to be chairman of every district activity. But now, we have written to the District Warden, whom we have asked to ask his Chairman, who is the DC, to convene a meeting as soon as possible because the case has overstayed.

Mr. Moiben: Mr. Speaker, Sir, is the Minister satisfied with the fact that somebody who was maimed by a wild animal four years ago, has not been compensated to date? Can the Minister consider speeding up the process so that these people can be compensated within a week?

Dr. Momanyi: Mr. Speaker, Sir, the DC and the District Warden and the others should not be blamed entirely as it happens that, when the victims themselves come to learn that they will be paid, that is the time they rush and it takes a long time now to take evidence.

Mr. Moiben: On a point of order, Mr. Speaker, Sir. The Minister has almost given a very wrong impression because nobody asked the crocodiles to bite anybody. The Ministry should understand that, this is an accident. What do they do in a case of emergency of this nature?

Dr. Momanyi: Mr. Speaker, Sir, the hon. Members of the Districts are members of that Committee, and they should educate the public.

Mr. P.N. Ndwiga: On a point of order, Mr. Speaker, Sir. I hope you heard the Minister say that hon. Members of Parliament are members of these non-existent committees. Before this Minister was appointed to this Ministry, the previous Minister promised this House that these Committees were going to be set up. To date, these Committees have never been set up, and that is why we have got these kind of situations. Most of the people injured by wild animals since 1992 have not been compensated. Is he in order to mislead the House?

Dr. Momanyi: Mr. Speaker, Sir, this Committee exists in Kisii District, but since there are no wild animals to chase me, I have never attended it.

Mr. Speaker: Well, I suppose that is the right place to leave that Question.

QUESTIONS BY PRIVATE NOTICE

KILLING OF MASTER OTIENO

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

(a) What led to the killing of Master Eric Otieno, a Nairobi parking boy, on 7th June, 1997, by the Administration Police?

(b) What steps is the Minister taking to ensure that the culprit(s) are arrested and brought to book?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg the indulgence of the House because, although this is a Question by Private Notice, it is unfortunate that I have not been able to get the full facts to enable me to deliver the correct answer. I can answer this Question at the earliest possible time.

Mr. Speaker: Mr. Mak'Onyango, can we do it on Tuesday then?

Mr. Mak'Onyango: Mr. Speaker, Sir, but with a bit of concern because postponing answering this Question ends up in flooding of questions, and hence, the work of the House.

Mr. Speaker: Do not worry, I will give you the time on Tuesday next week.

(Question deferred)

NON-COMPLIANCE WITH MINISTRY'S DIRECTIVE

Mr. Ojode: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that Headmasters of Nyamos; Okok; Akala; Nyamanga; Kobodo; Koguta; Miranga; Ototo; Osodo; Magina; Nguku; Rapedhi; Got-Kojowi; Kongo; Ong'eng; Obara; Sibuoche; Wachara and Wi-Rakuom primary schools, among others in Ndhiwa Constituency, are barring pupils from attending classes because of non-payment of Book Levy, Inspection Fund, Maintenance and Activity fees?

(b) If the answer to "a" above is in the affirmative, what action is the Minister taking to ensure that no pupil is sent away for non-payment of the same and what disciplinary action will he take against those headmasters who are contravening the Ministry's directive on non-payment of school levies?

The Assistant Minister for Education (Mrs. Ndeti): Mr. Speaker, Sir, I would request that this Question be deferred to Tuesday. This morning I got a reply which was most inadequate in as far as the details required are concerned. I would like to answer it sufficiently looking at what the hon. Member is trying to find out. So, I request for deferment until Tuesday.

Mr. Speaker: What is your reaction, Mr. Ojode?

Mr. Ojode: Mr. Speaker, Sir, I do not mind so long as it will be a satisfactory answer.

Mr. Speaker: I shall defer that one to Tuesday.

(Question deferred)

PAYMENT OF COMPENSATION TO KIOSK OWNERS

(Mr. Orenge) to ask the Minister for Local Government:-

(a) Is the Minister aware that some hawkers and kiosk owners who were carrying business in Nairobi's City centre had permits and licences from the Government and Nairobi City Council?

(b) Is the Government considering paying compensation to such hawkers and kiosk owners who were either chased from the City or had structures demolished without any reasonable notice?

(c) Why did the Government take such an arbitrary action when it had by conduct and pronouncements encouraged such business in the past?

Mr. Speaker: This Question is deferred to Thursday next week.

(Question deferred)

SUB-DIVISION OF PARKING AREA

(Mr. Mwiraria) to ask the Minister for Local Government:-

(a) Is the Minister aware that the vehicle parking area in Meru Municipality, to be developed with

funding from the recently approved World Bank loan for urban centres, has been subdivided vide part development plan Ref.167/95/6 and irregularly allocated to individuals?

(b) Which authority allocated this plot?

(c) Since the Government has recently stopped allocation of public plots to individuals, what action is the Minister taking to restore this and to its original use?

Mr. Speaker: Is Mr. Mwiraria not here?

Mr. Maore: Mr. Speaker, Sir, hon. Mwiraria had sought the indulgence for deferment, even yesterday for the same reasons.

Mr. Speaker: Is it the same Question?

Mr. Maore: Yes, Mr. Speaker, Sir.

Mr. Speaker: Are you sure it is the same Question? I thought I had deferred it to next week.

Mr. Maore: Yes, Mr. Speaker, I am sure.

Mr. Speaker: Very well, the Question is deferred to Wednesday next week. Tell him that it is Wednesday morning.

Mr. Maore: Thank you, Mr. Speaker, Sir.

(Question deferred)

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. I happen to know that hon. Mwiraria will not be here on Wednesday morning next week.

Mr. Speaker: Why?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, he will be in the UK. So, it is actually the following week that he will be here.

Mr. Speaker: Thank you very much for assisting the Chair and the House. But if it is answered two weeks from now, it ceases to be a Question by Private Notice.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE RETIREMENT BENEFITS BILL

Clause 2

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

(a) by inserting the following definition in proper alphabetical order:

"Actuary" means a fellow of the Institute of Actuaries in England, or of the Faculty of Actuaries in Scotland or of the Canadian Institute of Actuaries, or a person holding such equivalent qualification as the Board may by notice in the Gazette, prescribe;

(b) in the definition of "retirement benefits scheme" by inserting immediately after the words "any schemes or arrangement" the words "other than contract for life assurance".

Mr. Temporary Deputy Chairman, Sir, the first amendment on "a" is simply to give a definition to the word "actuary" which appears in several parts of the Bill and we felt that it was necessary to give it a definition.

In (b), in the definition of "retirement benefits scheme" we felt that to avoid any ambiguity, we should include the words "other contract of life assurance" in the definition so that there is no ambiguity.

(Question of the amendment proposed)

Mr. Shikuku: Bw. Naibu Mwenyekiti wa Muda, Waziri Msaidizi amependekeza sahihisho ambalo si baya. Lakini hata hivyo, tutaupitisha Mswada huu, kwa sababu Wabunge ni wengi katika upande wa Serikali. Ukweli ni kwamba malipo ya uzeeni ni kiasi kidogo sana. Na uchache wa pesa hizo ni kwamba ukizitumia katika nauli kwenda kwa DO na kurudi nyumbani, zitaisha. Isitoshe, malipo hayo hayalipwi kwa wakati unaofaa. Kwa mfano, juzi huko Butere, watu walikuwa wanapewa malipo haya ya mwezi wa Mei. Sijui kwa nini malipo hayo yanachelewesha. Zile pesa wanazopata ni kidogo sana na hawawezi kuzipata wakati unaofaa. Nafikiria kuwa Bw. Waziri Msaidizi anaposema kwamba hii ni malipo ya uzeeni pesa hizo huwa hazina manufaa ikiwa mtu hawezi kuzipata wakati unaofaa. Isitoshe, huenda ikawa kuna ufisadi fulani ambapo wakubwa huweka hizi pesa za watu hawa katika fixed deposit account kwa siku 12 na kupata faida halafu wanalipa baada ya siku 15.

Ningependa Waziri Msaidizi, tunapopitisha Mswada huu, ahakikishe kwamba malipo ya uzeeni yanawafaidi wale ambao wamestaafu wala si kuwafaidi wakubwa ambao wanaziweka pesa hizo katika fixed deposit na huku wananchi wanahangaika.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I think that is the purpose of having the Bill; to ensure that the situation is improved.

The Temporary Deputy Chairman (Mr. Ndotto): May I ask the Members to address the Chair as "Chairman" not the "Speaker." I am now presiding over a Committee of the whole House.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I am really perturbed by this definition. It sounds quite colonial. Could the Assistant Minister not find another way of defining "an actuary" instead of saying that: "it means a fellow of the Institute of Actuaries in England, or of the Faculty of Actuaries in Scotland?" Could it not have been the United Kingdom or the Commonwealth or something? And, could he not consider, if actuaries are really necessary, introducing a department within our numerous universities to train actuaries instead of having this wonderful definition quite extra-mural to our country?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I am sure that institutes I have mentioned have some international reputation and we want to keep ours to that standard. Secondly, what he has said about the establishment of departments of actuaries in our universities is something that can be looked into.

Mr. Akumu: Mr. Temporary Deputy Chairman, Sir, it took you long to recognise me. I am surprised about it. I will have to take you back because originally, when we left this House yesterday, we did not know that the Order Paper was going to change like this, and therefore, we had asked for a meeting with the Ministry of Finance because we have definite proposals and amendments that we were going to put to him. We are surprised to wake up and find that we now have a Supplementary Order Paper. Like hon. Shikuku has said, there are very fundamental things in this Bill which are very important to us.

First, it excludes completely the mention of the Ministry that normally the workers and the people that contributes to these schemes go to, the Ministry of Labour and Manpower Development. Secondly, the Bill excludes completely the contributors. There is nowhere where the Bill mentions that the contributors be consulted when even that Board is being appointed.

The Temporary Deputy Chairman (Mr. Ndotto): Hon. Dennis Akumu, I will ask you to confine yourself to the proposed amendment in Clause 2. Otherwise, you may have to wait until we come to the appropriate Clauses.

Mr. Akumu: Mr. Temporary Deputy Chairman, Sir, I am complaining about the way this is being handled, the way the Bill is being rushed, the way the Order Paper has been changed. Of course, I also agree with the hon. Dr. Lwali-Oyondi that, I thought we fought against colonialism to be sure that we are going to change some of these colonial habits and colonial qualification. I am surprised that the only institutions with international reputation that we can mention now, 30 years after Independence, are those of Scotland, Canadian and we cannot mention anything which is ours. I am not happy about this. But I would like the Assistant Minister to tell us why the urgency which made us to have a Supplementary Order Paper. There must be a reason which the Assistant Minister should tell us. He should explain the urgency which has made it necessary to change the Order Paper, so that we have to sit and pass this Bill in a hurry?

The Temporary Deputy Chairman (Mr. Ndotto): Order, Mr. Shikuku! Even in the original Order Paper, the Retirement Benefits Bill was there, it has not been changed in the Supplementary Paper. I am only going to allow a discussion on the proposed amendment on Clause 2.

Mr. Shikuku: Jambo la nidhamu, Bw. Naibu Mwenyekiti wa Muda. Mhe. Denis Akumu amesema kwamba wao kama Kamati ya Wazara hii, hawakuelewana kwamba haya ndiyo masahihisho ambayo yangeletwa katika Bunge. Nilipata fursa ya kuona masahihisho ambayo walikubaliana kwamba yangeletwa hapa. Ikiwa hivyo, ingekuwa

afadhali unipe nafasi ili nitoe Hoja kwamba haya mazungumzo yaahirishwe hadi Kamati hizi za Bunge na Wizara zitapokutana na kukubaliana juu ya masahihisho kamili.

The Temporary Deputy Chairman (Mr. Ndotto): It is up to the Assistant Minister to say whether he agrees with this or not. It is not for the Chair to decide.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Speaker, Sir, I do not agree because I am not aware of any committees meeting to make certain amendments. These are the amendments which were agreed upon and I am not aware of any other amendments.

The Temporary Deputy Chairman (Mr. Ndotto): Very well, we will proceed on that basis.

Prof. Mzee: Mr. Temporary Deputy Chairman, I do not have a problem on pegging qualifications with certain known institutions, but it is normal practice that after doing that, we say:

"A person holding equivalent qualifications from any other recognized university---".

It would have been better to state that rather than leaving it to the Board to decide which university should be recognized.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, I am sure the Board is competent enough to take into consideration what the hon. Member has said.

Mr. Muite: Mr. Temporary Deputy Chairman, I feel concerned and offended with the language which is employed in the proposed amendment to Clause 2. May I, through you, appeal to the Assistant Minister to consider according this country and its people the dignity and respect they deserve by perhaps rewarding this proposed amendment so as to do away with the insulting references to the Institute of Actuaries in England and the Faculty of Actuaries in Scotland. These are two countries which are both members of Britain. Scotland will not agree to have its own Actuaries defined by reference to the Institute in England. Why do we here want to define ours by reference to the institute in England and the faculty in Scotland when Scotland is asserting its own self-respect by having its own faculty? What I am suggesting is that, perhaps, we should do away with the reference to England, Scotland, Canada and so on. Even the United States of America has got its own institute. Why do we not simply say that "Actuary" will mean a person holding such qualification as the Board may, by notice, in the Gazette, prescribe. That will take into account what you have in mind, but without using the insulting language that is being employed in this proposed amendment.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, I do not think that is insulting because we are sure that in many cases, some of our professionals sometimes have to do exams which are set by institutions like those ones. Therefore, I still maintain that that definition should remain like that, so that we give it that high standard. Certain standards have to be maintained and I do not think we have our own standards that could be used to define an "Actuary".

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I do not think that the hon. Assistant Minister has appreciated hon. Muite's point. The point is that even if there are Kenyans who have this qualification from overseas institutions or universities and, indeed, this does not just apply to the element of "Actuary", because in other areas it does also apply in the field of medicine. They should be admitted to locally recognized institution with locally recognized certificates. We have local institutions like the Kenya Institute of Insurance and many others. Indeed, what the Government could do is to ensue that these local institutions do set admission procedures whereby somebody with an overseas qualification is admitted to a locally recognized institution with locally recognized certificates which then could be inserted in an Act of Parliament---

QUORUM

Mr. ole Tuya: On a point of order, Mr. Temporary Deputy Chairman. There is no quorum in the House?

The Temporary Deputy Chairman (Mr. Ndotto): Yes, there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Ndotto): We have a quorum now. You may proceed, Prof. Anyang'-Nyong'o.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I was saying that the Assistant Minister should appreciate hon. Muite's point. What the Government needs to do is to amend this Clause to say that, the qualifications should be in accordance with a locally recognised process of admission to whatever local institutions, that do validate such qualifications when somebody comes in with them.

The example that I wanted to give to the Assistant Minister is that, if you are a lawyer and you are admitted to

the Bar in England, when you come to Kenya, you must be acceptable to local legal practice here by being admitted here. So, the fact that you have a degree from outside does not mean you come here and automatically enter into practice. That will entitle you to a local institution or certificate. Now, I think that is the best, because if you do it like this, this is as hon. Muite says, a little bit insulting to our Republic. The best thing is to put a local equivalence of this one here. And I am sure that if you look at the Insurance Act, you will find something similar to what I am saying.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I think what Prof. Anyang'- Nyong'o is talking about has been taken care of in the last part of it where it says:-

"A person holding such equivalent qualifications as the Board may by notice of Kenya gazette prescribe".

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

Mr. Temporary Deputy Chairman (Mr. Ndotto): I am sorry, Dr. Lwali-Oyondi, I have to put the question, we have spent a lot of time on this one.

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

(Clause 2 as amended agreed to)

(Clauses 3, 4 and 5 agreed to)

Clause 6

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 6 be amended as follows:-

(a) in paragraph (a), by inserting immediately after the word "Minister" the words "from amongst the members appointed under paragraph (f);

(b) by deleting paragraph (d) and inserting the following new paragraphs:-

(d) the Commissioner of Insurance;

(e) the Chief Executive of the Capital Markets Authority; and

(f) five members, not being public officers, appointed by the Minister by virtue of their knowledge or experience in matters relating to the administration of scheme funds, banking, insurance, law or actuarial studies.

Mr. Temporary Deputy Chairman, Sir, the first amendment is dealing with the appointment of the Chairman, and we wanted to ensure that when the Chairman is being appointed, he should be appointed from among the members who are not public officers. Which means, it will more or less be that the Chairman comes from the private sector.

(Question of the amendment proposed)

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, may I once again, through you, appeal to hon. Members on the other side of this House to assist the House in developing the democratic culture. Very useful contributions are made from this side of the House. But it would appear that by reason only of the fact that a constructive contribution has come from this side of the House, that side, over necessity rejects that contribution.

Mr. Temporary Deputy Chairman, Sir, as concerns Clause 6, very constructive suggestions were made from this side of the House. There was a point made that the workers in the private sector and the employers in the private sector ought and must be represented in this Board. All the appointments are being made by the Minister. Does this Government and the Assistant Minister not consider that the people in the private sector who are most concerned, that is the workers whose emoluments are being deducted and the employer, should be represented?

Instead of the Minister assuming or arrogating to himself the duty of who best is able to represent these workers and the employers, why can we not prescribe here that the Federation of Kenya Employers is going to propose one or two of the five people here? Why can we not ask COTU to nominate one or two people? Let us not assume that the Minister will best know who from the Federation of Kenya Employers or from the people who are employing people in the private sector, is best suited to represent the interests of either the employers or the employees? Because, experience has shown us that--

The Temporary Deputy Chairman (Mr. Ndotto): Hon. Muite, I think we are going back to debate on the Bill, which stage, we have passed. I think, at this stage, we are merely looking for clarifications of what the Assistant Minister is trying to propose.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, can I have a clarification as to why the constructive views from this side of the House have been totally ignored?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, most of the suggestions given have been taken into consideration. What hon. Muite is talking about, I am sure the Minister will be responsible enough, when appointing these people, to ensure that he consults with the relevant authorities.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Chairman, Sir. We are here making law and the operation of this Bill which is going to turn into an Act will actually be prescribed by the law we are going to pass now. Is the Assistant Minister therefore, in order to suggest that other things will be assumed and that Ministers will be reasonable? We have had very terrible and unreasonable Ministers here. Even the Ministers realise that they are very unreasonable. Is he in order therefore, to tell the House that the Minister will be assumed to have some reason instead of putting the whole reason and prescribing everything in this Act?

The Assistant Minister for Finance (Mr. Barmasai): We are a responsible Government!

Mr. Akumu: Mr. Temporary Deputy Chairman, Sir, I see the Assistant Minister with your co-operation, is determined to bulldoze the Bill.

The Temporary Deputy Chairman (Mr. Ndotto): Order! Hon. Akumu, did I hear you right? Can you withdraw it?

Mr. Akumu: Mr. Temporary Deputy Chairman, Sir, I withdraw the words "with your co-operation."

Can the Assistant Minister state why he is excluding from this Board, the contributors to this Fund? The people whose funds are creating this Authority are excluded and yet, they are looking for actuarial experts, lawyers, bankers and so on. Why is he excluding these people?

In other countries, the two Ministries are involved because if there is trouble in one of the retirement benefits, strikes or demonstrations, are handled not only by the Minister of Finance, but also by the Minister for Labour and Manpower Development. Why no consultation between the two Ministries? Nothing is said that it is in consultation with the Ministry of Labour and Manpower Development. Moreover, under section 6, why is it talking about the use of surplus funds? No mention is made of how this will be used. Was there no mention of this amendment during the debate? I must confess that I was not here, but I saw the HANSARD and it was mentioned. Under the same section 6, it is also stated that the Board will decide the international relations that the organisation would have.

Currently, all other retirement benefits funds are members of the International Social Security Association. The NSSF is affiliated to it and this should also be as well. But the major and fundamental thing is why are we denying people who have been running these schemes as the contributors, the Government and the employers' representation under this body?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, contributors, I think in some section in the Bill it is indicated that if there was any contributor grieved, there is still room to appeal to a tribunal which is provided for in this Bill.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Temporary Deputy Chairman, Sir, I am aware that COTU and FKE, for example, wrote to the Minister for Finance on the same issue and they also gave me a copy, as the Minister for Labour and Manpower Development. They wanted to be represented in the Authority. The argument is that the members of COTU who are representing workers and FKE representing employers are going to be Board members of this NSSF Act.

Mr. Muite: Where is it in the Bill?

The Minister for Labour and Manpower Development (Mr. Masinde): They are always there and it is there on the NSSF Act, not in this particular one. So, members of NSSF Board can appeal against the decisions made by this Authority. If representatives of the workers are within that Authority and they are down here, whom will they be appealing against? I think that was sorted out by the Minister concerned and I am sure that they wrote to explain the way the situation was.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Assistant Minister is rather casually in this House. He said "somewhere in the Bill." Have you ever heard of that in this House because a Minister must be specific and tell us the page and the clause he is referring to? Where is this "somewhere" in the Bill?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, this will force me to open page by page.

The Temporary Deputy Chairman (Mr. Ndotto): I think the Assistant Minister is referring to a tribunal?

The Assistant Minister for Finance (Mr. Barmasai): Yes, Mr. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Mr. Ndotto): Yes, I can assure hon. Shikuku that a tribunal is somewhere in this Bill.

*(Question, that the words 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 6 as amended put and agreed to)

Mr. Muite: That is rigging!

The Temporary Deputy Chairman (Mr. Ndotto): Hon. Muite, before I put the question for the second time you must withdraw that. I request you to withdraw that remark!

Mr. Muite: Mr. Temporary Deputy Chairman, I withdraw the truth!

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear hon. Muite saying that he was withdrawing the truth?

The Temporary Deputy Chairman (Mr. Ndotto): He gets away with it because I did not hear that.

(Clause 6 as amended agreed to)

Clause 7

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, before we give this Board powers to receive any grants, give donations or endowments on behalf of the Authority and make legitimate disbursements therefrom, I would like the Assistant Minister to clarify what is really going to be the financial basis of the Authority? This is because Clause 7 says:-

"The Board shall have all powers necessary for the performance of its functions under this Act, and in particular, the Board shall have powers to receive any grants, give donations or endowment on behalf of the Authority and make legitimate disbursements therefrom."

I want to know from the Assistant Minister what is going to be the overall financial basis of this Authority and how does it relate to the NSSF which, as far as I know, is the most endowed Board regarding retirements benefits? What is the real financial basis of this Authority?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, it will be contributions from various schemes. The NSSF, as indicated, is going to be under the same Authority like any other scheme.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, the Assistant Minister says that NSSF will be under this Authority as any other scheme and I know he said that a levy is going to be extracted from all kinds of schemes to bring money to this Authority. My question is: In any organisation or even a private company that person or that group company which is a major contributor or shareholder to the scheme should have the biggest say. In this regard, NSSF will remain for quite some time the major contributor to this scheme in terms of the levy. This relates to hon. Akumu's point, what is the stake of the NSSF as the major receiver of workers retirement benefits in this Authority? Is its stake at par with all other minor contributors which should not have as much say in this Authority as NSSF?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, I think more or less, that is what hon. Masinde gave me in that point of information.

The Temporary Deputy Chairman (Mr. Ndotto): Order! I do not think you have addressed yourself to the question asked by Prof. Anyang-Nyong'o. He is asking whether NSSF will make similar contributions to this Authority like any other small little pension schemes around. I think that is the question, if I understood him well.

The Assistant Minister for Finance (Mr. Barmasai): I think it is more or less going to be the same.

Mr. Shikuku: Jambo la nidhamu, Bw. Naibu Mwenyekiti wa Muda. Mimi naanza kuwa na shuku kwa huyu Mheshimiwa. Mara anafikiria na hana hakika. Tunaweza kutengeneza sheria kwa mambo kama haya ambayo yanasemwa na Mheshimiwa? Yeye anafikiria tu, hana hakika! Sheria ikitengenezwa itawahusu wananchi wa nchi hii. Hata yeye pia atahusika. Hatakuwa hapa Bungeni kila siku na sheria hii itamfuata kule nyumbani kwenye manyatta yake!

Kwa hivyo, habari ya kusema, "nafikiria" haitoshi. Tunawezaje kutengeneza sheria ikiwa Mheshimiwa mwenyewe anafikiria? Tuambie ukweli ni nini na siyo kufikiria!

The Assistant Minister for Finance (Mr. Barmasai): When the Authority is established, it will determine

how it will get its revenue, and the formula for getting such revenue from various pension schemes.

Mr. Akumu: Can the Assistant Minister tell us what the Board will do with the surplus funds? In the debate here, it was originally proposed that the Authority should have its own bank so that the money is not misused like the NSSF's money. He has not also answered the question of international relations. It is stipulated that it will have international relations, and I would like to know what kind of international relations it will have. We have suggested to him that all other retirement benefit schemes all over the world have international relations with international social security funds under the International Labour Organisation (ILO). Are they going to have this?

The Assistant Minister for Finance (Mr. Barmasai): I would like to request the hon. Member to repeat the two questions.

The Temporary Deputy Chairman (Mr. Ndotto): Let me help you to save time. He wants to know what the Authority will do with the extra funds. Secondly, what kind of international relations is it going to have with the other international social security funds?

Mr. Akumu: Mr. Temporary Deputy Chairman, I am glad for your help. But if you want to help me completely, during the debate it was said that it should have its own bank, so that the funds will not be for dipping. Secondly, that it will have international relations with other international social security funds all over the world. I am very happy that you have helped me.

The Assistant Minister for Finance (Mr. Barmasai): On the surplus funds, the Board will invest in the best interests of the Board. Secondly, in determining the international relations, the Board will do the same.

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

Clause 11

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

THAT, Clause 11 be amended as follows:

(a) in subclause (2), by inserting immediately after the word "benefits" the words "accounting, finance",

(b) in subclause (4), by deleting the words "and shall be the secretary of the Board".

Mr. Temporary Deputy Chairman, Sir, in the Bill, the Chief Executive is indicated as being the Secretary of the Board. We said that those two jobs should be separated so that we can have a separate Secretary to the Board from the Chief Executive. This is what part "b" of the amendment is dealing with.

Part (a), of the amendment is dealing with the qualification of the Chief Executive. So, whoever will be appointed will have accounting and finance experience. That was excluded in the Bill before.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. When are we going to contribute? You have not given us the opportunity.

The Temporary Deputy Chairman (Mr. Ndotto): Hon. Muite, I have given enough opportunity and there was nobody. You only decided to ask your questions after I put the question.

Mr. Muite: I was waiting for the question to be proposed so that I could stand up.

The Temporary Deputy Chairman (Mr. Ndotto): No! I did propose the question and I did not deny anybody any chance to contribute. I have given all the time to all the hon. Members.

Clause 12

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

THAT Clause 12 be amended by re-numbering the existing provision as subclause (2) and inserting the following new subclause-

(1) The Board shall appoint a secretary to the Board on such terms and conditions of service as the Board may determine.

As we had amended Clause 11 to remove the provision that the Chief Executive will not be the secretary, we are now creating the position of secretary to the Board, to be appointed by the Board.

(Question of the amendment proposed)

Dr. Lwali Oyondi: Mr. Temporary Deputy Chairman, Sir, I have no quarrel with that. But I have a quarrel with the provisions of Clause 12 which reads as follows:

"The Board may appoint such officers or servants as are necessary for proper discharge of the functions of the Authority under this Act, and any other written law, upon such terms and conditions of service as the Board may determine."

I thought it is the Chief Executive who should actually employ the people. The Board should not be given the authority to employ people. It has no time. I think the Chief Executive, who is a technocrat, could look for the proper people who can work in his Board.

The Assistant Minister for Finance (Mr. Barmasai): The Board should have the final authority to appoint. This is what happens in almost all the organisations. The Chief Executive plays his part by short-listing and giving certain recommendations to the Board, as a member of the Board, too.

(Question, that the words 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 12 as amended agreed to)

Clause 16

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I draw the attention of the Assistant Minister to Clause 16. When he was asked about contributions by NSSF, he said that NSSF will contribute just like any other contributor in terms of the levy but if you look at Clause 16, you will realise that it says:

"The Minister may, in consultation with the Board by order published in the Gazette impose a levy to be known as the retirement benefits levy on the contributions made to scheme funds or on the assets of such funds or on such other base as he may determine, a levy imposed under this section shall be payable at such rates as may be specified in the order."

So, if the rate is that every retirement benefits scheme will pay Kshs15 for example, of what every contributor pays to that Scheme of Retirement Benefits Bill, it means that a scheme like NSSF with millions of contributors will bring into this authority a lot of money as compared to a tiny organisation like Kenya Cashewnuts which may only bring a tiny fraction. So, the organisation which contributes the largest share should definitely have more say on how this authority is run than the tiny ones. This is not in the Bill. They have much more stake in the authority than the other tiny characters. So, if you had read this clause very carefully with the powers of the Board that we mentioned earlier, you would have found it necessary to build into the Bill, some participation by contributors with respect to their share of contributions if this levy is extracted. That is the point I was making.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Chairman, the Minister has not turned up and so, we do not know what base or formula he is going to use. So, I think that was the hon. Member's personal opinion.

The Temporary Deputy Chairman (Mr. Ndotto): Order! Order, Mr. Barmasai, you are the Minister. You had better address the question because you cannot refer to the Minister. You are the Minister and I want you to deal with the question as it was asked.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I said this one talks of a certain rate as the order that will come. So, I cannot just say it because we have not known what rate it is going to be. Therefore, it is difficult to say that NSSF will pay more than anybody else before this is already done.

But it is a fair comment that is noted.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, that is not correct. If contributors were going to pay the same thing, the Bill would have read: "A levy as imposed under this section shall be payable at a flat rate." If that one was done, we would know that there would be no discrimination whatsoever. But when you say at a rate, simple arithmetics tells one that a rate will be fixed for example at 5, 10 or 20 per cent and then your contribution will be subject to how many contributors you have as a fund. So, the word rate means that there will be inequality regarding the amount of money that people put into this Authority. So, if that is the case, then my question is, how are the major contributors protected in terms of their stake in this Authority, as opposed to those who are minor contributors?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, when we talk of a rate, it includes any rate, even a flat rate.

(Clauses 13, 14, 15, 16, 17, 18 and 19 agreed to)

Clause 20

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

THAT, Clause 20 be amended in sub-clause 3 by deleting the word "Minister" appearing in the third line and substituting thereof the word "Board".

This means that the approval of the Estimates of the authority is approved by the Board and not by the Minister.

(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 20 as amended agreed to)

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I think the Minister did not look at Clause 23(5) which states: "The certificate issued under this section shall be subject to such conditions as the Minister may in consultation with the authority impose."

I think we are giving too much power to the Minister. This should have been left to the Board. The Minister may impose anything.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, this is in consultation with the authority.

*(Clauses 21, 22, 23, 24, 25, 26, 27,
28, 29, 30 and 31 agreed to)*

Clause 32

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

THAT sub-clause 32(3) be amended by inserting the word "custody" immediately after the word "vesting."

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

Clause 33

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

THAT, Clause 33 be amended by inserting the following provision at the end of subclause (1)
"Provided that where such payment involves a transfer of funds from another scheme fund, the employer shall, at least sixty days before commencing such payment, give written notice thereof to the Authority and to the trustees of the scheme fund from which such funds shall be transferred."

(Question of the amendment proposed)

Mr. Shikuku: Bw. Naibu Mwenyekiti wa Muda, Mheshimiwa amesema ni siku 60. Wakati huu wote alifikiriaje kuleta neno hili baada ya siku 60 badala ya siku 30? Kuna wakati ambapo mtoto hana karo ya shule, kuna shida na siku hizi 60 huenda zikawa 90 ukilinganisha na kazi ya Serikali hii vile inavyoendeshwa. Mambo hayaendi kasi. Tena ukitaka yaende kasi ni lazima utoe hongo. Faili itapotea ama utatoa kitu kidogo ndipo ipatikane. Inapotea hata kortini. Je, hizi siku 60 alizileta kwa nia gani kwa sababu huja zikawa siku 200? Hii ni kwa sababu Serikali yetu na sisi zote, Mungu na dunia tunajua kwamba Serikali ni ya wafisadi.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, these are not transfers involving individuals. It is a transfer from one scheme to another scheme and to ensure that the Authority knows exactly what is happening with these transfers. That is why it is being proposed that it should be 60 days. It does not involve individuals.

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

(Clause 33 as amended agreed to)

(Clauses 34 and 35 agreed to)

Clause 36

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 36 be amended by deleting the words "to the relevant scheme."

(Question of the amendment proposed)

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 38 be amended in paragraph (a) by deleting the words "A member, sponsor, trustee or manager of the scheme," and inserting the words "any person".

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, this is a clause that received a lot of attention during the debate on this Bill and it looks as if like other hon. Members from this side have said, that the Minister did not take full cognisance of what the Members of this side were saying. Mr. Temporary Deputy Chairman, Sir, the point

that we were making and we thought that it could be incorporated in the amendment---

The Temporary Deputy Chairman (Mr. Ndotto): Order, Prof. Anyang'-Nyong'o, you can only at this stage seek clarification. You cannot criticise the Bill.

Prof. Anyang'-Nyong'o: Okay, I was only making that preliminary remark and then come to the clarification that I need. The clarification that I need is the following: Why is it that the Minister has not seen it fit to specify how the fund could be used in the interest of the Members. Stating this thing in a negative way to me is not constructive. It should be stated how the funds could be used in the interests of the members while they are still contributing and we made this point very clearly during the debate.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, that will be the responsibility of the Board of the Authority.

(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 38 as amended agreed to)

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

Clause 46

Mr. Akumu: Mr. Temporary Deputy Chairman, Sir, I would like to seek clarification from the Minister why he needs another appeal tribunal. I am on Clause 46. The agreement governing all these retirement benefits came up either as a result of collective agreements or as a result of industrial court awards. Now, this country is used to interpretation appeals going to the Industrial Court. Why do you want to create another tribunal and yet, we have the industrial court? You will create industrial unrest by so doing. This is very unnecessary.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Speaker, Sir, the Industrial Court deals with the workers and this appeal Tribunal deals with the grievances from the players in the field.

Clause 48

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I would like to draw your attention to Clause 48 (3) which reads:

"The Chairman of the tribunal shall be an advocate of Kenya of not less than seven years."

I think advocates can be advocates of anything. They are advocates of violence and of other things. I thought that statement should have read "should be an advocate of the High Court". That should be corrected.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I think that correction is acceptable.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I wish the Assistant Minister could accept other corrections too! But I would like to draw his attention that at this point in time, the Industrial Court does listen to grievances regarding salary payments and retirement benefits. If you are going to exclude the Industrial Court, Mr. Assistant Minister, you are going to involve yourself with such rigmarole because if it would go to appeal tribunals, you would have less powers than the Industrial Court, as far as workers are concerned. It will be established as an Act of Parliament, yes, but the Industrial Court has been there for ages and hears grievances across the board. I think rather than rush this Bill without connecting this Appeal Tribunals to the Industrial Court, you could better incorporate the Industrial Court rather than turn a deaf ear to hon. Akumu.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I do not think that would be independent because we want independence of the two tribunals.

The Temporary Deputy Chairman (Mr. Ndotto): Prof. Anyang'-Nyong'o, I think this amendment, "The Chairman of the tribunal shall be an advocate of the High Court of Kenya"---. That is a minor typographical amendment which does not need to be moved on the Floor.

Clause 54

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I wish to draw your attention to Clause 54(2) which reads:-

"Where an offence is committed under this Act by any partnership, every partner or officer of that partnership who had acknowledge of the commission of the offence commits an offence".

Also, (iii) states that

"a person shall be personally liable for an offence against this Act whether committed by him on his account or agent or servant of another person".

If we go back to Clause 14, this completely contradicts it and I would like to read it.

"No matter or thing done by a member of the board or any officer, employee or agent of the Authority shall, if that matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority render the member, officer, employee or agent or any other person acting on their direction personally liable to any action or claim or demand whatsoever".

In Section 14, it says that if an officer commits an offence while performing his duties, he cannot be personally held responsible, but in Clause 54, they say that the person shall be personally liable. This being in one and the same Act, it is quite contradictory.

The Temporary Deputy Chairman (Mr. Ndotto): Order! Order! I think Clause 14 is talking about the employees of the board, while Clause 54 is talking about the employees of partnerships or partners. We are talking about two different workers.

Dr. Lwali-Oyondi: Why should the law be discriminatory such that for officers, it is favourable, while for partnerships it is not? If the partnership, or the body corporate and the board is a body corporate, why should they be discriminated by the same law?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I thought the two clauses are completely different because one deals with the agents of the Authority, while the other one deals with the normal offences by anybody else.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Assistant Minister is misleading the House. It is not an offence by anybody, but an offence by companies or partnerships or any other employees. This is what he is talking about and my argument is that that company is a body corporate, and therefore, it should be answerable as a body corporate. But here he is saying that, that body which is the company whenever there is an offence, individuals would be answerable. Also, on the part of the body, if an individual does an offence in the body, he is not answerable. Why should there be discrimination in the law?

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I still insist that Clause 54 deals with the third parties and clause 14 deals with members of the body and their employees.

Clause 55

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, Clause 55 makes the whole Bill a nullity because it reduces everything back to the Minister's Office, if you read it carefully. What we were pointing out during the debate states:

"The Minister may, in consultation with the Authority, make regulations generally for the better carrying out of the provisions of this Act".

Then Clause 55(2) gives the Minister powers to completely control the whole process:-

"Without prejudice to the generality of subsection(1), regulations under this section may-

- (a) prescribe anything required to be prescribed under this Act;
- (b) subject to this Act, provide for the procedure for registration and the conditions of registration;
- (c) provide the eligibility requirements for the membership of the schemes and access to retirement benefits".

What is the Board going to do if the Minister may do all those things? If Mr. Keah could answer this question, it is better because he keeps on hovering to other Ministers' ears. I know what I am talking about because all this time hon. Keah has been whispering to the Minister's ears.

The Temporary Deputy Chairman (Mr. Ndotto): Order! Order! Prof. Anyang'-Nyong'o, Ministers can consult at any time and it is their business to consult and make decisions collectively.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, there is nothing wrong with that clause because the Ministers perform these functions in consultation with that Authority. I would also like to inform the hon. Member that hon. Keah has just come in some two minutes ago and I do not see

why he should complain.

Clause 58

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, Sir, I wish to draw your attention to Clause 58 which states:-

"Where there is a conflict between the provisions of this Act and the provisions of any other written law with regard to the powers or functions of the Authority under this Act, the provision of this Act shall prevail".

This is very dangerous; that the powers and functions of the Authority under this Act can prevail against the law which includes even the Constitution. He says that it can override written law and written law includes "the mother of law" which is the Constitution. Is this not a very dangerous clause to be left in this Act?

(Clauses 46, 47, 48, 49, 50 and 51 agreed to)

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Speaker, Sir, the Constitution says that if any law conflicts with the Constitution, the Constitution supersedes that other law, including this Act to be.

Mr. Shikuku: Bw. Naibu Chairman wa Muda, mhe Barmasai amesema kwamba sheria yoyote ikiwa ni kinyume cha Katiba sheria hiyo haitakuwa na maana. Lakini yeye anajua kwamba Public Order Act inasema kwamba una uhuru wa kukutana na wenzako bora tu upate kibali kutoka kwa mkuu wa wilaya, na hali Kifungu cha 80 cha Katiba kinasema una uhuru wa kukutana na wenzako na hakisemi ni lazima uwe na kibali cha mkuu wa wilaya sawa na mtu anayeua mahindi au ndizi. Kwa nini Public order Act haijapoteza maana na hali iko kinyume cha Kifungu cha 80 cha Katiba? Hatuwezi kumwamini Mhe Barmasai kwa sababu tunajua kwamba Public Order Act haijapoteza maana. Hata Serikali inawaogopa watu wanaoivunja sheria. Sheria inasema watu wakivunja sheria washikwe na kupelekwa mahakamani. Badala ya kuwashika wavunjaji sheria sasa polisi wanawapiga watu na kuwavunja mikuu na mikono. Hawataki kuwapeleka watu hao mahakamani kwa sababu wanajua kwamba watashindwa.

The Temporary Deputy Chairman (Mr. Ndotto): Order, hon. Shikuku! You are out of order!

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Chairman, I think I am prepared to accept an amendment by way of insertion of the words "except the Constitution" after the words "written law".

Dr. Lwali-Oyondi: Mr. Temporary Deputy Chairman, I thank the Assistant Minister for at least putting in the word "Constitution", because this would have been an illegal clause. These laws should never contradict each other. Can the Assistant Minister go and study this particular clause and make sure that it does not contradict any other law passed by this House? We should not pass laws that will contradict each other.

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, the point is noted but the clause remains as it is.

(Clauses 52, 53, 54, 55, 56, 57 and 58 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Finance (Mr. Barmasai): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Retirement Benefits Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF
REPORT AND THIRD READING

THE RETIREMENT BENEFITS BILL

Mr. Ndotto: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Retirement Benefits Bill and approved the same with amendments.

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

The Assistant Minister for Transport and Communications (Mr. Morogo) seconded.

(Question proposed)

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I would like to draw the attention of the Assistant Minister to the fact that although this Bill is being rushed through the House because of pressure from the IMF and the World Bank we are making one major mistake. That mistake is to pass Clauses 58, 56 and 16.

Mr. Speaker: You should have raised that in the Committee Stage.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I know that, but the Temporary Deputy Chairman, was rushing us!

Mr. Speaker: I am sorry that you are precluded from saying what you saying after the Committee Stage: We cannot introduce any amendment into Bill now!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am trying to help the Government. This Bill will be revisited just as the Psychotropic Substances and Narcotic Act was. It was rushed through this House but when it went to the courts magistrates could not execute. This was because a person who was caught with an ounce of marijuana had to be jailed for 10 years. This Bill is going to bring a lot of problems to the Public Investments Committee. The Minister is exempting this corporation from the State Corporations Act. He is saying that if this law will be contrary to another law this one will prevail. The Exchequer and Audit Act requires this corporation to report to the Auditor-General (Corporations). But Clause 58 will conflict with the Exchequer and Audit Act.

Mr. Speaker: Let me just say something for the guidance of the House. The House has just resumed from Committee and I suppose that most hon. Members who are here were present in that Committee. The Temporary Deputy Chairman has made the report of the Committee to the House. Once that report is accepted then hon. Members in the House can then make comments on a report which is already accepted by the House. As it is now, the report has not even been accepted by the House. So, what are we discussing now? The position is: We will have to have the report first of all accepted by the House and from there the it will be before the House and open to discussion.

(Question put and agreed to)

The Assistant Minister for Finance (Mr. Barmasai): Mr. Speaker, Sir, I beg to move that The Retirement Benefits Bill be now read the Third Time.

The Assistant Minister for Transport and Communications (Mr. Morogo) seconded.

(Loud consultations)

Mr. Speaker: Order! I am really not in a problem. Hon. Members must end that kind of procedure.

(Question proposed)

Mr. Akumu: Mr. Speaker, Sir, I have already made my contribution, as you said, in the Committee. I would like to say that when I saw this Bill in general, we welcomed it because there was really a need in this country for a national authority to supervise and regulate retirement benefits.

We have some reservation and our Committee, the Committee of Housing, Labour and Manpower Development, felt very strongly that since most of the retirement benefits are as a result of collective bargaining and Industrial Court awards, the Ministry of Labour and Manpower Development should have been involved in governing the scheme. We also feel that Clause 46, which is where you are creating the Tribunal and Appeal. The Industrial

Court should be used. We see that the Authority will have its headquarters in Nairobi, but as hon. Shikuku had said earlier, that it is very difficult for people to communicate with Nairobi, it is important that it should be stipulated quite clearly that the Authority will also have offices in the provinces and eventually, in the districts for purposes of communication. We also feel a number of retirement benefits Mr. Minister, I would like us to remain friends. We think it is important that if the Authority is going to be as effective as Authorities are in other countries, then it should try and harmonise all the retirement benefits. In some cases, if you look at all of those throughout the country, some of them even look contradictory. But the most serious part, which has really worried me, is that in this Authority, apart from excluding the Ministry of Labour and Manpower Development, the actual contributor, the workers and the officers, whether Local Government and others, will not be represented in this Authority directly or indirectly. They could be presented directly as COTU and Federation of Kenya Employers, by consultation, and then agreeing on a name; like they have in the Industrial Court. Now we think this is a serious exclusion which, in many countries, could lead to industrial unrest. I do not know whether we just want to please the International Monetary Fund (IMF), but the IMF knows better, because in their home countries, they have better consultations. They know that this can really cause unrest. I do not know of any country where the Ministry of Finance wants to have workers chanting round the Ministry of Finance. They normally like to have them chanting at the Ministry of Labour, saying: "We want our benefits." They do not like them at the Treasury, they prefer them to be at the Ministry of Labour.

Mr. Speaker: Mr. Akumu, are you re-opening the debate afresh?

Mr. Akumu: No, Mr. Speaker, Sir. I am making comments. I know the Bill has already been accepted, but there is nothing to make comments about.

Mr. Speaker: Sure!

Mr. Akumu: Mr. Speaker, Sir, you know already they tried to guillotine it even earlier.

Mr. Speaker: Order, hon. Akumu! I want to get to the procedure. We dealt with the policy at the Second Reading stage. The Committee Stage dealt with the amendments. You can now make general comments on what transpired in the Committee Stage or Third Reading. But you cannot certainly re-open debate on it. So, on that understanding, Proceed.

Mr. Akumu: Mr. Speaker, Sir, that is exactly what I was doing. I am even quoting back what we had done. Finally, you know you were not in, they were talking about the affiliations---

Mr. Speaker: Mr. Akumu the Chair is perpetually here!

Mr. Akumu: Yes, I understand your ears are long!

Mr. Speaker: The Chair is *omni* hearing.

Mr. Akumu: Mr. Speaker, Sir, they are talking about association. We put it very strongly at the Committee, we have put it all through, and we think it is important that the International Association of Social Services, a social security organisation within the ILO, should be associated with the National Social Security Fund (NSSF). But finally, the most important thing which we brought in the Committee, which I would like to comment on, and which is not too late yet to go and consider is: Why create a tribunal? The same money, the same contributions are as a result of collective bargaining, of Industrial Court awards, Industrial Court already, as we are talking here today, gives interpretation where workers are not properly paid, not properly rewarded or where they are aggrieved and so on. They are already doing that. Why create another court? Why create a tribunal which will be contradictory?

Mr. Speaker, Sir, with those few remarks, I have very strong reservations that this--- Although I welcome the Bill, I am afraid it may end up with more unrest in the country than industrial peace.

Thank you.

Prof. Anyang'-Nyong'o: Thank you very much, Mr. Speaker, Sir. I would like to make the point I was trying to make and very quickly too. I would like to draw the attention of the Minister to Sections 21(3), 56 and 58.

Section 21(3) compels the Authority to have its books audited according to the Exchequer and Audit Act, and specific Sections are mentioned.

Section 56 exempts the Authority from the State Corporations Act, and Section 58 says that if this Act conflicts with any other, it takes precedence. In other words, this Authority is not only being exempted from State Corporations Act, but in the event that this Act is in conflict with the Exchequer and Audit Act, this is the one that will take precedence.

Mr. Speaker, Sir, we are taking an extremely dangerous course of action, which is going to cause a terrible conflict in law. This House has said before that blank exemption from the State Corporations Act is what has led to the mismanagement of parastatals, the looting of public funds and poor investment. I would like the Minister to go back to the Ministry and think very seriously about this before this Bill becomes law.

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir. I should not repeat what Prof. Anyang'

Nyong'o has just talked about. In fact, we had quite a discussion about that, and I hope the Minister will not take this lightly because it might affect him personally in the near future. Law is a hole which you dig and you fall in yourself if you are not careful.

Mr. Speaker, Sir, generally, we are passing this Bill to be an Act of Parliament, but we hope that now the retirees will at least have a better time. We also hope that this Authority will at least minimise the suffering of those who have retired, particularly in the pursuit of obtaining their terminal benefits. You know very well that there are a lot of old people from every constituency in this Parliament, who have served the Government for a long time, and who are dying without ever receiving their benefits because the various Authorities who are supposed to pay them keep on dodging until some of them die before receiving their terminal benefits. We are not so sure of what happens to them.

Mr. Speaker, Sir, I would have liked the Minister concerned with this Bill, which concerns labour, to consult our Standing Committee on Housing, Labour and Employment. It is one of the Committees that have really taken root immediately. It was appointed and it has done quite a bit here, and it is being led by a veteran trade unionist, Mr. Dennis Akumu, who knows all about what employment and labour is all about. It is high time we begun making use of Standing Committees and those ones which are not active at the moment--- I am supposed to be a chairman of one--- I would have liked that Committee to be as active as possible, but it has not been possible for me to do that because of some administrative problems and I hope that with Mr. Speaker around, we should immediately put these Committees into action because they can look at various Bills in detail and with more knowledge than having the plenary session of this House looking at the Bills. Sometimes we do not have time for it, and therefore, we do not do justice to the Bills.

Mr. Speaker, Sir, with these few remarks, I wish to support the Bill.

Mr. Shikuku: Bw. Spika, ningependa kusoma Mswada huu kwa mara ya tatu na kuiambia Serikali kwamba, ijapokuwa sheria hii imepitishwa, kupitisha sheria katika Bunge hili ni jambo moja, lakini kuitekeleza ni lingine; na kawaida huwa ni vigumu. Lakini tuna matumaini na kama vile Waingereza wanavyosema "We hope and we hope we are not hopping against hope." Tuna matumaini kwamba sheria hii itawafaidi wananchi wa nchi hii. Ninajua Serikali yetu ina mtindo wa kuwasumbua wananchi kwa kuwaambia "Kuja leo saa nane; kuja kesho saa nane; kesho kutwa saa mbili". Mchezo huu umewaumiza wananchi wengi. Na sisi ambao tuligombana na kupigana na Mbeberu, tunakumbuka kwamba alikuwa mtu mbaya, lakini vitendo vingine vyake vilikuwa vizuri. Kwa sababu akikuambia kuwa wewe utapata mshahara saa tatu kesho na uende zako; kweli saa hizo ukifika, bahasha itakuwa imetayarishwa na haki yako yote kuwekwa ndani. Ukihesabu pesa hizo unapiga saluti na kwenda zako. Lakini Mwafrika hafanyi hivyo. Hata katika NSSF, katika salary advice yako; payslip, wanakwambia kuwa "una umri wa miaka 52, sasa umri wako ni 55" na kadhalika. Hii yote wanajua, lakini wakati wa kuondoka hupewi haki yako na wengine hufa bila ya kulipwa haki yao. Hii ndiyo sababu hawa matajiri wanasherehekea katika NSSF. "Wanakula" pesa za watu waliotoa jasho na wakafa bila kupewa haki yao. Hili jambo linafaa likome. Tumepitisha Mswada kwa haraka sana na sijui ni kwa nini lakini mwishowe watarudi hapa kuleta marekebisho. Hii ni kwa sababu haraka haraka haina baraka.

(Question put and agreed to)

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

BILL

Second Reading

THE NATIONAL SOCIAL SECURITY FUND (AMENDMENT) BILL

*(The Minister for Labour and Manpower
Development on 14.5.97)*

(Resumption of Debate interrupted on 14.5.97)

Mr. Speaker: Hon. Shikuku, you can proceed.

Mr. Shikuku: Asante, Bw. Spika. Tuna taabu hapa, wakati mwingine Mswada unaletwa na kurudishwa huku

na kule mpaka mwisho watu wanasahau yale walikuwa wanazungumzia. Hata hivyo, nitajaribu.

[Mr. Speaker left the Chair]

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

Mr. Shikuku: Bw. Naibu Spika wa Muda, chini ya Mswada huu wa NSSF, utapata kwamba kuna matajiri ambao hukata mshahara wa kila mfanyakazi lakini matajiri hao hawapeleki hizo fedha kwa NSSF. Kuna wengi ambao wakiletewa statement, utaona miaka kadhaa haikuwekwa katika hiyo statement ya NSSF na hali pesa zilikatwa na mwajiri. Hili jambo linaudhi sana hasa mtu akitimiza umri wa miaka 55. Akienda kupata hiyo statement anagundua kuwa miaka mingi haikuonyeshawa na hali pesa zake zilikatwa. Huu ni wizi, na hatusikii waajiri wakipelekwa kortini kwa kuwaibia wananchi. Hili ni jambo ambalo Waziri wa Leba anapaswa kulichunguza kwa sababu limewaudhi watu wengi. Hata huko kwake Buhayo, katika mawakilisho yake, kuna watu wengi ambao pesa zao zilikatwa lakini hazikuweza kufika katika NSSF.

Jambo lingine ni kuwa; mtu anapostaafu awezi kupewa haki yake. Wengine wana pesa kiasi cha Kshs250 peke yake. Kusema kweli, hapo mbeleni waliostaafu walikuwa wanaenda kwa DC kupokea hizo pesa, Kshs250, lakini anarudi nyumbani na Kshs.50 kwa sababu kwenda Kakamega na kurudi nauli ni Kshs200; akila chakula huko, pengine atakilipia Kshs15. Atabaki na nini? Sasa wamebadilisha mambo kidogo na malipo yanafanyiwa kwa DO. Lakini hata katika tarafa, yule anayestaafu anapokwenda kule, hawapewi haki yao katika mwisho wa mwezi. Inazidi kudidimia. Huko Butere, imekuwa ni kama kawaida. Hawa waliostaafu hawapati haki yao. Juzi, tarehe 17, walipata pesa zao na kila mwezi ni hivyo. Kwa nini malipo ya watu hawa yanacheleweshwa? Wakati huu kuna njaa ambapo mtu anatazamia kupata `gorogoro' mbili au tatu mwisho wa mwezi. Jamaa anafunga safari na kumwambia bibi yake atafute mboga kwa sababu anenda kwa DO, na akijaliwa atarudi na `gorogoro' tatu za unga. Akirudi anamwambia bibi yake kwamba hakupata kitu bali ameambiwa arudi tena. Hii Serikali gani? Kama ni Serikali ya wananchi na ya maendeleo, mbona inawatesa wananchi namna hii kwa kuwafanya dhuluma za kutowalipa kwa wakati ufaao? Inshalla Mungu si Abdalla! Tunaeleka katika kiwango ambacho watu watauliza maswali na kutaka majibu. Hata akiwa mhe. katika upande ule wa Serikali ambaye kazi yake ni kupiga Ayes kubwa hapa, akifika nyumbani, mambo yatakuwa mengine. Serikali yenye kuendelea hufanya maendeleo mengi. Hata wale Waheshimiwa Wabunge waliovuka sakafu hatujaona maendeleo yao. Maendeleo ni tumbo zao, mabibi zao na watoto wao. Hakuna maendeleo ya mwananchi. Inshalla, tutakutana kiwanjani hivi karibuni. Wataimba nyimbo ambazo hawajawahi kuzisikia.

Bw. Naibu Spika wa Muda, tunata marupurupu ya kustaafu, yaongezwe. Kila siku hali ya maisha inazidi kupanda ilhali marupurupu hayaongezeki kamwe. Mungu hana haja ya kutusaidia. Ukijua kwamba maisha yanapanda pia marupurupu ya kustaafu inafaa ipande. Ni wakati wetu kama Waheshimiwa Wabunge kuambia Serikali hii kwamba kila kitu kina mwisho. Kitu chochote kilicho chini ya jua kina mwisho. Harusi ni kitu kikubwa sana. Watu hufurahi sana hadi wengine wakaimba. Katika hiyo harusi hata kama unaimba vizuri namna gani, utafika wakati ambapo Master of Ceremony atasema kwamba mambo yamekwisha. Bwana na Bibi Harusi wanataka kupumzika na hapo itakubidi kutafuta njia uliotokea ili kurudi ulikotoka. Pia matanga ni kitu cha kuudhi sana. Watu wana uchungu mwingi sana kwa sababu ya mtu aliyefariki lakini nayo matanga hufikia kikomo. Nyasi humea katika lile kaburi alimozikwa yule jamaa. Kwa hivyo, kila kitu kina mwisho. Tukiwa katika Bunge hili tufahamu kwamba kuna mwisho. Mbunge afahamu kwamba siku yake itafika atakapokuwa anasikia kwamba kuna Bunge. Atakuwa akisikiza kipindi cha "Leo Katika Bunge" lakini hatakuwa hapa na ni wakati huo ambapo pengine atahitaji pesa hizi.

Marupurupu ya Wabunge hapa baada ya kustaafu ni ya taabu. Nimeona Wabunge wengine ambao tulikuwa nao hapa, ukiwa na roho ya utu, utawaonea huruma. Hata sisi watu wa macho manne, saa ingine inatubidi kutoa mawili ili kuwaangalia vizuri hawa jamaa. Linalompata mwenzako sasa huja likakupata. Kwa hivyo, tuangalie matakwa ya umma. Tulipigania Uhuru ili tuweze kuwasaidia wananchi wenzetu. Mzungu alipokuwa anatunyananasa, tulimpiga na kumfukuza. Hivi sasa tumesahau hayo yote. Mimi husikia vibaya sana nikiona Mwafrika akimtesa mwenzake. Badala ya kumpa haki yake leo unamwambia aje kesho. Mpe haki yake aende. Ana watoto na shida yetu unafahamu. Una watoto, bibi yako, watoto wa ndugu yako, watoto wa shangazi, watoto wa mjomba na kadhalika. Hawa wote wanakuja kwako kwa usaidizi. Bado hatujafikia kiwango cha Wazungu ambao wanajitegemea wakiwa na miaka ya 18. Hapa tungali na ule ujamaa wa Kiafrika na ni lazima tuendelee kuudumisha. Lazima tuunde sheria ambazo zitalinda ujamaa wetu.

Ningependa kutoa maoni yangu kuhusu Mswada huu. Katika Mswada huu tumeambiwa nia yake. Katika ukurasa wa 251, sehemu ya Memorandum of Objects and Reasons, Mswada unasema kama ifuatavyo:

"The main object of this Bill is to amend the National Social Security Fund Act (Chapter 258 of the Laws of Kenya) in order to harmonise it with the provisions of the proposed Retirement Benefits

Bill, 1997. This is because if enacted, the National Social Security Fund will be a retirements scheme within the meaning of the new Act and, therefore subject to the provisions of that Act. The Bill further seeks to increase the operational autonomy of the Board of Trustees of the National Social Security Fund. Currently, the operations of the Board of Trustees are largely regulated by the parent Ministry."

Nia ya huu Mswaada ni nzuri sana, lakini ukisoma ukurasa 245, Kifungu cha 2, utapata kwamba wanasema:- "Sub-Section (1) of the National Social Security Fund Act (in this Act referred to as "the principal Act") is amended in the definition of "Minister" by inserting the words "matters relating to labour and" immediately before the words "social security". Pengine tungeweza kufanya sahihisho katika kifungu cha kwanza, ukurasa wa 245, na kuweka kingine kipya. Kama ingewezekana, vile COTU na watu wengine kama FKE wamesema maneno yao, na pengine nakubaliana nao kwamba, hiyo Section 2 of the Principal Act iwe amended by deleting the definition of financial year and substituting it with the following definition:-

"Means a period 12 months ending the 30th day of June". Hiyo itakuwa new clause.

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

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

Na pia Section 3 of the Principal Act, utakuta wanasema kwamba:-

"The Principle is amended by inserting the following new section immediately after Section 2".

Ambayo nimeshasema hapa na inapatikana chini ya kichwa "Retirement Benefits Act 1997, to apply to the Fund". Section 2(a) inasema kwamba:-

"The provision of the Retirement Benefit Act, 1997 shall apply to the Fund".

Bw. Naibu Spika wa Muda, hii Clause 3 pengine ingefanyiwa marekebisho kidogo ili pengine hapa mahali pa Waziri tufute maneno "Under the control of the Minister", appearing in the 3rd and 4th lines na kuongeza kwamba:

"The Minister shall as soon as practicable take all necessary steps to convert the Fund into a pension scheme".

Bw. Naibu Spika wa Muda, mimi ninafikiria hiyo amendment inaweza kusaidia kwa sababu kawaida wananchi wanapopata hizi pesa kwa jumla ilhali mwingine amefanya kazi kwa miaka mingi lakini hajawahi kuona pesa taslimu Kshs40,000 ama Kshs80,000 mara moja; kichwa huanza kuzunguka akifikiria aoe bibi mwingine, aende kuogelea Mombasa na kadhalika. Hili jambo lilifanyika kule kwetu; kule Mumias. Mtu mmoja alipata hundi ya Kshs180,000 na hali hakuwa amewahi kuona pesa kama hizo maishani mwake. Akaona sasa maji ya Butere hayamfai kuoga nayo. Akafunga safari kwenda Pwani na hali alikuwa hajawahi kufika kule ili aogele kwenye maji ya chumvi ili yanyoroshe mwili. Wakati huo yale maji ya Mto wa Nzoia hayakumfaa wala yale ya mito iliyoko kule Butere hayakumfaa. Alipofika Mombasa, akapata watu "wanabasa" watu kule. Kwa vile yeye alikuwa "bwana mkubwa, alizurura baa moja hadi nyingine. Na kule kwenye baa kuna watu pia ambao wameerevuka. Huyu jamaa alikaa kule karibu miezi mitatu na hizo pesa zote zikaisha. Ikawa hata hana nauli ya kumrudisha Butere. Ikawa sasa ni kuchangiwa na watu wa Butere walioko Mombasa, ili apate nauli ya kurudi. Kwa hivyo, kutokana na hilo tukio, ni wazi kwamba mtu anaweza kupata pesa, na zikwishe mara moja. Mtu akiwa na pesa, ni kawaida huwa zinamuwasha mfukoni. Huwa anataka kuzitumia kila mara. Hata akienda dukani kununua---

POINT OF ORDER

PRESENCE OF A DEFECTED MEMBER IN THE HOUSE

Mr. Mbeo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the former MP hon. Mwaura to be in the House after defecting to KANU? Is he allowed to come to the House?

The Temporary Deputy Speaker (Mr. Moiben): The Speaker has not yet been informed officially.

Mr. Shikuku: Bw. Naibu Spika wa Muda, nasikitika. Mimi nikihama chama kimoja hadi kingine siwezi kuja hapa; hata nikisema kwa mdomo, kwa sababu mheshimiwa akisha sema neno huwa ni hilo. Huyu anatafuta nini?

The Assistant Minister, Office of the President (Mr. Shamalla): On a point or order, Mr. Temporary Deputy Speaker, Sir. What relevance has defection to do with the contribution hon. Shikuku is making?

Mr. Shikuku: Bw. Naibu Spika wa Muda, kulikuweco na jambo la nidhamu. Unaelezwa kuna mtu---

The Temporary Deputy Speaker (Mr. Moiben): Order! Please Mr. Shikuku, concentrate on the Bill. Proceed!

Mr. Shikuku: Ahsante, Bw. Naibu Spika wa Muda. Mimi nilikuwa---

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

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

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Mwaura is a stranger in this House. He has defected, it was prime news at 1.00 p.m, and 4.00 p.m, and it is going to be prime news in the newspapers tomorrow morning; that Hon. Mwaura has defected. Is it in order for a stranger to be sitting with us here? He needs to go for a by-election.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Mulusya, that is not your responsibility. It is the responsibility of the Speaker. You are now doing what is not your responsibility. Hon. Shikuku, can you proceed!

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

The Temporary Deputy Speaker (Mr. Ndotto): Order! If it is on the same issue, I have said it is not the responsibility of the Members.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, can I seek your guidance?

The Temporary Deputy Speaker (Mr. Ndotto): Is it on the same issue?

Mr. Munyasia: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): I am afraid I am not going to allow it. Hon. Shikuku, proceed!

Mr. Munyasia: He is a stranger!

The Temporary Deputy Speaker (Mr. Ndotto): Order! I have already ruled on that point of order and I am not going to allow more points of order on the same issue, because I have already given my ruling. Proceed, Mr. Shikuku!

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Mak'Onyango, I hope it is not on the same issue.

Mr. Mak'Onyango: No, Mr. Temporary Deputy Speaker, Sir. We are here as legislators and this is an august House, the supreme authority of the land and we are supposed to give guidance to this country in terms of compliance with the law. I think it is a known fact in this country that once one crosses, he or she becomes a stranger. I think if you allow Mr. Mwaura to be here, then we are participating in an illegality and I do not think this is right for this House.

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Mak'Onyango, I hope you will not repeat the same mistake again. I have already given a ruling on that one, that it is for the Speaker to give a ruling on that issue and not the Members. You also remember hon. Matiba the other day had resigned but had not given the letter and he came to the House. I think we leave this matter to the Speaker and he will give a proper direction on the issue. Proceed, Mr. Shikuku!

Mr. Mwaura: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for us leaders to be petty? Because we have other colleagues on this side who have declared their interest in other parties and we know them. We have hon. Muite--

The Temporary Deputy Speaker (Mr. Ndotto): Order! I rule you out of order. Proceed, Mr. Shikuku!

Mr. Mulusya: He is a stranger! He has now admitted!

Mr. Shikuku: Bw. Naibu Spika wa Muda, nasikitika nilikuwa nimeanza kutoa maoni yangu, lakini kwa bahati mbaya mambo mengine yameingia na umetoa uamuzi juu yake. Lakini wananchi watatoa uamuzi wa mwisho. Bado kuna uamuzi mwingine na ni wa raia kuwachezea.

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

[Mr. Deputy Speaker took the Chair]

Mr. Shikuku: Bw. Naibu Spika, nilikuwa nimeanza kutoa maoni yangu kuhusu huu Mswada kabla ya

mambo mengine kuzuka ambayo umekwishakata shauri juu yake. Lakini wananchi watatoa uamuzi wao ambao ni wa kweli na haki! Nataka kusema kwamba--

Mr. Mbeo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Mwaura who is a stranger in this House to continue sitting in this House after officially defecting to KANU?

Mr. Deputy Speaker: Well, that is news to me. I am not aware! As far as the Chair is concerned and with all the facts in my position, the hon. Mwaura is a Member of the House. If it comes to my knowledge officially that he has defected from one party to another in terms of which, in accordance with our Constitution, deprive him of continuing membership of the House, immediately he becomes a stranger. That is all I can say on that!

Mr. Mak'Onyango: On point of order, Mr. Deputy Speaker, Sir. I think this is a matter of serious concern because, as legislators, we should be able to comply with the law of the land. Now, news media are very important institutions in a country, they legitimate actions and so on. So, it is a fact that it has been announced today in the KBC news at 1.00 p.m. and at 4.00 p.m. that Mr. Mwaura has defected! So that becomes part of the national record of this country. And that to me, is proof that there is a defection and hence the need for Mr. Mwaura not to participate in the proceedings of the House.

Mr. Deputy Speaker: Mr. Mwaura, what do you have to say?

Mr. Mulusya: Did you not defect with 300 people?

Mr. Mwaura: Mr. Deputy Speaker, Sir, I am a leader and it is my democratic right to say which party I am going to use during the next election. That is clearly what I have stated today and I have no apology to make to anybody about that!

Mr. Deputy Speaker: Order, hon. Members! Frankly, I did not listen to the radio. I would agree with the hon. Mak'Onyango that subject to the right of liberty by the person concerned, an announcement through those avenues of the media must be taken seriously. But I hear from the hon. Mwaura now that what he did today was not to defect from his party to another, but he announced his intention of defecting in a few months time. I think it is different and without prejudice to the rights of Speaker or our right, the Chair will come back to the subject of yesterday's information. I think for the moment, therefore, I will take the word of hon. Mwaura that he never actually defected, but announced his defecting in a few weeks' time or a few months' time and we continue with the debate.

Mr. Mulusya: Mr. Deputy Speaker, Sir, we are seeking guidance from the Chair. When a sitting hon. Member of Parliament of FORD(A) goes to his Excellency the President with 300 FORD(A) supporters and he is received from the other party and he announces that, "Tumekuja kutubu kwa vile tulikuwa upande mbaya." Is that not defection and with an account of Kshs5 million? A cheque was cleared this morning!

Mr. Deputy Speaker: Order, hon. Mulusya! The Chair or this House must go with serious precision statements and actions and where you are dealing with a matter of that gravity as to affect the continued membership of the House of a sitting Member, you have to understand that the Chair must be satisfied beyond any reasonable doubt that the person unequivocally defected from one party to another. I am afraid, from the facts within my possession, including even the statement you have just made, and particularly taking into account the statement from the horse's mouth, Mr. Mwaura himself, I do not think he has defected from the party to another effective today so that to deprive him the right to stay here for today.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Deputy Speaker, Sir. Hon. Mulusya has made a very serious allegation by saying that the defector has been given Kshs5 million. Can he substantiate that or else withdraw?

Mr. Mulusya: Mr. Deputy Speaker, Sir, other than Kshs5 million which was given and banked by special clearance yesterday morning at Kenya Commercial Bank (KCB), Moi Avenue, into his bank account in Barclays Bank, today, 300 people were given each Kshs1,000. As we are talking now, he has an additional Kshs100,000 which he received together with the other 300 defectors!

Mr. Ndotto: On a point of order, Mr. Deputy Speaker, Sir. This is a very serious matter and hon. Mulusya has made very serious allegations in this House and, I think, it is not fair for a Member of Parliament to be in the habit of making very serious allegations against the others and get away with it. Can he substantiate that?

Mr. Mwaura: Mr. Deputy Speaker, Sir, I feel sorry that an MP who calls himself a hon. Member of Parliament can come here and tell "lies". I wish to ask the KCB to clear my name in this because I do not bank with them. I have not been paid that money he is talking about. There are other hon. Members of Parliament who have indicated the party they will use during the next election. We have them here with us! Can the hon. Mulusya, if he wants to be a leader of this country tomorrow, go to the papers and produce the cheque that he says that I have been paid so that Kenyans will know that hon. Mwaura has been paid that money? If that is true, I want to say here clearly that I will resign from this Parliament, and not even seek re-election.

Mr. Deputy Speaker: Order! Order! You know why it is wrong to flout the rules. This is because if

you flout the rules, you invite the other side of the House to do the same. There have now been two breaches of the regulations.

Hon. Mulusya, you made a very serious allegation against the character of another hon. Member, when you said that he has been bribed. That is the effect of your statement.

Hon. Mwaura, whatever the circumstances, you are never excused to use the word, "lies" in this House. I would, therefore, request you to withdraw the use of the word, "lies", before I come back to deal with hon. Mulusya's statement.

Mr. Mwaura: Mr. Deputy Speaker, Sir, if it is unparliamentary to use the word, "lies, I withdraw it.

Mr. Deputy Speaker: Now, hon. Mulusya, Standing Order No. 73 forbids discussing in a derogatory manner, the conduct of any Member of the House, however much you may be convinced that your case is right, except on a substantive Motion, and an allegation that a Member has done something in consideration for a certain amount of money could not be a more serious allegation against the dignity of a Member.

I would not want you to engage in a debate. I am, therefore, asking you to either table the cheque that you talked about, or you withdraw.

Mr. Mulusya: Mr. Deputy Speaker, Sir, this matter has become extremely serious now. I am ready to go further to even---

Mr. Deputy Speaker: Order! You have no *locus standi* to go further, except to do one of the two things as directed by the Chair. You have been directed to table the documents, secondly, you have been directed to withdraw it and thirdly, and I reluctantly do not even want to go to that; but to state that you will produce the documents tomorrow afternoon. It is a very serious issue to give an undertaking to the House, that you will produce documents tomorrow on a matter of this nature, and fail to do so.

Hon. Members: Tomorrow is the Budget Day!

Mr. Deputy Speaker: Order! Please for heavens sake, hon. Mulusya, engage in no debate!

Mr. Mulusya: Mr. Deputy Speaker, Sir, I am willing to comply and produce letters of allotment of the plots he has been allocated!

Mr. Deputy Speaker: Very well, hon. Mulusya! I take it that you are still defiant!

Hon. Members: No!

Mr. Deputy Speaker: Order! I did not give you the Floor to continue to transgress the rules by making further allegations which are very damaging against the hon. Member.

I gave you the Floor to either table the cheque, or withdraw your statement. You have failed to withdraw your statement! I will, in fact, withdraw the offer of doing it tomorrow. You either produce documentary evidence of the cheque now, or you withdraw. If you think you can still produce the cheque tomorrow, I promise I will give you the Floor to do so. You will say:

"Mr. Deputy Speaker, Sir, yesterday, I did not have the cheque or any documentary evidence of the cheque and it is here now".

But for the moment, and taking into account the fact that you have abused the opportunity that I gave you, by deciding to go on a further offensive against the hon. Member, I am only giving you the options of laying the document on the table or withdrawing the statement.

Mr. Mulusya: Mr. Deputy Speaker, Sir, the Chair is talking too much on a very straightforward issue. I said that I am willing to comply on all those issues that I have raised.

The only thing I cannot comply with is about the Kshs100,000 which is in his pocket and he has not spoken about it!

(Loud consultations)

Mr. Deputy Speaker: Order! Hon. Mulusya, I am afraid I take it that for the third time, you have refused to comply with my order. I am requesting you to leave the Chamber for the remainder of this Sitting.

Mr. Mulusya: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, hon. Mulusya! You surely know the rules now! I know you know them very well. Once I have made that pronouncement, you have no *locus standi* to address the Chair or the House! Please leave!

Mr. Mulusya: But hon. Mwaura is worse and he should not be here!

Mr. Deputy Speaker: Order!

(Mr. Mulusya withdrew from the Chamber)

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

Mr. Deputy Speaker: On what, hon. Orengo? I hope it is not on the matter that I have closed!

Mr. Orengo: It is not closed. It is a point of order, and I also would like to seek direction from you.

Hon. Mwaura has not confirmed yet whether he has defected or not. It has come out publicly---

Mr. Deputy Speaker: Order, hon. Orengo. I am afraid that your point of order---

Mr. Orengo: But this is not nice for you!

Mr. Deputy Speaker: Order! For heavens sake, let us stop being cheeky. I can assure you that I always know what is nice for me when I am in the mood. I do not need to be told by the Orengo's of this House. As far as the Chair is concerned, hon. Mwaura said loudly and clearly that he never defected. He only announced his intention to defect from one party to another when the time comes. In any case, the Speaker's office will go by much more concrete evidence than these statements being peddled on the corridors of Parliament, or even in the pages of the newspapers. So, I gave him the Floor and in the Chamber, he said loud and clear that: "I did not defect and I have no apologies for making a statement that when the time comes, I will run from that party to that party".

An hon. Member: On a point of order---

Mr. Deputy Speaker: This matter is closed. Order! Further discussion of this matter in any form or under whatever type of point of order, is closed. Who was on the Floor?

Mr. Shikuku: Bw. Naibu Spika, Bunge na Kenya hii ni matata sana, na lazima mtu anywe maji kwanza! Kenya hii ni ngumu sana.

(Hon. Shikuku drank a glass of water)

Prof. Mzee: On a point of order---

Mr. Deputy Speaker: Order! I said that the debate on that matter is closed!

Prof. Mzee: It is on a different matter! Did you notice that while hon. Shikuku was speaking, Mr. Mwaura came between him and you? He obstructed---

Mr. Deputy Speaker: Please refer to him as hon. Mwaura!

Prof. Mzee: Mr. Deputy Speaker, Sir, I will not take very lightly, the discussion Mr. Mwaura had with the President of this country on defection!

Mr. Deputy Speaker: Order! Order! Prof. Mzee, I required you to refer to hon. Mwaura as "hon. Mwaura". Will you do that, Prof. Mzee? It is a breach of the rules of the House to refer to a Member in any other form rather than an hon. Member.

Prof. Mzee: Mr. Deputy Speaker, Sir, it looks like many people misunderstood what transpired between hon. Mwaura and the Head of State.

Mr. Deputy Speaker: Order! Order, hon. Prof. Mzee! Did you say hon. Mwaura now?

Prof. Mzee: Mr. Deputy Speaker, Sir, was he in order to stand here and raise his glass in cheers?

Mr. Deputy Speaker: In the circumstances, I think your point of order is frivolous. I told you that I did not see it.

Mr. Shikuku: Bw. Naibu wa Spika, dunia hii ni gumu na ukweli ni mgumu, lakini maneno ambayo Prof. Mzee anasema yalifanyika. Lakini haidhuru. Wananchi wa nchi hii wako tabaani. Wanaambiwa wachukue kura hili wachague viongozi wanaowataka. Lakini badaye wengine wanaenda mahali fulani. Hata hivyo, wacha nirudi kwa Mswada kwa sababu ninajua watakuja kunipiga kijembe mara moja. Wacha nifanye kazi niliyotumwa kufanya hapa na watu wa Butere kwa sababu sitawaudhi kwa sababu wao wamekuwa matajiri wangu kwa miaka mingi. Wale wanaonyanyasa watakuja nyanyaswa na wanachi badaye. Watakiona kilichofanya punda asimee pembe.

Bw. Naibu wa Spika, niko sasa katika Section 4 ya Principal Act. Ukisoma sehemu hii---

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

Mr. Deputy Speaker: Order! Order, hon. Gatabaki. Who gave you the Floor? Hon. Shikuku did you give him the Floor?

Mr. Shikuku: No. When he rose on a point of order, I naturally sat down.

Mr. Deputy Speaker: Mr. Shikuku, you are an old Member of this House. What is your point of order, Mr. Gatabaki?

Mr. Gatabaki: Is it in order, for the hon. Member for Butere, to keep referring to the latest defection when he is supposed to be discussing a different issue?

Mr. Boy: Which is the latest defection?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the latest defection is that of hon. Mwaura.

Mr. Deputy Speaker: I am glad that hon. Gatabaki wants the House to concentrate on the matter before it.

*(Resumption of Debate on the National
Social Security Fund (Amendment) Bill)*

Mr. Shikuku: Bw. Naibu wa Spika, niko kwa Section 4 ya National Social Security Fund Act. Katika sehemu hii inasema: "There shall be a Board of Trustees to be known as National Social Security Fund Board of Trustees which shall by the name be a body corporate having by virtual, succession and common zeal, and may, in its corporate name sue or be sued and purchase, hold, manage, dispose of immoveable and moveable properties and enter into all such a contract as may deem necessary or desirable for the purpose of this Act."

Katika kifungu hicho, tumeshaona mathambi ambayo yamefanywa. Fedha za NSSF zimetumiwa vibaya kama hii ilikuwako. Wakati umefika ambapo ni lazima tufanye marekebisho baada ya pesa za NSSF kutumiwa vibaya. Yafaa tuwe na kifungu kipya na kifanyiwe marekebisho. Yafaa kuwoko na mahali ambapo hiyo Board inaweza kuwa inafanya consultation kwa sababu hapa katika Bunge sisi tunauliza maswali kuhusu NSSF na tunauliza Waziri wa Wafanya Kazi.

Inafaa kutengeneza hii Board, iwe ikifanya mambo yake baada ya kufanya consultation baina yake na Waziri wa Wafanyi Kazi. Tunapouliza maswali hapa, yeye uwa hana habari. Na isiwe kwamba fedha zinaweza kutumika au Board inaweza kutumia pesa au kuweka akiba katika banki nyingine ambazo hapo mbeleni, zilikuwa zinaitwa political banks. Katika banki hizi, jasho ya wafanyakazi inapotea na hizo pesa zinaliwa na watu wengine ambao hawakutokwa na jasho. Bibilia inasema "utavuna yale uliyoyapanda." Sijui Quran inasema nini. Nafikiri ni hivyo hivyo. Kwa sababu ukivuna yale hukupanda, wewe ni mwizi. Na wale wanavuna yale ya NSSF ambayo ni jasho ya watu wadogo ambao wengine wamepotesa mikono, macho, na miguu na pia wakienda kortini kuna mawakili walavi huko. Wanalipwa pesa za wateja wao na wanakula hizo pesa. Mwananchi wa Kenya ana taabu kubwa. Sijui kama wakati umefika tumwite tena Yesu arudi pamoja na Mohammad *Salala-walai-wa salam* aje kusaidia watu?

Mwananchi Kenya hii yuko kwa taabu. Akifanya kazi, pesa zake pesa ambazo amepata kwa jasho yake zinaliwa na wale hawakutokwa na jasho. Na akipoteza mkono, mguu au nini, akilipwa pesa hizo zinaliwa na mawakili. Niko na file nyingi sana hapa ili tufanye Waziri wa WafanyaKazi awe macho, ili mambo yoyote yazifanywe bila yeye kujua na tuwe na haki ya kumkosoa katika hili Bunge mambo. Na hiyo iko katika ukurasa wa 119 wa NSSF Act Kifungu cha 258. Kifungu 14 kinasema hivi:

"Benefits shall be of the following description (a) age benefits (b) survivor benefits (c) invalidity benefits (d) withdrawal benefits (e) immigration grant (f) such other benefits as maybe prescribed by the Minister."

Bw. Naibu Spika, hiyo sheria inaendelea kusema:-

"Except when otherwise provided, the amount of several descriptions of benefits shall be the total standard contribution paid in respect of the member together with interest at a rate to be declared annually by the Minister with a concurrence of the Minister for the time being responsible for finance".

Dr. Otieno-Kopiyo: On a point of order, Mr. Deputy Speaker, Sir. According to the latest information that I have just come from River Road is that the MP for Kigumo defected this morning and he is no longer a Member of the House, but he is here now.

An hon. Member: But he is not here now!

Dr. Otieno-Kopiyo: No, he is here!

Mr. Deputy Speaker: Order! This is a matter on which the Chair has already made a ruling and if you had been here moments earlier, you would not be raising this futile point of order at this stage.

Dr. Otieno-Kopiyo: Mr. Deputy Speaker, Sir, but I have noted the fact that he did defect.

Mr. Deputy Speaker: Order! That is irrelevant. But what you know is that whether it is a fact or not, it is irrelevant. The fact is that the Chair has made a ruling.

Dr. Otieno-Kopiyo: What was the ruling, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: Find out from the HANSARD.

Mr. Gitau: He has already defected!

Prof. Mzee: On a point of order, Mr. Deputy Speaker, Sir. Did you hear the Member for Gatundu speaking behind the Chair there?

Mr. Deputy Speaker: No, I did not. Even if I did hear, I do not see how he could have done that from that distance.

Prof. Mzee: But he shouted for apology!

Mr. Deputy Speaker: Order! Proceed, Mr. Shikuku.

Mr. Shikuku: Sijui kuna nini hapa leo. Hata hivyo nitaendelea. Clause 3 says:

"The rate of interest declared under sub-section 2 shall not be less than two and a half per cent."

Bw. Naibu Spika, hiki kifungu kinahitaji marekebisho. Hakuna mahali popote katika Kenya ambapo unaweza kupata riba ya 2 per cent. Hakuna! Na hiki kinahitajika kufanyiwa marekebisho. Pengine unaweza kupata riba hiyo ulaya lakini katika Kenya hakuna. Kwa hivyo, hiki kifungu kinahitajika kufanyiwa marekebisho. Hii ni kwa sabbabu ukisoma kifungu chote hadi mwisho chake utapata kwamba pengine tungefikiria kuwa na kifungu mpya badala ya kifungu hiki 19 by "deleting paragraph F." ambayo inasema:

"Such other benefits as maybe described by the Minister and so on and so forth".

Ninakubaliana na wale wajamaa kutoka trade unions na FKE kuhusu section 1. Tulikuwa na mkutano nao na tukazungumza juu ya marekebisho ambayo yanaoweza kufaa wafanyakazi. Na tukasema kwamba ingefaa tuweke hayo maneno:

"Such a benefit maybe described by the Minister on recommendation of the Board of trustee."

Hizi benefits ndizo ambazo zinafanya recommendations kwa Bw. Waziri ili aweze kuleta marekebisho sawasawa.

(Mr. Mwaura left the Chamber)

Mr. Shikuku: Bw. Naibu Spika, Mungu asifiwe sana, Shetani ametuondokea!

Pia tunataka kubadilisha sehemu ya pili ya kifungu hiki na kufanya mabadiliko yafuatayo:-

"Except otherwise provided, the amount of descriptions of benefits shall be the total stand contribution paid in respect of a member together with interest and investment---"

Dr. Otieno-Kopiyo: Jambo la nidhamu, Bw. Naibu Spika. Je, ni haki kwa mhe. Shikuku kumtaja mhe. Mbunge wa Kigumo ambaye ameondoka kama "shetani"?

Mr. Deputy Speaker: Order! Order! Let us not engage in such points of order. Hon. Shikuku, would you concentrate on the Bill before the House, otherwise, I would rule that you have no material if you keep on diverting to other issues and calling another hon. Member shetani.

Mr. Shikuku: Bw. Naibu Spika, sijui nitaifanya nini kwa sababu mimi ninasoma Mswada huu na marekebisho yake. Sasa niko nje ya Mswada huu namna gani?

Mr. Deputy Speaker: Order! Shetani si mtu. Endelea.

(Laughter)

Mr. Shikuku: Bw. Naibu Spika, nilikuwa nikisema kwamba "interest of the income earned thereon and specified in the regulation". Ningependa kumjulisha Waziri kwamba ile riba ya asilimia 2 haiwezi kuendelea kwa sababu hiyo ilikuwa ya miaka iliyopita. Riba ya sasa ni sharti iambatane na viwango vya kukadiria kwa sababu asilimia 2 ni kidogo sana. Pia nimesikia kwamba wahe. Wabunge wako bado katika viwango vya kukadiria vya asimilia 5. Ni wapi ambapo unaweza kupata riba katika benki kwa asilimia 5? Hata ile pensheni ya wahe. Wabunge sijui ni asilimia 3 na hiyo ilikuwa ya miaka 1960. Wakati huu huwezi kupata mkopo kwa asilimia 3. Kwa hivyo, inatakiwa ifanyiwe marekebisho ili iweze kuambatana na hali ya sasa ili watu waweze kupata malipo mazuri ya uzeeni.

Pia ile sehemu ya (iii) ambayo inasema "The interest rates declared under subsection 2 shall not be less than 2.5 per cent". Sehemu hiyo ifuatwe kabisa. Sehemu ya 34. ukurasa 20 wa NSSF Act Cap.258, ukurasa 20 inasema:

"An inspector appointed under this Act shall, for the purpose of ascertaining whether this Act is being or has been complied with in any premises or place liable to inspection under this section, have power to enter any such premises or place at all reasonable time and to examine every person whom he finds therein."

Bw. Naibu Spika, kifungu hiki kinasema kwamba inspekta anaweza kuwa na uwezo wa kuingia katika majengo yako na kukagua kila mtu atakayempata humo, hata kama ni mjomba wako, mkwe wako au shemji yako. Si unaweza kupoteza bibi ikiwa mtu anaweza kuingia kwako na kumkagua mkwe wako? Mke wako anajuiliza: Mume gani huyo anayeniletea watu humu ili wanikaguekague? Jambo hilo haliambatani kamwe na mila za Kiafrika. Tunaposikia ofisa huyo akiitwa "inspekta" tunafikiri kuwa yeye atakuwa ofisa wa polisi. Pengine tunaweza kumwita Compliance Officer. Hii itamfanya kuwa ofisa mwenye heshima, na ambaye hatakuja kuivuruga nyumba yako. Inafaa awe ni ofisa kwa tabia na kwa kuonekana.

Kifungu hiki kina vijifungu vinne, na kile cha nne kinasema:-

"Any person who:-

(a) wilfully delays or obstructs a compliance officer in exercise of any power conferred under this

section, or

(b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this section shall be guilty of an offence and liable to a fine not exceeding Kshs 2,000".

Pengine kifungu hiki kingesahihishwa kwa sababu watu wengine wamependekezwa tuwe na faini ya Kshs20,000 badala ya kuwa na Kshs2,000. Tena ningependa Waziri aniambie kama majengo yanayohusika hapa ni ya kiwanda au ni nyumba ya kuishi. Ikiwa majengo yanayohusika ni ya kiwanda inafaa faini iwe Kshs20,000 kwa sababu Kshs2,000 ni kiasi kidogo sana.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of information, Mr. Deputy Speaker, Sir. Our inspectors go to inspect places of work and not private houses. I am listening to the hon. Member making his recommendations as to how much the fine should be. I agree that this amount of fine has been on for too long. The last time the amount was increased was in 1988, and I am quite open to the hon. Member's suggestions.

Mr. Shikuku: Bw. Naibu Spika, nakubaliana na wale waliosema kwamba inafaa faini iwe ni Kshs20,000. Itakuwa ni kama mchezo kumfaini mtu kama Bw. Pattni au Bw. Somaia Kshs2,000.

Kwa hivyo, tunakubaliana iongezwe. Lakini kama mmekubaliana ya kwamba hii ni kidogo, kwamba nimekaa siku nyingi, ile 2 per cent, nimetoa (iii) na ile interest ya 2 or 3 per cent isibaki hivyo hivyo, iongezwe iwe kama 10 per cent. Kwa hivyo, kama mmekubaliana hapa, ninakubali ile interest. Ninamshukuru kwa ile habari amenipa.

Hapa ninaona kwamba kuna Sub-Sections sita, lakini pengine ingefaa tuongeze section nyingine ambayo inasema-- Hapa hawaseni Korti itafanya nini. Lakini wale wafanyakazi niliozungumza nao wanasema kwamba hakuna faini ambayo huyu mtu analipishwa. Lakini pengine tungeongeza sub-Section mpya kufuata ile ya sita ambayo inasema:-

"Where the Court convicts any person of any offence under Sub-Section 4, the Court shall compel such a person to furnish any information required under the Sub-Section or be liable for contempt of court."

Ninaunga hiyo mkono, na lazima iwekwe hapo kwa sababu matajiri wengine wako na kiburi sana. Hata siku hizi wengine hutemea wafanyakazi wao mate na hata kuwachapa makofi. Na wakiuliza wanaambiwa "Unataka nini? Mimi nitakupiga na uende popote unataka."

(Mr. Shikuku mimicked the Asian accent)

Wanajua "wamenunua" wakubwa hapa, kwa sababu wakubwa huenda kwao kuuliza pesa za Harambee. Wakishauliza Harambee, hata mfanyakazi akipiga ripoti kwa hawa wakubwa wetu, hawafanyi lolote. Wakienda kwa Trade Union, ndiyo kabisa hakuna lolote linalofanywa. Kwa hivyo, mfanyakazi wa nchi hii, yuko katika taabu kubwa. Amebaki na Mungu wake tu. Trade unionists wanachukua pesa zake kila mwezi, hii hukutwa kila mwezi kwa mshara yake na ile ada ya kutolewa kila mwezi. Lakini mfanyakazi akipata taabu, hasaidiwi na wale Trade unionists. Kile anafanya ni kuja kumwona Mbunge ambaye yuko na kazi nyingi. Sisi ndiyo tuko kama Wazara ya Wafanyakazi, Waziri, trade unionists and kila kitu. Mfanyakazi akishakatwa mkono anakuja kwetu na ilhali trade union iko, na wakubwa wanachukua Harambee huko.

Siku moja niliwaauliza dungu zangu Wahindi: "Mbona hamji kwa mikutano na harambee zetu? Walinijibu hivi: "Why should we go there and we have already given our contribution for the harambee?" Na wengine wanasema: "You know, the amount I gave as my contribution was Kshs40,000, but when I listened to the announcement in the radio, I heard only Kshs10,000 being announced. What happened to the balance of Kshs30,000?"

(Mr. Shikuku mimicked the Asian accent)

Wahindi wamejua Mwafrika kweli. Pesa za Harambee ndiyo licence ya kuwatemea wafanyakazi Waafrika mate, kuwapiga makofi, na hakuna lolote litafanyika kwao kwa sababu wamekwisha toa Harambee. Watu wetu wamekua watumwa na wakati umefika, lazima tuwe na watu wengine watakao toka tena kuwakomboa watu wetu kutoka kwa utumwa wa matajiri ambao wakishatoa Harambee, wanaweza kufanya lolote wanalotaka na mfanyakazi.

Mimi nimekwishafanya kazi yangu, na bado ninajaribu kuendelea kufanya hii kazi, na ninaamini kwamba siku moja kutakuwa na mabadiliko kabla sijafa. Kwa hivyo, nimekwisha pendekeza hiyo clause mpya.

[Mr. Deputy Speaker left the Chair]

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

Bw. Naibu Spika wa Muda, Kifungu cha 36 ukurasa wa 21 pia kinahusu faini. Katika kifungu hiki wanasema juu ya faini kama ifuatavyo:-

"Any person who fails without lawful excuse to pay to the Fund within the period prescribed by this Act any contribution which he is liable as a contributing employer to pay under this Act---"

Hapo wanasema kuwa huyu mtu atapigwa faini.

The Temporary Deputy Speaker (Mr. Wetangula): Which Clause Mr. Shikuku?

Mr. Shikuku: Clause 36, page 21 of the Bill. Hapo wanasema kuwa yeye atatozwa faini isiyoziidi Kshs15,000 na mimi nataka tubadilishe na kusema; "not exceeding Kshs40,000." Hii ni kwa sababu hawa wakubwa hukata pesa na kuzitumia katika biashara zingine na kwa hivyo napendekeza watozwe faini ya kutosha ili Serikali hii iweze kupata fedha.

Katika Kifungu cha 38, cha Sheria, inasema:-

"The court before whom any person is convicted of an offence under this Act, may without prejudice to any civil remedy order such person to pay to

the Fund the amount of any contribution or any other sum together with any interest or penalty thereon found to be due from such person to the Fund and the sum so ordered shall be recoverable as a fine and paid to the Fund. All sums due to the Fund shall be recoverable as debts due to the Board of Trustees and without prejudice to any remedy shall be a civil debt recoverable summarily."

Hiyo ni Sehemu ya 38 ya sheria ya NSSF.

Tulizungumzia hilo jambo na pengine tunataka Kifungu kipa ambacho kitasema hivi:-

"Any debt recovered summarily remains unpaid and the Fund shall proceed against the debtor as prescribed under order (xxi) of the Civil Procedure Act."

Kifungu kama hiki pengine kingewaweza hao walaghai ambao hawataki kutoa pesa!.

Sehemu ya 39 inasema kwamba:

"All criminal and civil proceedings under this Act may without prejudice to any other power in that behalf be instituted by any "compliance office" or any other officer of the Fund where the proceedings are instituted or brought in the magistrate court. Any such compliance officer or other officer may prosecute or conduct the proceedings."

Bw. Naibu Spika wa Muda, tungependa hii ifuatwe sana na lile neno "inspector" katika Kifungu hicho, lirekebishwe kufuatana na haya marekebisho ambayo nimependekeza hapo mbeleni. Nimejaribu katika mazungumzo yangu na hao watu, na sasa nitagusia kwa Schedule ya Kwanza ya huu Mswada. Sasa nitaongea juu ya First Schedule, Paragraph 1, Sub-section 1(a) ambayo inasema:

"a Chairman to be appointed by the Minister"

Bw. Naibu Spika wa Muda, wamesema hapa:

"The National Social Security Fund Board of Trustee shall consist of nine trustees appointed by the Minister of whom one shall be appointed to be the Chairman".

Katika Paragraph 1(iii) (iv) na (v), First Schedule of the Bill, lazima tufanya masahihisho. The paragraphs of the Bill must be amended by renumbering them. Tukifanya masahihisho itatubidi kusahihisha hizo namba.

Katika Schedule I, mtu ambaye ataweza kuteuliwa lazima awe na ujuzi katika accounting, law, corporate management or general business administration. Paragraph 4, pia itahitaji masahihisho. Mwisho, ningependa kusema kwamba sheria zinatengenezwa katika Bunge hili kwa manufaa ya wafanyakazi---

(Messrs. Matiba and Mbeo consulted)

Mr. Munyasia: On a point of order Mr. Temporary Deputy Speaker Sir. I have been sitting around there when the Member of Parliament for Kiharu came in and started threatening hon. Mbeo that very soon he will not be talking to him because he does not know what he is doing here. Is the Member for Parliament for Kiharu in order to threaten hon. Mbeo who represents the people of Mathare here?

(Mr. Matiba withdrew from the Chamber)

The Temporary Deputy Speaker (Mr. Wetangula): Order! Mr. Munyasia, I am afraid he has already left my jurisdiction and I cannot make any ruling on that.

Mr. Shikuku: Sisi tunalipwa kufanya kazi Bunge hili na mshahara wetu unajulikana. Ikiwa huwezi kufanya

kazi ile ulitumwa kufanya hapa, basi wewe unakula kitu ambacho si chako na kwa Mungu hautaingia. Mungu anakataa wizi.

Nilikuwa ninasema habari ya sheria. Tunatengeneza sheria kwa manufaa ya watu wote. Sisi sote tuko chini ya sheria. Lazima tuangalie kwamba sheria tunazopitisha hapa zinapitishwa kwa manufaa ya watu wote. Pia zitakuwa kwa manufaa hata kwetu tutakapotoka katika Bunge hili. Sheria hizi zinatakiwa kulindwa. Lakini ikiwa sisi watengenezaji sheria hatutaki kufuata sheria, basi Mungu atusaidie. Kila Mjumbe aliyekuja hapa, alikula kiapo kulinda Katiba na sheria za nchi hii. Na ikiwa wewe hutaki kuunga hiyo na unamfuata mtu ambaye haamini sheria wala kujali Katiba, basi wewe katika Kiingereza unaitwa outlaw. Wewe uko nje ya Sheria. Ni lazima sheria zizingatiwe. Sisi Wajumbe wa Upinzani tunataka kung'oa Serikali ya KANU kutoka katika mamlaka. Lakini, itakuwa ni upuzi sisi kung'oa Serikali hii ambayo haifuati Sheria sana na tukose kufuata Sheria. Hakuna serikali ambayo haitafuata Sheria. Ni wajibu wa waandishi wa magazeti, badala ya kupoteza wakati wao wanapojaribu kumfanya yule anayefuata Sheria kuwa ni mchafu sana, hapendeki na hata maneno yake hayaungwi mkono. Juzi niliwaita nikawaambia mimi ninaunga mkono freedom of the Press. Lakini siungi mkono freedom of the Press ili wafiche ukweli. Kwa sababu niliwaonyesha faili kubwa ya wananchi wanaoniunga mkono, lakini maoni yao hayachapishwi kwenye magazeti. Wanaandika maneno yao, ili nionekane kama mtu ambaye sina wafuasi wowote. Na kila gazeti mpya ikitoka mpaka ianze na Shikuku. Kwamba mimi ni KANU na kadhalika, na hali mimi rekodi yangu ni safi sana. Hiyo ndiyo sababu ninaingiliwa na magazeti. Lakini, watajuta. Anayepingana na ukweli anapingana na Mungu na sharti aangamie. Hayo magazeti, nia yao ni kuchafua. Wakati ninapofuata sheria inakuwa kama sifuati sheria.

Bw. Naibu Spika wa Muda, wakati umefika ambapo kama wewe ni mheshimiwa wa kweli ufuata sheria. Na kuna sheria moja tu. Wewe ni wakili na unajua Public Order Act siyo Sheria. Kwa sababu ni kinyume cha Section 80 ya Katiba.

The Temporary Deputy Speaker (Mr. Wetangula): Haiwezi kuwa kinyume cha, ni kinyume na.

Mr. Shikuku: Bw. Naibu Spika wa Muda, ni kinyume cha sheria. Sijakosea. Kwa sababu kule Lancaster Conference tulisema: There shall be freedom of assembly. Hatukusema: There shall be freedom of assembly if you can get a licence from the District Commissioner. Sasa sheria hii imebadilishwa kuwa; ndiyo unaweza kuwa na mkutano ikiwa utapata kibali kufungua mdomo wako.

Kwa hivyo hii ni kinyume cha Sheria. Na nyinyi mawakili mnatumambia kwamba; "anything that contradicts the Constitution is *ultra vires* or null and void." Mimi sikusomea sheria lakini ninasikia nyinyi wenye sheria mnasema hivyo. Ikiwa mnasema hivyo, kwa nini sisi tusikize hiyo sheria ambayo ni kinyume cha Katiba? Ndiyo maana ninauliza Mkuu wa Sheria atoe Statement atueleze kama sheria imebadilika. Mimi nikimpiga mhe. Ngala huko nje---

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, which clause are you referring to?

Mr. Shikuku: Bw. Naibu Spika wa Muda, katika Mswada huu tunatengeneza sheria. Ninasema tukishatengeneza sheria hizi tuzizingatieni, ziwe zikikubalika katika nchi yetu. Kwa mfano, nikimpiga mhe. Ngala ngumi, yeye ana haki kwenda kortini na nikipatikana na hatia, nipewe adhabu. Lakini sasa tunapigwa tu, tunavunjwa miguu, tunaumizwa kama mhe. Busolo, lakini hakuna anayempeleka kortini kwa kuvunja sheria fulani au kwa jambo lolote lile. Je, Mkuu wa Sheria, ni sheria gani ambayo tulipitisha hapa ambayo inasema mtu apigwe tu bila kufikishwa kortini? Sheria inasema ikiwa mtu amevunja sheria fulani, basi apelekwe kortini na wala si kupigwa!

Kwa hivyo, ni lazima Mkuu wa Sheria azingatie sheria na atoe taarifa rasmi kuhusiana na jambo hili la kupigwa kwa wananchi, kwa sababu sisi tutaendelea kupinga sheria hiyo ambayo ni kinyume cha Katiba yetu. Ikiwa watu wana makosa, basi wakamatwe na kupelekwa kortini na wala si kupiga na kuumizwa.

Ninatumia fursa hii kumwambia Komishina wa Polisi ya kwamba Kiafrika, kama mwanaume amekupiga na kuanguka chini ni haramu kuendelea kumpiga kama nyoka. Lakini hawa polisi iwapo mtu ameanguka chini, wanaendelea kumpiga bila huruma yoyote. Kwa mfano, katika Uhuru Park hivi majuzi waliendelea kumpiga mtu hadi wakamvunja miguu. Jambo hili halikubaliwi kisheria. Iwapo mtu amekosa na apelekwe kortini. Lakini ninajua hawataki kutupeleka kortini kwa sababu wanajua tukienda kortini Serikali itashindwa kwa sababu hatuvunji sheria ila sheria ya Utangamano wa Raia inayovunja Katiba yetu na ilihali tuliapa kulinda Katiba yetu. Na ikiwa sheria inavunja Katiba, tutaipinga.

Wanaowavunja watu mikono, miguu na kuwaumiza katika Serikali hii wajue kwamba imeandikwa: "Those who live by the sword, so shall they also fall by it." Leo ni mimi, kesho ni wewe!

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

Dr. Otieno-Kopiyo: Asante, Bw. Naibu Spika wa Muda. I apologise, I will have to speak in English because I am more eloquent in that language.

The first point that I would like to raise in this Bill is the frightening prospect that the Minister is trying to sneak in the possibility that the Board of Trustees---

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear hon. Kopiyo apologising when he started speaking? We have two official languages here; English or Kiswahili, but he decided to

apologise for speaking in English. Is that in order?

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, I suppose that we shall ignore him!

I was saying that the Board of Trustees under this Act has been given the power among others, to appoint private auditors. There are alternatives that you can have the Auditor-General (Corporations) audit the accounts or you can have the Board appoint somebody else.

I find that that possibility frightening because, if you do that, you will remove the most important function of the Auditor-General (Corporations), as enshrined in the spirit of section 105 of the Constitution, in respect to the custody of public funds.

I think, in the interest of trying to protect those people who have come under various scrutinies of various Parliamentary Committees, we should not attempt to temper with the role of the Auditor-General (Corporations) whatsoever. Indeed, it is the recommendation of---

The Temporary Deputy Speaker (Mr. Wetangula): Order! We have a Motion of adjournment by hon. Mak'Onyango.

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO. 18

UNSATISFACTORY ANSWER TO QUESTION NO. 015

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Deputy Speaker, Sir, I beg to move that the House do now adjourn.

Mr. Temporary Deputy Speaker (Mr. Wetangula): Hon. Mak'Onyango, you will move your Motion in ten minutes, and the Minister responsible will respond in ten minutes. Two other speakers will have five minutes each.

Mr. Mak'Onyango: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No. 18 to focus attention on an issue arising from a Question I raised concerning the cotton development fund, to which the Minister for Agriculture, Livestock Development and Marketing did reply that he was not aware that such a thing existed. This reply was out of touch with the realities on the Floor of this House.

First and foremost, I would like to refer this House to a Motion which was passed by this House sometimes back. The Motion read thus:

"THAT, in view of the colossal investments in the textile industry in Kenya, and the vast potential of the cotton industry in the country, this House calls on the Government to immediately establish a cotton development fund to promote a systematic production of the crop to sustain this industry."

Arising from that Motion, the Ministry came up with the following response which was given by Dr. Misoi:-

"At the moment, the industry requires 130,000 bales of cotton every year. So, cotton production has declined so much that we need to take immediate action. In this regard, the Government, in collaboration with the World Bank has instituted a study to stop this decline, and improve the production of cotton in the country. The Government is supporting this idea, that is the Motion, to form a cotton development fund which will be used only for the development of the cotton industry."

I am saying that it is this very Government which accepted on the Floor of this House to establish what was going to be known as a Cotton Development Fund. What was surprising is that following that situation, I did raise a Question here which ran thus: To what use has the Kshs60 million or so Fund, established for the promotion of cotton development in Western Kenya been put? How much of the money has gone directly to the farmers? How many farmers have benefited from the Fund. How many of these farmers are from Siaya District---

The reply was this:-

"I am not aware of a Kshs60 million Fund established for the promotion of cotton development in the country."

Mr. Temporary Deputy Speaker, Sir, the question of Kshs60 million arose from the fact that when defending the Vote of the Ministry of Agriculture, the Minister for Agriculture, Livestock Development and Marketing did tell this House the following:

The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae): Sir, the Minister for Agriculture, Livestock Development and Marketing, together with officers from the Ministry have been making extensive tours, particularly, on rehabilitation of cotton in the Western Kenya area, in order to get Western Kenya boosted agriculturally.

Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to say that the neglect given to cotton in this country is something that, we, as leaders of this country need to address. Cotton is one crop that, if developed

properly, can benefit this country a lot more than any other crop. This crop does well in Coast Province, East Province, parts of Central Province, Western Province, Nyanza Province and indeed, a large part of Rift Valley Province. So, here is one crop that stands to benefit this country enormously and hence, the Motion calling for the Establishment of this Fund. With this Fund, we will be able to develop cotton systematically. Just like we have the Tea Fund and the Coffee Fund, we should have a cotton Fund. That will help the development of cotton. Unlike coffee and all these other crops, cotton has a great employment potential in this country. There was a time when Kisumu Cotton Mills used to employ 4,000 and Mount Kenya Textile Industries used to employ about 3,000 and so many other cotton based industries employ thousands and thousands of these people. All these people have their jobs now threatened. So, we are saying that Parliament should be able to guide the Government in this country to be able to prioritise properly and that, cotton needs to be given proper attention in order help the economy of this country. It is time we came up with a clear policy on cotton because for the last 30 years, the decline in cotton production has been systematic from the time when we used to produce about 70,000 bales in 1985 to about 20,000 bales today. This shows the kind of neglect that has gone on in the cotton industry.

Mr. Temporary Deputy Speaker, Sir, there is also the question of mitumba. The cotton industry too, is being threatened by the importation of second hand clothes. I agree with the liberalisation policy but we must not do so, at the expense of the local industry and our nationals. We have to act and I think the time to act is now. It would be sad, if after this Government accepts the call of this House to establish a special Fund to promote the development of cotton, it relapses back or does nothing. The World Bank has acknowledged the importance that cotton stands to play in the economic life of this country and it is willing to support this country in promoting cotton development. The Minister should be able to tell this House what difficulties there are that we have not been able to exploit fully. As I have pointed out, the answer which the Minister gave was the most unfortunate answer because, even if the particular reference of Kshs60 million was not right, I think the fact that the Ministry had already accepted on the Floor of this House to establish this Fund, makes it obligatory for the Minister to tell this House what they are doing in the absence of the Kshs60 million in order to promote the development of this very critical crop in the Kenyan economy.

Mr. Temporary Deputy Speaker, Sir, the reason why I am very particularly concerned about cotton is that we can have very many cotton-based cottage industries. One only needs to go to India and one will see how extensively the cotton-based industry sector of that country has been developed. I am sure that, as a developing country we stand to benefit enormously from the Indian experience. The Minister should take time off to go to India and see what they are achieving through these cotton-based cottage industries whereby we only need to have our people grow cotton. So, even if they do not have a place to take it, I am sure that with the cotton-based or cottage industries, we can be able to utilise whatever cotton that we grow in this country

Mr. Temporary Deputy Speaker, Sir, now, I also want to say something on the policy because there is confusion about say which Ministry really controls what. We have ginneries in this country. Most of these ginneries seem to fall under the Ministry of Co-operative Development yet these ginneries have to market the crop. We need this to be harmonised so that the farmers can at least be dealt with in a systematic way without being frustrated.

Mr. Temporary Deputy Speaker, Sir, I beg to move once gain that the Minister looks at this issue more critically.

Thank you.

(Question proposed)

Mr. Munyasia: Thank you very much, Mr. Temporary Deputy Speaker, Sir. The reasons for bringing this Motion is because of the contradictory answers that come from the members of this Government. One comes to promise that they have set aside some Kshs60 million that is going to help the development of cotton in Western Kenya and then another comes up a year later to say that he is not aware of such a thing. Now, the problem that we have is, therefore, one of confidence and credibility. When do we trust members of this Government when they give answers? I am saying so because it is not only in the Ministry of Agriculture, Livestock Development and Marketing that we have had this contradiction. I remember I had raised a question here also on rural electrification in Sirisia constituency. An Assistant Minister told me that he was not aware that there was any problem over there. The Assistant Minister told me later that they had set aside some Kshs5.0 million for the completion of at least, one line of rural electrification in Sirisia. The following year when I asked a Question on the same issue, again that same Assistant Minister, forgetting that he had given me that answer before, replied that he was not aware and there was not anything set aside from my constituency for rural electrification.

Mr. Temporary Deputy Speaker, Sir, I am saying that this Government must make itself credible and you can only be credible when you give consistent answers. That is a serious matter. It is clear that the cotton industry has failed in this country. In my constituency we had one of the biggest ginneries, that is the Malaba-Malakisi cotton

ginners. Our farmers were so keen on this particular crop since it is the crop that takes a very short time to mature. The marketing of this crop was so poor. Farmers who delivered their crop would spend so long before they were paid. They were disheartened. It is not only in Sirisia. I had the chance to visit Samia which is one of the areas which is supposed to be very well developed because it is represented by the spokesman of western province, the KANU Member of Parliament.

Mr. Temporary Deputy Speaker, Sir, when Luanda Ginnery was rehabilitated and immediately after the rehabilitation, when new machines had been brought to the area, it closed down for lack of cotton because there is no cotton grown in that area now. I do not know what the Cotton Board is doing in this country. Also, I do not know whether we have any board existing by that name, according to the Cotton Act. If it is there, we would be interested to find out what its activities now are because when you look at that particular Act, you get the impression that we are very well protected. This country is seriously concerned with the sustenance of this crop, but on the ground, you would find there is nothing. So, the result is that we have serious unemployment in those areas where the ginneries were providing employment. Therefore, even if we went round and round raising money for National Youth Development Programme, we are not going to compensate the jobs that we have lost through the negligence of the development of the cotton industry.

This Government must begin addressing itself seriously to the rehabilitation of those ginneries and to the rehabilitation of cotton farming in our areas.

Mr. Temporary Deputy Speaker, Sir, no one is now concerned about the seeds. Sometimes we used to get quality seeds from Egypt and Uganda, but that is not happening now, and we appear not to be concerned at all about this. I would like to urge this Government to be consistent, credible and take us seriously when we raise any questions here. We are hoping that they will take this cotton growing as a serious matter. Thank you.

Mr. Otieno: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to support this Motion and make a few observations. One, the Minister needs to change the basic philosophy in the management of the agricultural sector. As at present, it would appear that the sector is managed in the interest and satisfaction of consumers. This philosophy has got to change, if we are going to be self-sufficient in food production and manage this sector to the total satisfaction of the producers. When the Motion was passed here that a Cotton Fund would be established to support cotton production, apparently, it was just for the use of the House and no effort has been made in the Ministry to do something about the establishment of this Fund or to look for the sources of funds to help the farmers. As of now, cotton is going down. We are importing cotton yet we know that cotton is a product that would enable us to employ so many people.

Mr. Temporary Deputy Speaker, Sir, we are becoming "a mitumba-importing country" when we are capable of competing internationally in the production of the fabric which our people buy. We are training our people to love imported clothing, including second hand clothing, when we are capable of producing our own cotton and quality clothing material. The Minister has to seriously tell this House, that they are going to manage the cotton sector to the satisfaction of the producer, not the consumer who can get it from anywhere else in the world. It is a pity that the same applies to sugar. We are managing sugar to the satisfaction of the consumer, not to the producer yet we have land and unemployed youth. We have rainfed schemes for our sugar and cotton. We do not need to irrigate them as of now.

The Minister has done nothing to ensure that we transform the management of the sugar sector in such a manner that we do things to the satisfaction of the producer. Tea and coffee growers have been complaining yet, as of now, we are allowing the economy to drip and to be totally controlled by foreigners. We have reserves, it is capital in-flow we want. It is not out of our production. Why should that be allowed to continue in the agricultural sector? It is possible to change it.

Mr. Temporary Deputy Speaker, Sir, it is possible to change it. We are telling the Minister that it can be changed. What is missing is the will to do it. If tomorrow we say that for any article of clothing imported into the country, there will be a charge which shall go into a cotton development fund, in five years we shall be self-sufficient in cotton production. If tomorrow we say that for any quantity of sugar imported into the country there will be a charge sufficient to make our domestically produced sugar competitive, that will go into our sugar development fund, within five years we shall have enough money to build four new factories in this country. We shall even be able to export sugar. So we cannot continue lamenting that unemployment is rampant in the country and it is frustrating our own graduates. We cannot continue lamenting that the economy is not growing. That is so, but it is because the steps that we need to produce what we can are not being taken. Cotton is one of the things we can produce. We from Nyanza are so unfortunate and desperate because the major products for possible industries for Nyanza and Western Provinces are totally neglected. These products are cotton and sugar.

The Minister has got the philosophical framework, but he has to ensure that everything will be done to make sure that we produce enough cotton and sugar for our use. The same thing goes for tea, coffee and so on.

Agriculture needs the support of the Treasury. If we say we are going to liberalise the economy and then we let maize imports to lower the prices of maize produced in the country until our people do not know whether to produce maize or not we will be managing an economy in this country in the interests of consumers. At the end of the day Kenya will not even have the foreign exchange earnings to import the maize we need. In fact, if we get another crop failure - and the rains are getting suspect now - whoever may have recommended to this Government to hoard cash for importing maize reserves will have sold away the whole country, and this Minister will be ashamed of being on his feet.

With those few words, I beg to support.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mbela, it is your time to reply unless you want to surrender part of your time to somebody else.

The Minister for Agriculture, Livestock Development and Marketing (Mr. D.M. Mbela): Mr. Temporary Deputy Speaker, Sir, the Kshs60 million referred to by the hon. Member is the total funding availed to the Western Kenya District-based Agricultural Development Project (WESKAP), financed jointly with Kshs28 million counter-part funds from IFAD for the year 1996/97. The project covers the following districts: Mount Elgon, Busia, Teso, Bungoma and Nyamira. The project was supposed to have started early this financial year, but money was not released until about two months ago. I will, in fact, be launching this project on 15.7.97 in Kakamega.

The project has got various components. The first one is irrigation and drainage. secondly, it also has a fund for local initiative. It is an on-going project and for the benefit of the hon. Members, its details are published in the development estimates for my Ministry. For this financial year we were supposed to have spent Kshs60 million and for the year 1997/98, Kshs46 million. It is an on-going project on which we will spend a lot more than the Kshs60 by the time we complete it. The project will continue for five years.

Mr. Temporary Deputy Speaker, Sir, under the Local Initiative Fund, we expect to boost the production of fruits and vegetables, poultry and dairy. We would like to help the local people to process milk and citrus fruits into juices. Under packaging, we expect that food will be packaged so that it can reach the market when it is required and not when it is produced. We expect to pack beans, finger millet and other food stuffs. We also expect a certain level of manufacturing on a small scale, particularly animal feeds and so on.

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are talking about cotton---

The Temporary Deputy Speaker (Mr. Wetangula): What is your point of order?

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, did you hear the Minister talking about animal feeds and finger millet while we are talking about cotton? The Kshs60 million which was allocated was meant to go to Nyanza and Western Kenya for cotton development. He is talking about other things. He is not even in tune with what is going on in the Ministry.

The Minister for Agriculture, Livestock Development and Marketing (Mr. D.M. Mbela): Mr. Temporary Deputy Speaker, Sir, I am perfectly in tune, and in harmony with the theme of the Motion. What I am explaining is the scope of the funding that we have got. The funding is not for cotton; cotton is a part of it. We also expect a certain amount of this funding to assist in the acquisition of irrigation equipment. That means that once it is bought, it will be surrendered to the farmers to be able to boost the income of the farmers. In fact, I agree that production of cotton went down very considerably, particularly in the 1980s. This was due mainly to poor and untimely payments to farmers, lack of credit facilities for cotton production, low yielding varieties, lack of quality seed distribution systems, following the liberalisation of the industry and the necessity for the removal of the Cotton Board monopoly. A study was commissioned, and the Ministry was able to obtain varieties which we consider to be much more useful to the farmers. In particular, there is a new variety, which was produced in 1995 and multiplied, known as KSA 81M, which is suitable for Nyanza, Western and Rift Valley Provinces. There is also one HAT 89M, which is designed for Eastern, Central and Coast Provinces. As a result of that multiplication, seed was distributed this year amounting to 116 tonnes. The following is the distribution that was made by my Ministry: Siaya district - 40 tonnes; Busia - 25 tonnes; Kisumu - 20 tonnes; Karachuonyo - 10 tonnes; Homa Bay - 10 tonnes and Suba one tonne. The project of multiplying seed is continuing, and we expect that by the next season, we shall have fully satisfied the seed requirements for the new variety for Nyanza, Western and Rift Valley Provinces. As for the other provinces, namely, Central, Coast and Eastern, the variety HAT 89M is currently being multiplied in a total of 600 acres in Kitui and Taveta under irrigation. Perkera irrigation scheme - 200 acres; Mwea Prison Farm - 60 acres and Taveta - 40 acres. Under irrigation in Taita Taveta - 235 acres; Lamu - 30 acres; Kilifi - 25 acres and Mwea Cotton Research Station - 10 acres.

Mr. Ogeka: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for the Minister to avoid addressing the specific subject raised before the House on the Motion of Adjournment? This is with regard to The Cotton Development Fund that would at least bring cotton growing into force to meet the local demand.

The Temporary Deputy Speaker (Mr. Wetangula): What is your point of order?

Mr. Ogeka: Mr. Temporary Deputy Speaker, Sir, instead of answering the specific issue raised, the Minister is totally avoiding and wandering about in other areas of agriculture. We are talking of a specific crop. Is it in order for him to entertain other areas and avoid the particular subject before the House?

The Minister for Agriculture, Livestock Development and Marketing (Mr. D.M. Mbela): Mr. Temporary Deputy Speaker, Sir, if the hon. Member had listened to me, I was talking specifically about seed for cotton because that appears to the special interest of the hon. Member. But on the other hand, we cannot forget about the potential for those areas, that is why with the amount of rainfall that they get, horticulture will definitely yield some very good income for the farmers and it is part of the project that is going to take five years---

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am seeking guidance from the Chair. Two years ago, the former Minister for Agriculture, Livestock Development and Marketing who seems to be more in tune with the reality about the plight of cotton farmers, announced publicly that the Government was taking over 2,000 acres of land at Allupe for the production of cotton seeds. There is no mention about that and instead, we are being told about one hectare of land for the production of cotton seeds. Could I seek the guidance of the Chair as to whether this Minister is conversant with what he is talking about? If he is not, can he tell the House more precisely, what measures he is taking to stop people who are smuggling in cheap second hand clothes, like Gideon Moi through Tausi International; who are destroying the production of cotton in the country?

The Minister for Agriculture, Livestock Development and Marketing (Mr. D.M. Mbela): Mr. Temporary Deputy Speaker, Sir, I definitely know what I am talking about. In fact, what I am saying is that, the Government is very much concerned about reviving the industry and that is why it has arranged for the five-year funding to be able to revive that crop.

Kenya cannot rely on *Mitumba* for ever, and it cannot continue to rely on imported cotton for ever.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 19th, June, 1997 at 2.30 p.m for the Budget.

The House rose at 7.00 p.m.