

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 25th November, 2004

The House met at 2.30 p.m.

[*Mr. Deputy Speaker in the Chair*]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.831

DEATH GRATUITY FOR
LATE PHILIP BORE'S WIDOW

Mr. Deputy Speaker: Is Mr. Kimeto not here? We will leave his Question until the end. Next Question, Dr. Rutto!

Question No.835

COMPLETION OF KIPKELION
TOWN WATER PROJECT

Dr. Rutto asked the Minister of State, Office of the President:-

- (a) whether he is aware that Kipkelion Town Water Project is not functional even after receiving *El Nino* funds;
- (b) how much money was allocated to the water project from *El Nino* funds and how it was utilized; and,
- (c) what plans he has to complete the project.

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

(a) Kipkelion Town Water Project was one of those infrastructures which were damaged by *El Nino* rains. When the funds to rehabilitate that project were availed, the Kipkelion Town Water Project was a beneficiary. The rehabilitation was completed and the project handed over to the beneficiaries on 1st December, 2003. The Ministry of Water and Irrigation is responsible for running and maintaining the project. Otherwise, the contractor is on site up to 30th November, 2004 to rectify any defects and omissions which might have arisen during the rehabilitation.

(b) Rehabilitation work of that project was allocated Kshs15,313,000 to carry out the following works: Rehabilitation of intake including raising well walls, reconstruction of protection walls as well as the embarkment floods protection, gabions and sonowax, repair of about one kilometre of damaged section at the raw water pipeline, repair of the treatment works including refurbishment of filter units and replacement of various fittings, construction of a new pump-house supply and installation, supply and rehabilitation of one booster pump and a diesel-driven generator, minor repairs, repair of Taita Towet School tank, minor repairs of various buildings and repairs to

damaged distribution mains of 150 millimetre, diameter of about 700 metres. All the above works were carried out.

(c) There are no further inputs intended for the project. The aim of the *El Nino* emergency initiative was to rehabilitate the project based on identification priorities and the available resources. That objective was achieved in case of the Kipkelion Water Supply.

Dr. Rutto: The project is not working. The Assistant Minister was given the wrong information. When will the Assistant Minister go to the ground, inspect the project and find out whether it is working or not? I know it is not working. The materials have just been dumped there and no work has been done.

Dr. Machage: Mr. Deputy Speaker, Sir, reports from the ground indicate that the project is not operating optimally due to chronic lack of diesel. However, I take the sentiments of the hon. Member and I will organise to visit the project early next year.

Mr. Midiwo: Mr. Deputy Speaker, Sir, the Office of the President does not have engineers and yet, it was given the *El Nino* funds to construct roads and rehabilitate water projects. Could the Assistant Minister consider transferring the various programmes under that Fund to the relevant Ministries? That is just money to be "eaten"!

Dr. Machage: Mr. Deputy Speaker, Sir, the *El Nino* project was concluded at the end of last year, and all the rehabilitated projects were handed over to the relevant Ministries.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, this Question will continue to arise because there are many projects that have either stalled, or have not been done properly. A number of projects have been put under the Office of the President, so that it can continue to enjoy the executive authority that we always hear about. There are projects, like the Arid Lands Project, which are still under the *El Nino* Emergency Programme and which were started during those days. Now that the Office of the President is reluctant to give those projects back to the relevant Ministries, could they add those projects to the ones that are funded by the World Bank and other donors?

Dr. Machage: Mr. Deputy Speaker, Sir, whereas I do not want to enter into a dispute with the opinion of the hon. Member as regards my Ministry, his views are good. The Ministry is thinking exactly like that.

Mr. Deputy Speaker: Last question, Dr. Rutto! This is your last chance.

Dr. Rutto: Mr. Deputy Speaker, the repairs to the Taita Towet School water tank are very urgent. When will that tank be repaired and used by the school?

Dr. Machage: Mr. Deputy Speaker, Sir, if the hon. Member was really listening, I have just said that the projects were handed over to the relevant Ministries. In any case, there is slightly over Kshs2 million that was not paid to the contractors. If the hon. Member is dissatisfied with the way the repairs were carried out, he should express that in writing. That way, the amount that was retained will be used for the repairs.

Question No.828

INSTRUCTIONS TO KPLC/NOCK
TO HALT OPERATIONS

Mr. C. Kilonzo, on behalf of **Mr. Kajwang**, asked the Minister of State, Office of the President:-

(a) under what provision of the law did the Permanent Secretary in the Ministry of Energy, Mr. Patrick Nyoike, give instructions to the managing directors of Kenya Power and Lighting Company, KenGen, Kenya Pipeline Company and National Oil Corporation of Kenya to halt certain operations until the Minister of Energy returned

to the country; and,

(b) whether he is aware that such instructions undermine the operations of parastatals and are corrupt and illegal.

Mr. Deputy Speaker: Mr. C. Kilonzo, you are not Mr. Kajwang!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I am asking the Question on his behalf.

Mr. Deputy Speaker: Where did you get that authority, Mr. C. Kilonzo?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, he had to rush for an appointment about five minutes ago.

Mr. Deputy Speaker: Mr. Deputy Speaker, Sir, did he request you to ask the Question on his behalf?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, he told me that he was rushing to see a doctor for a few minutes. Therefore, I am asking the Question on his behalf.

Mr. Deputy Speaker: It is a simple question, Mr. C. Kilonzo! Did he ask you to ask it for him?

Mr. C. Kilonzo: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well! Go ahead, Mr. Assistant Minister.

The Assistant Minister, Office of the President (Dr. Machage): Mr. Deputy Speaker, Sir, I have just talked to Mr. Kajwang over the same Question. I fail to see the relevance of this Question in my Ministry. I request the Chair to transfer this Question to the Ministry of Energy. Otherwise, Mr. Kajwang should enlighten me on what operations he has in mind, for me to answer him.

Dr. Galgallo: The parastatals are under you!

Mr. Deputy Speaker: Order, Dr. Galgallo. I would like to get the advice of the Clerk on this matter. I think the Assistant Minister is right. Since it has something to do with the Permanent Secretary in the Ministry of Energy, therefore the Question will be duly transferred to the Minister for Energy. The Clerk will take the appropriate action.

(Question deferred)

Question No.654

PROTOCOL OFFICER FOR PARLIAMENT

Dr. Manduku asked the Minister for Foreign Affairs:-

(a) whether he is aware that MPs attending Parliamentary Conferences, e.g. Commonwealth Parliamentary Association (CPA), Inter-Parliamentary Union (IPU) and African Parliamentary Union (APU) are not aware of the Government foreign policy; and,

(b) if the answer to (a) above is in the affirmative, whether he could consider attaching a protocol officer to Parliament who would accompany delegations to the above conferences.

Mr. Deputy Speaker: The Minister for Foreign Affairs did inform me that he is not in town and would rather he answered this Question himself next week. So, Dr. Manduku, what do you have to say about this?

Dr. Manduku: Mr. Deputy Speaker, Sir, I do not oppose that suggestion, but this Question came last week and I got an answer which the Minister said was not the right one. I have got the same answer and the Assistant Minister who was here has just slipped out. This Question could very easily be answered when the answer is here. Despite that, I agree that we wait for the Minister to

reply next week.

Mr. Deputy Speaker: I do not understand why, but the Minister did request that he personally answers this Question when he comes back next week.

Dr. Manduku: I have no objection to that.

Mr. Deputy Speaker: Then the Question is deferred to Thursday, next week. The Minister will be informed.

(Question deferred)

Question No.913

REVIEW OF RETIRED CIVIL
SERVANTS' BENEFITS

Mr. Onyancha asked the Minister for Finance:-

(a) whether he is aware that Government Pensions Policy as contained in paragraph 70 of Sessional Paper No.3 of 1985, provides that whenever there is a general salary review for serving civil servants, there should be a corresponding review of the benefits paid to retired civil servants; and,

(b) when he plans to implement this policy.

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

(a) Yes, I am aware.

(b) The process of reviewing the pension increases under the Pensions Increase Act, Cap.190 is lengthy and requires the actuarial evaluation to determine the rate of increase. The Pensions Department is currently working on the modalities including terms of reference of the appointment of an actuarial to conduct the study on the pensions increase. The Ministry will then review the budgetary implications and decide on what is affordable once this is done. The increase will be factored in the Budget.

Mr. Onyancha: Mr. Deputy Speaker, Sir, the Ministry is actually going against its own policies. In the last two years, the Government has increased salaries for Parliamentarians, Permanent Secretaries, teachers and security forces. The Anti-Corruption Chief earns over Kshs2.5 million per month. The Education Secretary is expected to earn over Kshs700,000 per month. Is the Assistant Minister sensitive to the fact that pensioners rely to a great extent on the pensions paid to them for their livelihood and the amount payable, therefore, requires to keep pace with the cost of living in this country?

Mr. Katuku: Mr. Deputy Speaker, Sir, I appreciate the concerns the hon. Member has on the issue of pensioners, but the law states that a process must be followed for the payment of pensions to be effected. The last time this was done was in 1996. I agree we did increase salaries for civil servants and others and you will find the lowest paid pensioner is paid about Kshs500. It is a very pathetic situation, but the law must be followed. As a Government, we are initiating a review of some of these outdated laws so that we can be able to effectively increase pensions of all workers in line with the increment of other civil servants salaries or with inflation so that they can be able to cope.

Mr. Mwandawiro: Bw. Naibu Spika, ikichukuliwa kwamba hali halisi ya wafanyakazi wanaishi maisha magumu sana, wanapata mishahara midogo, posho za uzeeni ni ndogo sana na Serikali inatambua hivyo kama tulivyoambiwa na Waziri Msaidizi hivi sasa; je, hayo marekebisho ambayo anasema Wizara yake inatarajia kufanya yatafanyika lini na hali ya wafanyakazi hapa itaanza kugeuka lini? Anaweza kutupa tarehe?

Mr. Katuku: Mr. Deputy Speaker, Sir, as I have explained in my earlier response about the process as per the current law, I have already instructed the Pensions Department to comply with the law and set up the machinery to appoint the actuarial to start conducting the study and the recommendations to my office so that we can effect the increment. In terms of reviewing the law, you will agree with me that the NARC Government inherited a system which was rotten and some of the laws have not been reviewed for years. This is one such case and the office of the Attorney-General and my office are working closely to review this position.

Dr. Manduku: Mr. Deputy Speaker, Sir, earlier in the year we passed a Bill here and then we had the Pensions (Amendment) Act. When the Assistant Minister says that there is no law to address this issue then we do not understand what he means because the Pensions (Amendment) Act was passed in this House this year. Why is it not effective then? You will remember that this law was first of all sponsored by Mr. Musila--

Mr. Deputy Speaker: Order, Dr. Manduku! Let the Assistant Minister now respond.

Mr. Katuku: Mr. Deputy Speaker, Sir, the law we passed here which was sponsored by none other than the Deputy Speaker of this National Assembly is being complied with. I am sure the Mover of that Motion is very happy with it. We are paying pensioners as the law stipulates. That law was touching on the delays in payment of pensions. I want to assure the House that the Department of Pensions in my Ministry is doing its best to clear backlogs. There are no civil servants who have not been paid. So, the Government is really complying with the law, but the issue which the hon. Member is raising here was not covered by that Act. That is why I am saying, as a Government, we are reviewing not only this law, but others which are oppressive to Kenyans.

Mr. Onyancha: Mr. Deputy Speaker, Sir, we have had situations where people who were in the same job group at the time of their retirement and who had served for similar lengths of time, end up getting different pension dues. Could the Assistant Minister explain this?

Mr. Katuku: Mr. Deputy Speaker, Sir, if the hon. Member can give me specific figures of the same, I will be able to respond.

Mr. Deputy Speaker: Mr. Onyancha, can you clarify your question. I also did not quite understand it.

Mr. Onyancha: Mr. Deputy Speaker, Sir, we have had situations where two officers who retired in the same job group, for example, Job Group R, and served for similar lengths of time, receive different amounts of pension. Could the Assistant Minister explain why this happens?

Mr. Katuku: Mr. Deputy Speaker, Sir, when officers retire while serving at the same job group, it does not mean that they have been earning the same amount of money throughout their service. It depends on the length of service and the scales the officers have served in. An officer could have served in one job group for many years while another one could just have served in that job group for one year only. So, it all depends on the period that an officer has served in the Government.

Question No.498

CLEAN WATER FOR BUTE TOWNSHIP

Mr. Deputy Speaker: Dr. Ali is not here. We will come back to his Question later. Next Question, Mr. Karaba!

Question No.970

EXCLUSION OF ROADS D454/D455
FROM MINISTRY'S BUDGET

Mr. Karaba asked the Minister for Roads and Public Works:-

(a) whether he is aware that Kagio-Baricho-Kerugoya Road No.D455, a stretch of 18 kilometres, and Baricho-Kibirigwi Road No.D454, a stretch of seven kilometres have been excluded from this year's Budget;

(b) being a project which was abandoned in the year 1989, what caused the two roads to be excluded in the Budget while other new projects elsewhere have been allocated money; and,

(c) what measures he has taken to recover the money which was paid to two contractors, M/s Niazsons (K) Limited and Firoze Construction Company Limited.

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, I am not aware that Kagio-Baricho Road No.D455 and Baricho-Kibirigwi Road No.D454 have been excluded from this year's Budget.

(b) The Kagio-Baricho Road has been allocated Kshs5 million under the Fuel Levy Budget for repair and rehabilitation this financial year. The design for repairs of the pavements and the drainage systems, including the tender documentation, is in progress. The Baricho-Kibirigwi section will be graded during this financial year. It is, however, being considered for construction to bitumen standard during the next financial year.

(c) Payments made to the two contractors were for the works that had been carried out and certified as complete then in accordance with the conditions of the contract.

Mr. Karaba: Mr. Deputy Speaker, Sir, I want to thank the Minister for that answer. I come from this area and that is why I am asking this Question. Nothing has been done on this road. It is only a 5 kilometre stretch that was done. The contractor was awarded the tender for Kshs55 million. The work was abandoned in 1986 and since then, nothing has been happening. The Minister has alluded that Kshs5 million will be spent on rehabilitation. What will be rehabilitated since there is no road?

Mr. Raila: Mr. Deputy Speaker, Sir, the hon. Member is confusing two issues here. First, he is talking about payments that were made in 1989. For example, M/s Niazsons (K) Limited was paid Kshs15,582,000 in October, 1989, before their contract was terminated due to poor performance. Then M/s Firoze Construction Company Limited was later contracted to complete the works. By February, 1990, they had been paid about Kshs40 million. I am talking about what we are doing about this road now and not what was done then. That is history. I am informing the hon. Member that we have allocated Kshs5 million this year under the Fuel Levy Budget for repair and rehabilitation. The work could not have been done because the design for repairs of the pavements and the drainage systems are in progress. We cannot be doing something when we are designing, but there is money to do this work in this financial year.

Mr. Muchiri: Mr. Deputy Speaker, Sir, recently, I travelled on this road and it is in a pathetic condition. Could the Minister confirm that the Kshs5 million that he has talked about is over and above the District Roads Committee amount? Are we confusing the two?

Mr. Raila: Mr. Deputy Speaker, Sir, I can confirm that the Kshs5 million is over and above the DRC amount. Hon. Members should also appreciate that this being a Class D Road, it should be under the DRC. We at the headquarters have decided to add more money, so that this road is done and is brought to proper use by the people of that area.

Mr. Karaba: Mr. Deputy Speaker, Sir, I want to thank the Minister for that assurance. However, I want to tell the Minister that a similar assurance was given in 1989. What confirmation is the Minister giving to this House that this road will be included in this year's Budget?

Mr. Raila: Mr. Deputy Speaker, Sir, I am not responsible for what was done in 1989, because I was not even an hon. Member, leave alone being in the Government. I want to tell the hon. Member without fear and contradiction that the NARC Government does what it promises to do. It is not like the previous Government.

Question No.880

MODERN AIRPORT FOR MANDERA

Mr. Shaaban asked the Minister for Transport:-

- (a) whether he is aware that Mandera Airstrip is dilapidated and is unable to cater for the increasing number of commercial flights that operate from the airstrip; and,
- (b) what plans the Government has to build a modern airport that is able to cater for the increasing demand.

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

(a) Yes, I am aware that the runway pavement at Mandera Airstrip, although still serviceable, is in an unsatisfactory condition. The present state of the runway is attributable to lack of adequate funds to maintain national airstrips to the required standards. The most recent repairs of the airstrip were completed at the end of 1999 and commissioning was performed in 2000.

(b) The Kenya Airports Authority and the Kenya Civil Aviation Authority have formed a task force that will visit and assess all our strategic and emergency airstrips, Mandera included, with the objective of recommending the best framework for upgrading and maintaining these airstrips to the required design standards on the basis of their economic viability.

Mr. Shaaban: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that as a result of the poor condition of this airstrip, two military planes have crashed in this airstrip, which are worth more than Kshs1 billion? Is he further aware that this is a Military airstrip and civilians have no access to it?

Mr. Ligale: Mr. Deputy Speaker, Sir, I am not aware of the crashes that the hon. Member has talked about, but I can try to establish the truth. However, the airstrip serves both the Military and the civilians aircraft. On a weekly basis, at least, two civilian aircraft land at Mandera Airstrip in addition to the Military aircraft that land frequently.

Mr. Ogur: Mr. Deputy Speaker, Sir, did I hear the Assistant Minister say that there is a team going round checking on dilapidated airstrips existing in the country? I have never seen such a team coming to inspect Macalder Mine Airstrip in Nyanza where even the *wazungus* land to collect gold and take it to Nairobi. That airstrip has now been left to the cattle to graze on.

(Laughter)

Mr. Ligale: Mr. Deputy Speaker, Sir, I said that the two authorities are in the process of forming a task force. So, they have not started going round yet. When they do, I am sure Macalder Airstrip will be considered.

Dr. Galgalo: Mr. Deputy Speaker, Sir, most airstrips around the country are in a very bad state. For example, Moyale Airstrip could as well be closed to aircraft now. What plans does the Assistant Minister have to rehabilitate all airstrips around the country, so that they become safe?

Mr. Ligale: Mr. Deputy Speaker, Sir, in my original reply, I did inform the Member for Mandera East Constituency that we are forming this task force and we are working closely with the Ministry of Finance and the Ministry of Roads and Public Works with a view to ensuring that we

identify the work that needs to be done on all the strategic airstrips. As soon as we have identified what needs to be done and the funds are secured, we shall be able to put the works in place.

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

Mr. Shaaban: Mr. Deputy Speaker, Sir, Mandera Airstrip is a viable airstrip if it is opened up for passengers. It is as busy as Lokichiggio Airport because there are more than eight planes that land in Mandera Airstrip everyday. Mandera Town Council has allocated 100 acres of land within the vicinity of the council. Therefore, opening an airport in Mandera will be a viable entity and Kenya Airways flights to Mandera will ease the transport problems for the people of Mandera. Now that we have 100 acres of land, when will the Ministry allocate money so that the airport is constructed for the benefit of the people of Mandera and Kenyans at large?

Mr. Ligale: Mr. Deputy Speaker, Sir, as soon as the feasibility study is completed by the team I have referred to and they have assessed the amount required for rehabilitation, we shall source funding.

Mr. Shaaban: On a point of order, Mr. Deputy Speaker, Sir. I have talked about the pathetic state of this airstrip where two military planes have already crashed. Mandera is very far from Nairobi.

Mr. Deputy Speaker: Mr. Shabaan, you stood on a point of order!

Mr. Shaaban: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House when the feasibility studies will be completed? He has not given a time frame and yet, we have been without an airstrip for a long time.

Mr. Deputy Speaker: Mr. Ligale, ignore that because it is not a point of order. If you want to ask a question stand up and I will give you a chance.

(Mr. Shaaban stood up in his place)

Mr. Deputy Speaker: Order, Mr. Shaaban! You are not a new Member in this House. In any case, there is no new Member now. We are all old now.

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

Mr. Deputy Speaker: If you do that one more time Mr. Shaaban, you will be declared disorderly!

Next Question by Mr. ole Metito!

Question No.974

REFUND OF SACCO SHARES TO OLTUKAI
LODGE WORKERS

Mr. ole Metito asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that 43 workers of Oltukai Lodge in Amboseli formerly owned by Block Hotels Limited are members of the Block Hotels Staff SACCO and have not received their co-operative dues totalling Kshs3,035,940 since the leasing agreement expired in June, 2003; and,

(b) what immediate measures he will put in place to ensure these workers get their shares promptly.

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

(a) I am aware that workers of Oltukai Lodge are among other workers who were employed by the Block Hotels Limited and have not received their Co-operative dues.

(b) My Ministry has appointed a liquidator to take charge of the assets and liabilities of the society and amongst other liquidator's responsibilities will be how the members' co-operative dues can be paid to them.

Mr. ole Metito: Mr. Deputy Speaker, Sir, I wish to appreciate the Minister's reply. But these are 43 poor people who have actually tried to save part of their low pay for their families only to find that their money has been misappropriated. What measures has the Minister put in place to ensure that these 43 poor people will be given preference by the liquidator over other creditors in paying back their dues?

Mr. Ndwiga: Mr. Deputy Speaker, Sir, I want to appreciate the concerns of the hon. Member. When this Parliament passed the Co-operative Societies Amendment Bill, 2004, one of the reasons we needed that amendment is because the co-operatives have been run down in the past. The issue of non-payment of members dues by co-operatives is a major concern of both my Ministry and the Members of this House. In this case, on 17th November, my Ministry appointed Mrs. Hellen Gathoni Njuguna to be the liquidator and we authorized her to take into her custody all the property of the said society, including books and documents as are deemed necessary for completion of the liquidation. After liquidation, the first priority will be payment of members' dues.

Mr. Munya: Mr. Deputy Speaker, Sir, non-remittance of dues is a criminal offence. I would want to know what steps the Ministry has taken to charge those people who took this money that was meant for co-operators.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, this is not an issue of non-remittance of dues. This is a case where the co-operative was actually paid the money, but it does not have the money to pay the co-operators. So, we have taken this first step.

Mr. Kagwe: Mr. Deputy Speaker, Sir, the issue of liquidators in this country liquidating co-operatives has become a serious one. Indeed, even in Mukurwe-ini we are struggling with a liquidator who has refused to pay co-operators and yet, he is holding the money. So, is there a general policy that the Minister will implement regarding these liquidators? What will happen to ones which are currently on-going and are not paying like the one in Mukurwe-ini?

Mr. Ndwiga: Mr Deputy Speaker, Sir, I am quite aware of the liquidations that the hon. Member is talking about. However, my Ministry is not appointing liquidators from the commercial world. This particular liquidator is from my Ministry. So, we are using our liquidators currently to make sure that liquidators do not take too long in liquidations and fail to remit what they have recovered.

Mr. ole Metito: Mr. Deputy Speaker, Sir, it is now 17 months since this money went missing. Now that the Co-operative Societies Amendment Bill, 2004 is becoming effective on 5th December, what time frame can the Minister give those 43 people that the liquidator can actually pay them?

Mr. Ndwiga: Mr. Deputy Speaker, Sir, first of all, the commencement date of the Co-operative Societies (Amendment) Bill was 5th of this month and not next month. In other words, it is in effect currently. We expect that the appointed liquidator will expeditiously finish her work, so that the members can be paid.

Mr. Deputy Speaker: Question by Mr. Kimeto, for the second time!

Mr. Kimeto: Mr. Deputy Speaker, Sir, before I ask my Question I wish to apologise for coming late.

Question No.831

DEATH GRATUITY FOR
LATE PHILLIP BORE'S WIDOW

Mr. Kimeto asked the Minister for Information and Communications:-

- (a) whether he is aware that Mr. Phillip Bore, P/No.72966 died on 19th June, 1996;
- (b) whether he is further aware that Ms. Pricilla Chemetet Bore, widow of the deceased and her children have not been paid death gratuity or any other benefits; and,
- (c) when this payment will be made.

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

(a) Yes, I am aware that Philip Bore, who worked for the defunct Kenya Posts and Telecommunications Corporation (KPTC), passed away in 1993 and not in 1996 as indicated.

(b) I am also aware that Pricilla Chemetet Bore, the wife of the deceased and her children, have not been paid gratuity or any other benefits. The delay in payment was as a result of the family's inability to get the letter of administration on time. At the time of the split of the defunct KPTC in 1999, the liabilities of paying terminal dues were not vested in any organisations that were created.

(c) The matter has been referred to the Transitional Management Committee, which was empowered to apportion assets and liabilities as well as distribution of employees between the three entities that were created namely; Communications Commission of Kenya (CCK), Postal Corporation of Kenya and Telkom Kenya Limited. Payments will be then made to the family of the deceased based on the Committee's decision.

Mr. Kimeto: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister agree that Mr. Bore died. He said he did not die in 1996, but 1999---

Mr. Deputy Speaker: Ask your question! What is important now is the supplementary question to that!

Mr. Kimeto: Mr. Deputy Speaker, Sir, in 1993---

Mr. Deputy Speaker: The year is not important! What is important is the payment. So, can you pursue that?

Mr. Kimeto: Mr. Deputy Speaker, Sir, as per your request, I will pursue that. The Assistant Minister has said that the corporation was split into three bodies namely, the CCK, Kenya Postal Corporation and Telkom Kenya Ltd. Which of the three bodies will be responsible for paying Mr. Bore's benefits?

Mr. Were: Mr. Deputy Speaker, Sir, the late Mr. Bore was placed under the Postal Corporation of Kenya. So, they will process the payment.

Mr. Kimeto: Mr. Deputy Speaker, Sir, how long will that process take? We want an exact date if possible!

Mr. Were: Mr. Deputy Speaker, Sir, the Transitional Management Committee is sitting on the 26th November, which is tomorrow. After that, we will know when the benefits will be paid.

Mr. Deputy Speaker: Next Question! For the second time, Dr. Ali!

Dr. Ali: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.498

Dr. Ali asked the Minister for Water and Irrigation:-

- (a) whether she is aware that Bute Township does not have clean water;
- (b) whether she is further aware that the borehole dug under the *El Nino* Emergency Scheme did not succeed due to poor yields; and,

(c) if she would consider drilling a borehole at Bute Goda to supply water to the township.

The Assistant Minister for Water and Irrigation (Mr. Sugow): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Bute Township does not have adequate water supply. Several boreholes were drilled in the area between 1970 and 1998 but, due to various reasons, including low yields and abandonment due to insecurity, only two are operational.

The two operational boreholes include one institutional borehole for Bute Arid Zone Primary School, which has a yield of 1 cubic meter per hour and the other one which was drilled under the *El Nino* Emergency Programme located at Dugo Trading Centre. It has a yield of 0.8 cubic metres per hour. Those boreholes are supplemented by numerous shallow wells owned by individuals.

(b) I am aware that the borehole drilled under the *El Nino* Emergency Programme has a low yield of 0.8 cubic metres per hour. During the drilling of that borehole, basement rock was encountered at a depth of 48 metres after drilling through two low-yielding water bearing layers. Drilling was discontinued at that depth as no water bearing formation is expected below basement rock.

(c) My Ministry has allocated funds to drill a borehole for supply of water to Bute Township during this financial year. However, because of insecurity at Bute Goda, the community has requested my Ministry to drill the borehole at Bute Township. My Ministry is currently carrying out the hydrological survey to determine the site for the borehole. Drilling will commence immediately the survey is completed. Already, my Ministry has procured borehole installation materials including casings, gravel packing and a submersible pump.

Dr. Ali: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that very comprehensive answer. For once, I will congratulate the KANU Assistant Minister for giving a very good answer. I am satisfied with the answer. Thank you, Sir!

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

Mr. Deputy Speaker: Dr. Ali is satisfied! So, that is it!

Let us hear what Mr. Shaaban has to say!

Mr. Shaaban: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that most contractors do shoddy jobs and, as a result, many boreholes collapse after being in existence for a short time? Also, a lot of money is spent. If he is aware of that, what is he doing to ensure that---

Mr. Deputy Speaker: Order, Mr. Shabaan! I have a problem with you! You ask a question and then go on talking!

Mr. Shaaban: Mr. Deputy Speaker, Sir, what is he doing to ensure that there is proper supervision of boreholes which are not sunk according to specifications?

Mr. Deputy Speaker: All right! You are happy! Mr. Assistant Minister, please, proceed!

Mr. Sugow: Mr. Deputy Speaker, Sir, I agree with the hon. Member that, in the past, shoddy jobs have been done in the sinking of boreholes. However, the Government of National Unity is determined to ensure that any contract given under this Ministry will be done according to the required specifications.

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Deputy Speaker, Sir. Did you hear, Dr. Ali refer to Mr. Sugow as a "KANU Assistant Minister"? There is no KANU Assistant Minister! We only have the NARC Government. The Ministers and Assistant

Ministers who are serving here are doing so at the invitation of the NARC Government.

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

Mr. Deputy Speaker: Order! Everybody sit down! As hon. Members are aware, the Chair has refused to be drawn into the arrangements of the Government! I stand by that!

Last question on this, Mr. M.A. Haji!

Mr. M.A. Haji: Mr. Deputy Speaker, Sir, there are areas in this country where ground water is a problem. What alternative measures to supply water does this Ministry have for such areas?

Mr. Sugow: Mr. Deputy Speaker, Sir, my constituency, that is Fafi, has the same problem. There is a serious water shortage in my constituency. I understand Mr. M.A. Haji's problem. However, the alternative to boreholes are water pans. The Ministry has plans to construct water pans in areas where sinking boreholes is not possible.

COMMUNICATION FROM THE CHAIR

INVITATION TO MEMBERS TO ATTEND THE
NAIROBI SUMMIT ON MINE-FREE WORLD

Mr. Deputy Speaker: Hon. Members, before we move to Questions by Private Notice, there is a communication from the Chair. As you are probably aware, the first review conference of the State Parties to the convention on the prohibition of the use, stock-piling, production and transfer of anti-personnel mines and their destruction, also known as the Nairobi Summit, 2004, on a mine-free world, will be held at the United Nations Headquarters at Gigiri from Monday, 29th, November to Friday 3rd, December, 2004. His Excellency the President will, however, officially open the conference on Sunday, 28th November, 2004, at the Kenyatta International Conference Centre (KICC), Plenary Hall, at 12.30 p.m. The Minister for Foreign Affairs has extended an invitation to all hon. Members. Invitation cards for the official opening and the conference proceeding at Gigiri will be available from tomorrow Friday, 26th November at the Chief Serjeant-at-Arm's office.

Thank you.

QUESTIONS BY PRIVATE NOTICE

CONTRAVENTION OF PHYSICAL
PLANNERS REGISTRATION ACT

Mr. Gachagua: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Housing the following Question by Private Notice.

(a) Is the Minister aware that his decision to appoint Members of the Physical Planners Registration Board through Gazette Notice No.5939 contravened the Physical Planners Registration Act as there was no recommendation from the Architectural Association of Kenya?

(b) Is he further aware that the Kenya Institute of Planners is in the process of administering examinations for registration of Planners which is in breach of the Physical Planners Registration Act?

(c) What action is the Minister taking to rectify the above anomalies?

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the decision to appoint members of the Physical Planners

Registration Board through Gazette Notice No.5939 contravenes the Physical Planners Registration Act. As the Minister for the time being in charge of Physical Planning, it was within the law for me to appoint members of the Kenya Institute of Planners to the Physical Planners Registration Board without consulting the Architectural Association of Kenya (AAK). The spirit of the law in identifying AAK simply is that at the time of the enactment of the Act, Physical Planners were represented as a Chapter under AAK. Now that they have their own institute to represent their interest as a profession, it is only logical that the law is amended to reflect the realities of the times.

(b) I am aware that the Kenya Institute of Planners is in the process of administering examinations in accordance with Section 12(1)(b) of the Physical Planners Registration Act (No.3 of 1996). Under the said Act, the Physical Planners Registration Board is empowered to set and conduct examinations for the purpose of registration of its members. There is nothing in this Section which denies the Board the discretion of deciding the way in which examinations are to be conducted, provided the law and the required qualifications are not compromised. Also, it is in the spirit of the law that the Board approved the Kenya Institute of Planners to conduct professional examinations on its behalf, which it has done successfully.

(c) I have already taken up appropriate action with the Attorney-General with a view to recommending the amendments of the subsidiary legislation in the schedule and in particular subparagraph 1 (a), (b), (c), (d) and (e) and 2(a) to reflect the new reality by replacing the words "Architectural Association of Kenya" with the words "Kenya Institute of Planners"

Mr. Gachagua: Mr. Deputy Speaker, Sir, this is surprising because the Act specifically provides that the Minister must pick members as recommended by the Architectural Association of Kenya. Secondly, Section 4(b) of the Act provides that examinations can only be set by the Physical Planners Board and not the Kenya Institute of Planners. So, the Assistant Minister should tell this House why he has taken the law in his own hands by acting contrary to the law. He is talking of amending the law when we know that until the law is amended, it must be applied in its present form.

Mr. Ojode: Mr. Deputy Speaker, Sir, the hon. Member is aware that both the AAK and the Kenya Institute of Planners are registered under Section 10 of the Societies Act. Therefore, both are equal and legal in law. At the time of the enactment of the Physical Planners Registration Act in 1996, the physical planners were affiliated to the AAK under the Town Planning Chapter. The other professional bodies existed as Chapters within the AAK as the umbrella body, representing professionals in the building environment which includes architects, quantity surveyors, engineers and landscape architects. Of these, the architects were the predominant group because of their number.

Mr. Deputy Speaker, Sir, the issue of contravening the law does not arise here because all these professionals were under one group at that time.

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, in his answer to part (b) of the Question, the Assistant Minister says that he has taken action since he has referred the matter to the Attorney-General to amend the rules. My understanding is that he should not have sent this matter to the Attorney-General unless he was satisfied that they needed to be amended. Until they are amended, is he aware that he acted against the law? The matters mentioned in part (a) and (b) of the Question have been done before the amendment of the law.

Mr. Ojode: Mr. Deputy Speaker, Sir, we have not contravened any law. As a matter of fact all these are professional bodies under one Chapter known as AAK. The reason why we want to amend the law is for Kenya Institute of Planners to have its own Chapter, for membership purposes. The members say that it is prohibitively expensive for them to be members of the AAK as well as the Kenya Institute of Planners. So, we have not contravened any law.

Mr. Gachagua: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead the

House? He clearly knows that he has contravened the law. I would like to table a letter which the Attorney-General wrote in reply to the Assistant Minister. It specifically informs him that the Act does not provide for delegation of the responsibility of setting examinations. The provisions of the Act are clear and I also want to table Section 1(d) of the law.

Mr. Deputy Speaker: Are you tabling the letter or not?

Mr. Gachagua: Mr. Deputy Speaker, Sir, I will also table the relevant provisions of the Act that guides the appointment of board members in that particular body. Again, I would like the Assistant Minister to address the issue of the examinations that are currently going on. They are actually illegal and he must take immediate effect to stop them.

(Mr. Gachagua laid the documents on the Table)

Mr. Deputy Speaker: Mr. Ojode, do you have anything to say on that?

Mr. Ojode: Mr. Deputy Speaker, Sir, the Physical Planners Registration Board in its 19th meeting held on 4th April, 2001, recognised the Kenya Institute of Planners as a professional body representing majority of the physical planners. It also appointed Kenya Institute of Planners to conduct professional examinations on its behalf, but under its supervision until such a time as the board will be able to take over the running of the examinations. That was done in good faith and in recognition of the fact that even under the Town Planning Chapter of the AAK, the members of the Kenya Institute of Planners conducted the examinations. The institute, therefore, have a proven track record of conducting such examinations. It has continued conducting the examinations to the satisfaction of the board.

Mr. Deputy Speaker: You know we are not in court. The Chair cannot be made to interpret the rules. All I can say is that since we cannot complete this argument, why do you not seek remedy elsewhere? Really, we cannot resolve this matter here.

Mr. Kembi-Gitura: On a point of order, Mr. Deputy Speaker, Sir. If that letter from the Attorney-General advises the Assistant Minister that he has no powers to delegate responsibilities, then it means that he has contravened the law. Is the Assistant Minister in order for him to now mislead us that he acted within his ambit?

Mr. Deputy Speaker, Sir, the letter from the Attorney-General sets out clearly that he cannot do what he was supposed to have done. **Mr. Ojode:** That letter which he has just tabled does not say anywhere that the Minister has contravened any law. The letter does not talk about any law which has been contravened. So, we acted as the law provides and we will still act according to the law.

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

Mr. Gachagua: That letter clearly informs the Minister that he has no power to delegate. The letter is clear! In view of the unsatisfactory answer given to this Question, I beg that this matter be referred to the relevant Departmental Committee for further action, because it is a serious matter and it touches on examinations and the people's future.

Mr. Deputy Speaker: Mr. Gachagua, the rule is; there is nothing that stops you as an hon. Member to refer the matter to any Departmental Committee. It is, really, not the Chair's duty to direct which Question goes to which Departmental Committee. You are at liberty to see the Chair of the relevant Committee and refer the matter to him, and if the Chair so wishes, you can cause hearings and inquiries on the matter. For the time being, I do not think that I will defer the Question.

Next Question, Mr. Billow!

OF FEMINE RELIEF MAIZE

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

What are the terms and conditions of payment relating to the contract between the Government and the five firms contracted to import 2 million bags of maize for famine relief in September, 2004?

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

The Government, through the National Cereals and Produce Board (NCPB) entered into contracts with five firms for the importation of 2 million bags of 90 killogrammes each; it is about 180,000 metric tonnes of maize for famine relief. The terms and conditions of payment relating to the contract are as follows:-

1. Payment shall be made by an irrevocable, confirmed, signed Letter of Credit to be established by the buyers' bankers. All charges relating to the opening of the Letters of Credit with the buyers' bankers that is excluding confirmation charges of the Letters of Credit, if any, shall be for the buyers' account.

2. All charges relating to the opening of the Letter of Credit outside the boards' bankers, that is including confirmation chargers, if any, shall be for the account of the seller.

3. If the buyer opens an operative Letter of Credit in favour of the seller and the seller is unable to perform---

Mr. Deputy Speaker: Dr. Machage, how long is your response? Because those terms can really be lengthy.

Dr. Machage: Mr. Deputy Speaker, Sir, your office accepted this Question to be answered, and it did not say that I should give a summary of the answer. So, I am answering the Question.

Mr. Deputy Speaker: This is for the guidance of Ministers; whenever answers are long, I do appreciate that the Question asked for terms, and terms in a contract could be too long to really read in an answer. So, it is better that the terms are laid on the Table and then the hon. Member can be perusing so as to be able to ask supplementary questions. So, could you lay the paper on the Table of the House, and I hope that the hon. Member has a copy of the answer. Then he can ask supplementary questions. What do you say, Dr. Machage?

Dr. Machage: I will do exactly what you have requested.

(Dr. Machage laid the paper on the Table)

Mr. Deputy Speaker: Well, in view of the fact that the hon. Member has not got a copy of the answer, I will defer this Question. I will defer this Question because the hon. Member has no written answer. So, I will defer this Question to next Tuesday. Is that fine, Dr. Machage?

Dr. Machage: Mr. Deputy Speaker, Sir, I supplied the answer to your office. So, I should continue answering this Question.

Mr. Deputy Speaker: Order, Dr. Machage! I have already made a ruling! I have already ruled that this Question is deferred until Tuesday, and you cannot overrule me by saying that you will continue answering the Question! So, the Question is so deferred. Please, the office of the Clerk will make copies of the response available to the hon. Member, and Dr. Machage, you can reply on Tuesday.

(Question Deferred)

Next Question, by Mr. Muiruri!

GOVERNMENT POSITION ON
ALTERNATIVE PRESS

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

(a) Is the Minister aware that certain publications, especially *Confidential, Independent, Patriot, Sun and Citizen* are maligning innocent people, breaking families and engaging in money extortion through irresponsible journalism?

(b) What is the Government's position on these publications and what measures has he put in place to regulate their operations?

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

Mr. Deputy Speaker: Order, Mr. Kamama! I do not understand why you are rising on a point of order because Mr. Muiruri has just asked a Question and the Assistant Minister has not even answered it. No, you are out of order, Mr. Kamama! If you want to challenge it, let it be properly asked and answered, then you can stand on your point of order. I will give you a chance.

The Assistant Minister for Information and Communications (Mr. Were): Mr. Deputy Speaker, Sir, I beg the indulgence of the House because this Question was asked two weeks ago and there was an issue which was raised on newspapers and publishers who had executed the Kshs1 million bond. This information is with the Attorney-General's office, we have tried to pursue them to get the list but we have not managed. They have requested us to give them more time. That is why I am requesting for a week to be able to bring the answer to the House.

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

Mr. Deputy Speaker: Order, Mr. Kamama!

Mr. Muiruri: That is acceptable to me. But I am also aware of what Mr. Kamama---

Mr. Deputy Speaker: Order, Mr. Muiruri! You are not aware. This Question is deferred by consent to Tuesday, next week.

(Laughter)

(Question deferred)

Next Question, by Mr. ole Ntutu!

Hon. Members, we are making progress!

REPRIMANDING OF OFFICER FOR IRREGULAR
PREPARATION OF KEEKOROK LODGE LEASE

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I beg to ask the Minister of Local Government the following Question by Private Notice:-

(a) Is the Minister aware that the officer in the Ministry who approved the request by the Narok County Council to lease Keekorok Lodge to Wilderness Lodges has not been reprimanded as promised by his Permanent Secretary?

(b) What action has the Minister taken to ensure that the officers responsible for the irregular preparation of the lease of Keekorok Lodge are penalized for their mistakes?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to be allowed to answer this Question on Thursday, next week, to

allow me to get more facts about it.

Mr. Deputy Speaker: But Mr. Tarus, this is a Question by Private Notice to be answered within 48 hours in accordance with the Standing Orders of this House. What do you say, Mr. ole Ntutu?

Mr. ole Ntutu: I have no objection.

Mr. Deputy Speaker: If you have no objection, therefore, the Question is deferred by consent to Tuesday, next week.

(Question deferred)

Next Question by Mr. Owino!

CAUSES OF FREQUENT POWER
FAILURES IN MIGORI TOWN

Mr. Owino: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice:-

(a) Is the Minister aware of the frequent power interruptions and failures in Migori Town and its environs?

(b) What are the causes of the frequent power failures in the area?

(c) What plans does the Ministry have to rectify this situation?

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

(a) Yes, I am aware of the frequent power interruptions and failures in Migori Town and its environs.

(b) Migori Town and its environs are supplied with electricity via 33kv to Sondu-Mbita line, which runs from Chemosit to Kericho and to Isebania. This long feeder line also has major supplies to Rusinga Island through Homa Bay, Kehancha and Enosien, Kilgoris and Godo Falls, Sondu Market and other small parts. The total length of the line is about 400 kilometres. This long line, which traverses an area with a high load growth causes frequent power interruptions.

(c) The Kenya Power and Lighting Company has intensified maintenance activities along the line and has also embarked on enforcement projects which entails extending a 133kv voltage line and establishing a 133 to 33kv substation at Rongo. On completion, this will improve the power supply, availability and quality at Migori Town and its environs as a whole.

(Loud consultations)

Mr. Owino: On a point of order, Mr. Deputy Speaker, Sir. Can the hon. Members consult a bit quietly so that we can follow the proceedings?

Mr. Deputy Speaker: Yes, that is why I was wondering whether the Assistant Minister could be heard. There is loud consultation on this side of the House, particularly the second bench. Please, consult quietly.

Mr. Owino: Mr. Deputy Speaker, Sir, as you can see, this power line serves a whole region, which is bigger than Central Province. There are institutions, schools, hospitals plus industries in this area which are frequently affected by the power failures. Sometimes, power is cut off and it can take a whole day, night or even two days before power is reconnected. Now, the last time when I asked this Question in this Parliament last year in March, 2003, I was told that there was some old equipment which will be repaired in three months. Now it is almost one and a half years and it has not been repaired. When will the Assistant Minister repair this equipment so that we stop having

these power failures?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, when we talk of maintenance, it also means having new lines created and, at the same time, rehabilitating what we already have. But the final solution to this problem is that we construct another line of 132 to 133 KV. That is the only time we shall solve this problem.

(Loud consultations)

Mr. Nderitu: Mr. Deputy Speaker, Sir, there is a lot of loud consultations.

Mr. Deputy Speaker: Order! Hon. Members, could you, please, consult quietly so that we can hear the hon. Member?

Mr. Nderitu: Mr. Deputy Speaker, Sir, quite often, power outages are damaging a number of electronic equipment, including refrigerators, computers and others. Is the Assistant Minister ready to formulate a policy to compensate people whose property are damaged by these power outages?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, once complaints are lodged with us, we always take action. The law is already there. There is an Act and anybody with complaints should use the same Act.

Mr. Owino: Mr. Deputy Speaker, Sir, now that the Assistant Minister has assured me that he will repair this power line, I am satisfied. But he should do it as soon as possible so that our people do not suffer any more.

FUNDING FOR OL JORO
OROK REHABILITATION CENTRE

(Eng. Muriuki) to ask the Minister for Gender, Sports, Culture and Social Services:-

(a) Is the Minister aware that Ol'jororok Rehabilitation Centre for the disabled is about to close due to lack of funding?

(b) How many students is the centre supposed to cater for and how many does it have now?

(c) What was the total allocation for the centre this financial year?

(d) What measures has the Minister taken to save the centre from collapse?

Mr. Muchiri: Mr. Deputy Speaker, Sir, could I ask that Question on behalf of Eng. Muriuki?

Mr. Deputy Speaker: No, you cannot delegate Questions by Private Notice. Where is Eng. Muriuki? I defer the Question to Tuesday.

(Question deferred)

POINTS OF ORDER

INVASION OF MOYALE BY
ETHIOPIAN MILITARY

Dr. Galgalo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of Internal Security. Two days ago, as usual, the Ethiopian military crossed into my constituency and attacked two villages. They killed two people

in Kate Village, and they abducted the Assistant Chief for Kate Sub-location and they are now holding him in Ethiopian territory, with three other Kenyans. This has been a perennial issue and I do not understand why the Government is unable to secure our border with Ethiopia. I would like the Minister to explain to us why they cannot secure our border and why they cannot talk to the Ethiopian Government to release the Assistant Chief and three of his elders whom they are now holding in Ethiopia.

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, the point has been taken and an appropriate response will be made.

RELEASE OF MINOR FROM PRISON

Mr. Muriungi: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, concerning a case of a minor who is held in the Kangemi Prison. On the 1st of August this year, the Minister undertook to have the boy released from prison, but four months later, the boy is still languishing in prison with hard-core adult criminals, and there is no indication that he will be released before his jail term ends. Could the Minister tell us why this boy should continue suffering and what redress there would be to the family of the boy?

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, there is a bit of confusion. The Member directed his question to the Office of the President, yet it appears the issue should be addressed to the Office of the Vice-President. Could he be properly guided?

Mr. Muriungi: Mr. Deputy Speaker, Sir, I directed it to the Office of the President because it is the office which undertook to see that the boy was released. So, they should have liaised with the Attorney-General or the Office of the Vice-President, whichever is appropriate.

The Assistant Minister, Office of the Vice-President (Dr. Machage): Mr. Deputy Speaker, Sir, this directly falls under my docket, but I will endeavour to pass it to the relevant Minister.

Mr. Deputy Speaker: I think it is an important matter because the Minister of State, Office of the President, did actually promise that the boy was going to be released. That is four months ago. The Member wants to know how far it has gone. Since the Minister undertook to intervene and it can be confirmed from the HANSARD, then I think action should be taken immediately, since four months is too long. Please, take note.

STATE OF HARAMBEE SACCO

Mr. Ethuro: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Co-operative Development and Marketing, on the state of Harambee SACCO, where about 87,000 contributors are about to lose their savings.

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, I will convey the information and there will be an appropriate response.

REPORT OF PSC ON CONSTITUTIONAL REVIEW

Mr. Billow: Mr. Deputy Speaker, Sir, mine is just a reminder. I had requested the Chairman of the Parliamentary Select Committee on Constitutional Review to table a report on the progress of that Committee. I thought, because of time, it is important we get an indication as to when that report will be presented.

Mr. Deputy Speaker: Well, I am not sure what was decided. Was the Chair to communicate? I am informed the Chair directed that the Committee tables a report in the House. So,

I think the report is still awaited.

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, I can confirm, as a Member of that Committee, that the Committee will meet tomorrow to prepare a report which shall be tabled in the House next week.

MINISTERIAL STATEMENT

DISRUPTION OF ELECTRICITY

SUPPLY IN MOYALE TOWN

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, Dr. Galgallo sought a Ministerial Statement on power outages and blackouts in Moyale Town. I wish to issue the following Ministerial Statement.

Moyale Town and its environs are supplied with electricity generated from Moyale Power Station, which has three generating machines with a capacity of 240, 200 and 70 kilowatts respectively. The station, therefore, has an effective installation capacity of 410 kilowatts, relative to the demand of 420 kilowatts. Due to this narrow margin between the installation capacity and the maximum demand, interruptions and power outages are inevitable when breakdowns occur or maintenance is being carried out on either of the two big generators.

To reduce power supply interruptions, the Kenya Power and Lighting Company (KPLC) has intensified maintenance activities of the three machines. The Government, through its rural electrification programme, has provided adequate funds to the company, to procure a 500-kilowatt generator for Moyale Town. The construction work is expected to start in March, 2005 and be completed by August, 2005. On completion, there will be adequate generation capacity to cater for both planned and unplanned machine outages, thus sharply improving the power supply availability and quality in Moyale Town and its environs as a whole.

Mr. Deputy Speaker: Dr. Galgallo, that was your Ministerial Statement. What do you have to say?

Dr. Galgallo: Mr. Deputy Speaker, Sir, the generators the Assistant Minister is talking about are models of 1977 or 1978, which means they are about 30 years old. While we wait for the new generator, for which I thank the Assistant Minister, could he provide some funds to KPLC to maintain the generators we have now so that we do away with these interruptions because they cause a lot of havoc to people's equipment, for example, television sets and fridges?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, it is unfortunate that these generators are as old as the KANU regime in this country. I think that Government was not really serious with installation of power to the people of North Eastern Province. This Government is very serious. We are carrying out radical reforms so that the people of North Eastern Province benefit from the Ministry of Energy for the first time. We are even issuing solar equipment to boarding secondary schools. I would like to assure the hon. Member that funds will be set aside for maintenance, and to make sure that we provide new generators.

Mr. Deputy Speaker: Last clarification, Mr. Ndambuki!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the Assistant Minister says that the Ministry is in the process of issuing solar equipment to schools. Where are they doing this since I have not seen it being done?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, when I say we are in the process, I do not mean we have done that. Being in the process means that we are calling in for people to come and tender. Very soon, we shall be advertising for 17 primary and secondary schools in North Eastern Province which will benefit from those solar panels.

Mr. Deputy Speaker: Very well!

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Ethuro) in the Chair]*

THE GOVERNMENT FINANCIAL
MANAGEMENT BILL

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we are now in the Committee of the whole House. Under consideration is the Government Financial Management Bill No.3.

Clause 2

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, with regard to Clause 2, I notice that the word "Treasury" is used extensively in the Bill. Therefore, it will require a proper definition.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Oparanya! Could you move the amendment because it is all written there.

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

THAT, Clause 2 be amended, by inserting the following definition in proper alphabetical order - "the Treasury" means the Ministry of Finance.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, as far as I am concerned, Treasury is understood to be the Ministry of Finance with its own instruments. So, I do not know why the hon. Member wants to define it. However, if it adds value, I have no objection. We would like to improve the financial management of the Government. However, as far as I am concerned, this is understood and it does not add any value.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I do not know if we just want to come up with a definition for just a particular Bill. We all know that the Ministry of Finance is bigger than the Treasury. Why do we want to define the Ministry of Finance as Treasury for this particular Bill?

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

(Clause 2 agreed to)

(Clause 3 agreed to)

Clause 4

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

THAT, Clause 4 be amended -

(a) in paragraphs (a) and (b) by inserting the words "and systems" immediately after the word "procedures" wherever it occurs.

This is because an accounting transaction affects at least two or more accounts. That is why it is important to insert the words " and systems."

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Oparanya, I thought we also had Clause 4(b)?

Mr. Oparanya: Yes, Mr. Temporary Deputy Chairman, Sir. It is the same to 4 (b).

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Oparanya! Do you have the Order Paper before you?

Mr. Oparanya: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): You are well advised to go by what you see there because all of us will be reading from the same script.

Mr. Oparanya: Okay. Thank you, Mr. Temporary Deputy Chairman, Sir. Should I repeat?

The Temporary Deputy Chairman (Mr. Ethuro): Please, do.

Mr. Oparanya: Okay, Mr. Temporary Deputy Chairman, Sir.

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

THAT, Clause 4 be amended -

(a) in paragraphs (a) and (b) by inserting the words "and systems" immediately after the word "procedures" wherever it occurs;

(b) by inserting a new paragraph immediately after paragraph (d) as follows:-

"(e) ensure that the accounts prepared under paragraph (d) comply with the provisions of this Act".

(Question of the amendment proposed)

Mr. Obwocha!

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, in this case, I am the Assistant Minister and not "Mr. Obwocha".

Mr. Temporary Deputy Chairman, Sir, I would like to request you to separate these amendments because the first (a) and (b)---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Obwocha! What did you say?

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I said that I am the Assistant Minister in charge of financial management and I am replying on behalf of the Government. So, I am the Minister and the definition of "Minister" includes an Assistant Minister.

The Temporary Deputy Chairman (Mr. Ethuro): I know that, but even a Minister has a name! "Mr. Obwocha, the Assistant Minister for Finance", for avoidance of doubt.

(Applause)

The Assistant Minister for Finance (Mr. Obwocha): Thank you, Mr. Temporary Deputy Chairman, Sir. For avoidance of doubt, I would like to request the Chair to put these proposed

amendments separately because we have no objection to the first proposed amendment, but we have an objection to (b) because it is a duplication.

The Temporary Deputy Chairman (Mr. Ethuro): That is granted.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, on the first proposed amendment Mr. Oparanya has moved, that is (a) and (b), we have no objection.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, you have heard from the Assistant Minister that we will deal with the proposed amendments (a) and (b) separately. So, let us vote on (a) first.

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

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

THAT, Clause 4 be amended by inserting a new paragraph immediately after paragraph (d) as follows:-

"(e) ensure that the accounts prepared under paragraph (d) comply with the provisions of the Act."

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Thank you, Mr. Temporary Deputy Chairman, Sir. What we are saying is that the accounts should be prepared under the Public Audit Act, and this House is the one that passed the Public Audit Act. This other amendment Mr. Oparanya is introducing, that we add the words "must comply with the provisions of this Act" is frivolous in our own view, unless he has a convincing reason. As I said, if it is a convincing reason, we will accept it, but as far as we are concerned this is frivolous and it adds no value to the provisions we have given under Clause 4.

Mr. Oparanya: Mr. Temporary Deputy Chairman, I have a convincing reason. In the private sector, you prepare accounts to comply with the Companies Act, which gives you provisions on how you have to report all the accounts that you prepare. This Act has a provision of how the reports will appear; that is, whether they appear quarterly or yearly. The Audit Act just confirms the compliance. You cannot prepare accounts per the audit provisions because the auditors' work is to confirm compliance only.

(Applause)

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, I wish to support hon. Oparanya on this one here in that we distinguish between preparation and auditing of the accounts and, therefore, I think that the proposed amendment is quite in order.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Obwocha, you will now appreciate me when I call you the "Minister". I do not know what to call the other Ministers.

The Assistant Minister for Finance (Mr. Obwocha): Thank you, Mr. Temporary Deputy Chairman, Sir. We have no quarrel. Hon. Oparanya's reasons are quite convincing and since certain provisions of this Act state that there will be either bi-annual or quarterly accounts submitted, we will accede to his amendments.

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 6 be amended by deleting Sub-Clause (2) and substituting therefor
the following new Sub-clause-

(2) Notwithstanding any authority the Minister may have given, the Minister may
limit or suspend an expenditure if, in the Minister's opinion, the exigencies of the
financial situation render such a limitation or suspension necessary".

Mr. Temporary Deputy Chairman, Sir, I am deleting the word "he" because a Minister for
Finance can be a female. If you look at the original Clause 6(2), it states:- "Notwithstanding any
authority, he may---" So, I am deleting "he" and making it general for gender purposes.

(Applause)

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman,
Sir, basically, we love that language and we have no objection.

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

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

(Clause 6 as amended agreed to)

Clause 7

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 7 be amended in Sub-clause (4) by deleting the words "are not
required to" and substituting therefor the word "shall".

If you read Clause 7(4) it says:

"Directions issued by the Treasury are not required to be published in the Kenya
Gazette".

We have had problems with the Goldenberg Affair because instructions were given verbally. I am
insisting that all instructions given must be in writing and gazetted for ease of reference.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we want to oppose that particular amendment. The reason why we have put the provisions in Clause 7(4) is because there are too many directions in managing finances in the Treasury, including circulars. For example, Parliament may require to ask for some change in mileage and we cannot put this in the Kenya Gazette. The example he has given on Goldenberg was, as we know, illegal to the extent of the implementation by the Central Bank of Kenya, because they collaborated. Those do not fall under Clause 7(4). These are normal directions that we give, for example, in district treasuries. We cannot be putting these directives in the Kenya Gazette.

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I object to that because if we look at Clause 18(2)(a), it says clearly that, failure to comply with the law or direction issued by the Treasury is punishable. How are we going to punish someone if we are going to issue directives verbally? That is why I am insisting that any directive issued from the Treasury must be in writing and must be gazetted.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, the hon. Member is talking about verbal instructions. We cannot act on verbal instructions! The Treasury issues instructions based on circulars. Therefore, if they are not implemented, then we can act against that officer who has not implemented the circular.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, if you look at the matter being referred to, as far as this particular clause is concerned, it is very grave. We are talking about directives to Government officers in respect of Government financial affairs, including Government property. It is dangerous for us to leave such serious directives simply to circulars that cannot even stand, sometimes, in law.

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

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

(Clause 7 as amended agreed to)

(Mr. Arunga stood up in his place)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, there is another amendment to Clause 7.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Messrs Arunga and Obwocha! I gave Mr. Arunga preference because he was just amending what already exists. The new clauses will come after we have gone through the Bill, then we can do additions. That is the procedure and order of things.

Clause 8

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

THAT, Clause 8(1)(a), (b) and (c) be amended by adding the following words, "who shall be qualified registered accountants" at end of (c).

In other words, we want the Accountant-General, the Director of the National Budget and the Internal Auditor-General to be all qualified accountants and who are registered. This will enhance the level at which they work so that we can professionalise that office.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Obwocha! For the sake of hon. Members, we said that there are still amendments to Clause 7 but they are new. We will, therefore, do them after we have gone through the Bill. Let us be clear on that. We are now on Clause 8 and what we want the Assistant Minister to clarify is where he wants to put those words. Is it after (a), (b) and (c), at the end, or is it at the continuation of 8(1) at the opening words before (a), (b) and (c)? They can fit anywhere; there are three possibilities.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, since we are amending Clause 8(1); they can fit there by saying, "the following offices shall be established as offices in public service who shall be qualified registered accountants". We can then start with (a), (b) and (c) or put them at the end of (a), (b) and (c).

(Mr. Oparanya stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Oparanya! I need to propose the amendment first before you contribute.

(Question of the amendment proposed)

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, while I agree with the Assistant Minister's amendment, I wonder why he would require a qualified accountant to be registered. A qualified accountant is qualified whether he is registered or not. Therefore, the Assistant Minister's proposal should be amended to read, "who shall be a qualified accountant."

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we are adding that particular word because there are qualified accountants who are not members of their institute. We want to encourage all qualified accountants to be members of the Institute of Certified Public Accountants of Kenya (ICPAK).

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, if he wants to encourage all qualified accountants to be registered, he should not use the Government Financial Management Bill to do that.

(Applause)

We have the Accountants Bill that is coming before this House and that is where we can put such a recommendation.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I sympathise with my colleague, because he is a qualified accountant and a member of the institute. I do not understand the hullabaloo he is causing on this. As an accountant, you have got to be registered, under Cap.531. This registration refers to Cap.531. He knows that we have accountants who are practising but who are not registered. So, I do not think it is a big deal.

Mr. Kipchumba: Mr. Temporary Deputy Chairman, Sir, I want to support Mr. Oparanya on this aspect. If the idea is to encourage accountants to get registered, we do not have to legislate because we are not forcing anybody to be a registered accountant. If you are a qualified accountant, that should be sufficient.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I have said that the registration requirement is in so far as they are registered with the Accountants Board. You cannot be a qualified accountant unless you are registered with the Registration of Accounts Board (RAB).

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, there is another

proposed amendment to the amendment by Mr. Kipchumba.

Mr. Kipchumba: Mr. Temporary Deputy Chairman, Sir, my proposal was to delete Clause 8(c), because I do not see the reason---

The Assistant Minister for Finance (Mr. Obwocha): On a point of order, Mr. Temporary Deputy Chairman. I would plead with you that we dispose of the first amendment, which is about qualification, and then we can come to that substantive additional amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Your request is granted!

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

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

THAT, Clause 8 be further amended by deleting paragraph (1)(c).

There is no reason for providing for the position of Internal Auditor-General. We all know that the Office of the Controller and Auditor-General is already independent and it undertakes the audit of the Government. The function of an internal auditor is just to relook at the work of a company, which is purely internal and administrative in nature. So, the Government can perform the functions of the proposed office administratively.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, sometimes it surprises me, because many of these hon. Members have worked in organisations before they came here. There is no organisation that can succeed without an internal audit system. In such a system, you must have somebody to head it. The Government has various internal auditors in all the Ministries. The Internal Auditor-General will be the overall in charge of the internal audit system in the Government. We cannot delete this provision just because we have the Office of the Controller and Auditor-General. The latter office undertakes external audit. The proposed officer, with the assistance of the various officers under him, will ensure that Government money is spent properly. So, I would like to plead with my colleague that, if approved, the amendment he has moved will "kill" what the Government is trying to do. We must make sure that payments made by the Government are audited and so on.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I rise to support the Assistant Minister on this amendment. Indeed, the proposed office is important. The reports of the Controller and Auditor-General come very late. One of the reasons for the delay is lack of internal co-ordination before the documents are passed on to the external auditors.

The Minister for Transport (Mr. Michuki): Mr. Temporary Deputy Chairman, there must be some misunderstanding about the role of the internal auditor. The internal auditor is the one who gives very early warning about what might be happening in areas that the Controller and Auditor-General will look at much later. Therefore, his usefulness is to ensure that things are corrected as and when they have been detected. He is supposed to detect any misappropriation. It is the smoke that foretells that there is a fire burning somewhere. So, this is a very important position. I would plead with the hon. Member to accept it. Let us not smoke out this service.

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

(Clause 8 as amended agreed to)

Clause 9

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

THAT, Clause 9(2) be amended by adding the words "with the approval of Parliament" after the word "determine".

This is an additional check we want to put on Clause 9(2), that the Exchequer Account shall be kept at such bank or banks as the Treasury may determine, but with the approval of Parliament. Therefore, always, we shall ask Parliament if the Exchequer Account shall be moved from where it is.

I beg to move.

(Question of the amendment proposed)

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I support the Minister on this amendment, although my understanding is that the Government's money shall be at the Central Bank of Kenya. However, if the Minister for Finance wants to put money into other banks; lest he puts it in Euro Bank, I think it is important that Parliament approves it.

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I also support the Minister on this amendment. This provision will deter Treasury officials from opening secret accounts.

The Temporary Deputy Chairman (Mr. Ethuro): There is a further amendment. That is what is troubling the Chair. We do not know whether to bring them simultaneously or not. I am inclined to do them separately, so that the logic is maintained. We are not doing the final part of the Bill until all the amendments have been carried. So, we can still change within that period.

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

Mr. Kipchumba, move your further amendment.

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

THAT, Clause 9 be further amended by deleting all the words appearing after the word "kept" and substituting thereof with the words, "only at the Central Bank of Kenya (CBK)!"

Mr. Temporary Deputy Chairman, Sir, my proposal would be that all accounts of the Government should be kept at the Central Bank of Kenya (CBK). That way, we do not need to seek any approval for opening an Exchequer Account. It will be known that it is always at the CBK. Why would we want to keep money elsewhere, apart from the CBK?

(Question of the further amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we have no objection to the substance, but the wording should be: "The Exchequer Account shall be kept at the CBK or banks as the Treasury may determine with the approval of Parliament!" In other words, the discretion should be if we want to move that from the CBK.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Assistant Minister! I know you appreciate that better than anyone. We took your first amendment, and this is a further amendment. You are at liberty to bring a third amendment if you want. So, let us restrict ourselves to this particular amendment.

Capt. Nakitare: Mr. Temporary Deputy Chairman, Sir, I stand to support Mr. Kipchumba's amendment with the following reasons. Previously, Government money has been banked in private banks, even without the knowledge of Parliament. Parliament always learns about the money after it has been squandered and banks have collapsed. So, I would stand by Mr. Kipchumba's amendment that all the money and records be maintained at the CBK.

The Minister for Transport (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, the Exchequer Account constitutes the Consolidated Fund. Therefore, unless we are saying that the Consolidated Fund, to which all the revenues of the Government must be paid, and every expenditure must be done with the authority of this House--- Unless we are splitting hairs, you cannot have two consolidated funds. There is only one Consolidated Fund. Therefore, I think Mr. Kipchumba, to a very large extent, is correct by insisting that it should be kept at the CBK. If you want to hold agency accounts with any other bank--- For example, the Paymaster-General's Account, which is an account where Ministries draw their money after it has been authorised out of the Consolidated Fund--- You can hold that money in any account. That is because it is an account for monies in transit. It is meant to pay for something. You can also have another account into which you pay revenue. For example, let us say that in Lokichoggio, the people are paying fees for their airplanes and there is an agency there. You can take that money there. But the Consolidated Fund is like a church where you do not just enter, unless you are going to pray. You do not play around with the Consolidated Fund. It is like a mosque where you cannot go with your shoes on. So, I do not think we can have two Consolidated Funds.

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

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

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, I want to be very clear. Clause 9(2) will read as further amended, and not the initial one.

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

Clause 12

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

THAT, Clause 12 be amended by deleting Sub-clause 3 and substituting thereof the following new Sub-Clause:-

"(3) Notwithstanding Sub-section (1), the Treasury may allow an agent of the Government to retain revenue received by the agent to defray its expenses to the extent that such expenditures are authorized under the Constitution or an Act of Parliament!"

Mr. Temporary Deputy Chairman, Sir, what I am removing are the words "an authority", because those words have been used severally in the Bill and it may cause confusion. So, instead of "an authority", I am putting an "agent" which is more clear.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we have no problem with that amendment.

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

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

(Clause 12 as amended agreed to)

(Clauses 13 and 14 agreed to)

Clause 15

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

THAT, Clause 15(2) be amended by deleting the word "personally".

The purpose of that is that it will be too much for the Minister to personally authorise the withdrawal of investments because the office can authorise for the withdrawal. So, we are deleting the word "personally" and giving the Minister leeway to withdraw these investments.

(Question of the amendment proposed)

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I wish to support the Minister on this one because the work of the Minister is just to issue circulars which are implemented by his officers. So, the Minister does not need to approve every withdrawal.

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

(Clause 15 as amended agreed to)

(Clauses 16 and 17 agreed to)

Clause 18

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

THAT, Clause 18 be amended in Sub-Clause 2(b) by deleting the word "measures" and substituting thereof the word "procedure".

You will remember the amendment we made previously where we had the word "procedure" and we added on the word "systems". "Procedure" is just a normal accounting terminology than the word "measures". That is why I am substituting the word "measures" with "procedure."

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy [**The Assistant Minister for Finance**]

Chairman, Sir, we have no problem with that amendment because we have already dealt with the same in an earlier clause.

*(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 18 as amended agreed to)

*(Clauses 19, 20, 21, 22, 23, 24,
25, 26 and 27 agreed to)*

Clause 28

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

THAT, Clause 28 be amended in Sub-Clause 1 by deleting the words "two reports on budgetary performance, the first report covering the first half of the financial year and the second report covering the entire financial year" and substituting thereof, the words "quarterly reports on budgetary performance."

I am bringing that amendment in that, if we have to prepare half-yearly reports, they come in late. In fact, half-yearly reports come nine months after the Budget year commences. I am proposing that we have quarterly reports which should be given time in this Parliament so that we discard the half-yearly reports. The quarterly reports will be there by half the year.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we are opposing that amendment for the following reasons. If we adopt what the hon. Member is saying, by the time the House is approving the Budget, we are required to make a report. The Budget is presented in June and we approve most of the proposals in October and November. I think the hon. Member should also appreciate the fact that quarterly reports can only be done in the private sector. In the Government, it is too much. We are able to give half-yearly reports to the House and we can be able to give another report for the other half year. Quarterly reports for the Government would be too involving, cumbersome and they will not serve any purpose.

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, I do oppose that because we now have modern technology like computers. As you carry out your transactions, you feed them into the computer. So, getting these quarterly reports is a matter of just pressing a button.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I support the amendment by Mr. Oparanya for the following reasons. First, under Clause 8(1), we have just created a number of offices that are supposed to create efficiency in the Government. Secondly, the Government must invest in order to meet these requirements, because it will be the law. So, the Government must do whatever it takes and provide whatever equipment it needs in order to be able to comply with the

law. I intend to move an amendment to say that such reports---

The Temporary Deputy Chairman (Mr. Ethuro): Order!

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I support.

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let us be serious on this issue here. You require some money in order to develop a report on a quarterly basis. Where will we get the funds from? I would suggest that we leave it as it is. I support what the Assistant Minister has said simply because we will need additional funds, but where will we get the funds from?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I just need to add my voice in opposing the amendment. I do recall that we passed the Audit (Amendment) Bill in this House, which also required the production of some periodical reports. If I am not wrong, I think we gave a provision of six months. So, for consistency, we may as well produce the report on biannual basis, rather than on quarterly basis.

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, Mr. Kimunya is an accountant. Accounting reports and audit reports are two different documents. We need the financial report, which has nothing to do with auditing. Auditing can be done after three months or even after ten months. It does not matter. We are talking about the financial report which we need instantly. I do not know what investments they are talking about because computers are already there.

Capt. Nakitare: Mr. Temporary Deputy Chairman, Sir, I stand to oppose this amendment for the following reasons. The disbursement of Government funds is not done evenly. Sometimes, Ministries take too long to receive the money. So, if you require this report to be made within three months, the money will not have arrived. So, I would object to the production of the report on quarterly basis. It should be produced after six months.

Mr. Oparanya: On a point of information, Mr. Temporary Deputy Chairman, Sir. Financial transactions are not done evenly throughout the year. They are uneven. So, we are saying that within that unevenness, we should get a report.

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

(Clause 28 agreed to)

(Clauses 29, 30 and 31 agreed to)

Clause 32

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

THAT, Clause 32 be amended by deleting the words "resulting from a failure to do what he is required to do under" and substituting therefor the words "occasioned by any act or omission in contravention of".

Mr. Temporary Deputy Chairman, Sir, I am just trying to expand the scope of the liability because it is quite narrow.

(Question of the amendment proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, we have no problem with that amendment since it is really put in good language. Mr. Oparanya must have passed in English when he was in school.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Assistant Minister! I am sure it is more than English. He is very professional.

(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 32 as amended agreed to)

(Clauses 33 and 34 agreed to)

Clause 35

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I beg to move:-THAT, Clause 35(2) be amended by replacing the words "one hundred thousand shillings" with the words "two hundred thousand shillings".

The purpose of this amendment is to make the sentence much stiffer for those who will contravene or will be guilty of any offence under this Bill.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

Clauses 36, 37 and 38 agreed to)

New Clause

Mr. Arungah: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, a New Clause 7 be inserted and the other clauses be re-numbered accordingly:-

Clause 7

- (i) Official vehicles purchased for use by the Minister, Assistant Minister, Speaker of the National Assembly, Chief Justice, Attorney-General and Head of Public Service, shall not exceed 2600 cc for saloon cars and 3000 cc for 4x4 utility vehicles.
- (ii) Official vehicles purchased for use by Permanent Secretaries, Accounting Officers, Court of Appeal Judges, Controller and Auditor-General, Chairman of Public Service

Commission, Chairman of Electoral Commission of Kenya, Provincial Commissioners, Commissioner of Police shall not exceed 2400 cc for saloon cars and 3000 cc for 4x4 utility vehicles.

- (iii) Official vehicles purchased for use by officers on Job Group R and above; High Court Judges, Chief Executives of State Corporations shall not exceed 2000 cc for saloon cars and 2900 cc for 4x4 utility vehicles.

Provided that the foregoing shall not apply in case of vehicles purchased for official use by the President and the Vice-President.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Arungah! You need to give some explanation because you are introducing a new clause.

Mr. Arungah: Mr. Temporary Deputy Chairman, Sir, the reasons really are simple. First, you will appreciate as is currently the position, that this provision would ordinarily have been taken care of administratively. But we do have situations where Permanent Secretaries are more or less competing on the size of cars that they are driving. There is no point over-emphasizing the issue that we will save, not only on the monies that are used to purchase these vehicles, but also the maintenance costs. Secondly, there will be some kind of order in the vehicles we use. We have a situation, for example, where the Assistant Minister for Roads and Public Works is driving a 4.6 litre Land Cruiser, while the Assistant Minister for Trade and Industry, Mr. Syongo, is driving a 1200 cc vehicle. So, I do not understand why there should be this inconsistency. So, the purpose of doing this is for us to make sure Ministers, Assistant Ministers and Permanent Secretaries know what category of vehicles they are supposed to drive and so forth.

The Temporary Deputy Chairman (Mr. Ethuro): Well done, Mr. Arungah. For the benefit of hon. Members, I want to draw your attention to Standing Order No.106(7) which says:

"On any Motion being made for the addition of a new clause, the same shall be deemed to have been read a First Time and the question shall then be proposed "That, the clause be read a Second Time." If this is agreed, amendments may then be proposed to the new clause. The final question to be proposed shall be "That, the clause (as amended) be added to the Bill."

That is where we are now. Therefore, I wish to propose that the clause be read a second time, which, really, means it is open for debate.

(Question of the new Clause proposed)

(New Clause read the First Time)

*(Question, that the New Clause
be read a second Time, proposed)*

Mr. Rotino: Thank you, very much Mr. Temporary Deputy Chairman, Sir, for giving me an opportunity to contribute to this proposed clause. As we talk about financial management, we should be seen to be responsible officers who can use the taxpayers' money well. Therefore, this additional clause will go a long way to show that we are responsible people who spend the money that we are given by our taxpayers very well. You will find Permanent Secretaries ordering for cars from their friends and dealers who they have connections with because they can order whatever car they want. We spend a lot of fuel on these cars and when they are involved in accidents, we cannot even repair some of them. If you go to DT Dobie, for example, you will see many Government cars lying there because we cannot afford to maintain them, because the cost of repairing those cars is so enormous.

Mr. Temporary Deputy Chairman, Sir, so, I support this clause and say that it is very important that we categorise the sort of vehicles our Ministers, Assistant Ministers and Permanent Secretaries drive.

With those few remarks, I beg to support the clause.

Capt. Nakitare: Thank you, Mr. Temporary Deputy Chairman, Sir. As Mr. Rotino has just said, with economics, we look at the taxpayers' money. The consumer capacity of a 2600 cc vehicle is different from that of a 4200 cc vehicle. So, as much as fuel cost is rising day in, day out, the Government Exchequer is really being consumed. I stand to support this inclusion and also add that the running and maintenance of Government vehicles be simplified by ordering less expensive vehicles for all our organs of Government.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, the spirit of this amendment is extremely good, but it is misplaced in the following manner. First, it contravenes several Remuneration Acts, as specified under these constitutional offices. Secondly, if you remember, even last year, in the existing Finance Bill, which is now the Finance Act for last year; and we are going to pass another one, we did actually deal with this particular one and limited the "cc" capacities of vehicles of a number of officers. So, I will plead with my colleague, Mr. Arungah, to look at that amendment, and when the Finance Bill comes to the House, then he can try and see if this one fits there. Otherwise, we had dealt with this in the Finance Act, and the Finance Bill, as you know, is coming next week.

Mr. Sasura: Mr. Temporary Deputy Chairman, Sir, I think it is important that the Government lives in the reality of the time, as said by Mr. Ojode a few hours ago. This is about financial management. We cannot talk about financial management and support clauses talking about mismanagement of finances. This Government has come out very clearly in support of good management and governance in all sense of the word. As you remember, when we purchased a presidential jet a few years ago, the Opposition was up in arms that this was a waste of public funds, and that jet is still being retained.

I stand to support this new clause because it is not only limited to these officers; the Permanent Secretaries or other officers. It extends even to the people working for them; the secretaries to the Permanent Secretaries, Ministers and their spouses. So, basically, we are spendthrifts in terms of expenditure.

Lastly, I stand to support this new clause because the Cabinet is the helm of governance in this country. We just witnessed two days ago the discontent amidst Cabinet Ministers. This is so much scaring the people of this country that we could go into anarchy any time. This was about expenditure; that Ministers are purchasing vehicles of high "cc" capacities, costing up to about Kshs17 million. To avoid all this discontent and have some harmony in the Cabinet, I support this new clause.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, first of all, I sympathise with the Assistant Minister because his argument is that a new Bill is coming soon and it contains the same contents. Why can we not pass this new clause now? It is harmless. I think there is no need for us to waste a lot of time.

(Applause)

The Assistant Minister for Finance (Mr. Obwocha): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for Mr. G.G. Kariuki to mislead the House? I said, in last year's Finance Act, we did pass these provisions and I was asking the Mover to check the offices. If there are certain offices that were omitted, we can include them in the Finance Bill that is coming. Otherwise, we did pass them, Mr. G.G. Kariuki.

Mr. G.G. Kariuki: Sorry, if I misunderstood the Assistant Minister. But regardless of whatever has happened, I think the hon. Members are not conversant with what is said to have been passed. Because this thing is on the Floor now, I think it is high time we just said okay to this one. If there will be contradiction, amendments to what we are doing now will be expected.

With those few remarks, I beg to support the new clause.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I want to be in line with what Mr. G.G. Kariuki has just said. The new clause may not be quite in the correct place. It may need to be in the Finance Bill. But we never know whether it will go into the Finance Bill because today we are given certain positions and tomorrow they change. I do not want to take the undertaking of Mr. Obwocha very seriously. What we have found here, and because it is in the Order Paper, is what we have been looking for. Now that we have found it, we support it. If Mr. Obwocha, at a later stage, wants to regularise and harmonise, so that he moves it to the Finance Bill, that is fine with him. But in the meantime, we want to make it law.

(Applause)

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I agree with the sentiments expressed by hon. Members. I believe it is the spirit of this Bill to ensure proper financial management of public resources. Part (iv) captures the economy of procurement very well. However, I find a problem with the placing of limitations on what can be procured within a Bill that is looking at wider procedures of procurement. I think we just need to ensure that we do not cluster this Bill with limitation, whereas it is actually addressing the issue of the principles of financial management, rather than the limitations of what the Government can do. That is in terms of what vehicles or furniture it can buy. We are basically saying that---

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. Would it be in order for me to ask the Minister to declare his interest? Is he one of the Ministers who drive very big cars?

(Laughter)

The Minister for Land and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I think I have confirmed and tabled documents in this House, declaring that my vehicle does not exceed 3,000cc. So, it is quite within the limitations.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, I agree with you. You actually tabled the documents in this House. You do not declare an obvious interest!

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I want to urge hon. Members to look at the issue of harmony in this Bill. I think, so far, the spirit has been so good in terms of prescribing the procedures that the Government should use in managing public financial affairs. The benefits and restrictions are already covered within other Acts. The Appropriation Act and the last Finance Bill prescribed that. The National Assembly Remuneration Act has also prescribed some issues. Rather than cluster things across all Acts, I would rather that we work on the principles. Then, at an appropriate time, we can prescribe what the Government can do and what it cannot do in terms of the limitations in a totally different Act.

Mr. Wamwere: Bw. Naibu Mwenyekiti wa Muda, nasimama kuunga mkono badiliko ambalo limefanywa kwenye Mswada huu. Kinyume na fikra za Bw. Waziri, wakati ufao wa kufanya mabadiliko hayo ni sasa. Haja iko na ukweli wa mambo ni kwamba, nchi hii imekuwa

ikifanya siasa mbaya sana kuhusiana na magari makubwa.

Bw. Naibu Mwenyekiti wa Muda, sijui ikiwa umeona vile tunaangaliwa na macho mabaya wakati tunapita vichochoroni na magari makubwa! Ikiwa tunaweza kufanya lolote la kusaidia, lazima lifanywe haraka. Wakati mwingine, tunakosa kuhisi hatari iliyopo miongoni mwa wananchi. Pia, ni kama hatusikii propaganda ambayo imekuwa ikifanyika katika viombo vya habari. Viongozi wanapigwa kwa sababu eti wanaendesha magari makubwa na kuwasababishia wananchi matatitizo na shida kubwa. Kwa hivyo, badiliko hilo litatusaidia kupunguza uhasama ulioko miongoni mwa wananchi.

Isitoshe, nadhani ni siku mbili zilizopita ambapo Bi. Ngilu alisema tunashindwa kupitisha Mswada wa Bima ya Jamii, lakini tunaendesha magari makubwa yanayogharimu Kshs17 milioni. Ikiwa sisi tumeona madhara yanayotokana na magari hayo, lazima tujue kwamba walio chini yetu wanatuona zaidi. Kwa hivyo, huu ndio wakati na Mswada huu na unafaa sana. Inafaa tupitische badiliko hili.

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, proposed)

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I seek some clarification on this matter, with regard to the issue of the Commissioner of Police. The police have lorries, vehicles and other gear which they use during riots. Are those vehicles included in the new amendment?

(Loud consultations)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Every hon. Member has a right to seek clarification! Who brought the amendment? Mr. Arungah, could you clarify the issue of police lorries?

Mr. Arungah: Mr. Temporary Deputy Chairman, Sir, what I had in mind is the official vehicle that the Commissioner of Police drives, and not the vehicles that are bought by the institution or operations of the police force.

The Temporary Deputy Chairman (Mr. Ethuro): Agree then. If you look at Clause 7(ii), it is very clear. The specification is limited to the Commissioner of Police!

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, we must be very careful about written law. When it comes to interpretation in the courts, we need to be careful about the use of words. If what Mr. Arungah is proposing is a vehicle for the personal use of the Commissioner of Police, it needs to be reflected that we are talking about the official vehicles purchased for personal use of that office. Otherwise, we are going to have a problem in terms of interpretation.

The Temporary Deputy Chairman (Mr. Ethuro): All those three clauses read: "Official vehicles purchased for use"! That does not indicate personal use of the office holder!

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I would like to raise the concern earlier raised by Mr. Kagwe. Anti-riot lorries and security lorries are official cars purchased by the Commissioner of Police.

An hon. Member: Those are not cars!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Ms. Ndung'u has

all the right to be heard! Ms. Ndung'u, please, proceed!

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I am only saying that clarity in written law is very important.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, as I indicated, these provisions are already in the Finance Act. This year's Finance Bill is also coming. If the Mover intends to review them, I think it should be in line with what this House passed. I do not think we should start duplicating laws by putting one in the Finance Bill, and another in the Government Financial Management Bill. I am still pleading with Mr. Arungah; that, we are in agreement with the spirit of limiting Government expenditure. There is no problem with that. But this House is going to enact a law that is already in place!

Mr. Rotino: Mr. Temporary Deputy Chairman, Sir, I am not convinced by the Assistant Minister's reasoning. Whether this law is in the Financial Bill or not, we have now found it in the Government Financial Management Bill. This is part of the management activities that we want to do. I do not see the reason why the Assistant Minister is trying to convince us that what he is saying is right. It is in the Government Financial Management Bill and we want to approve it here! Whether it is going to be in the Finance Bill or not, that is another story. We are not sure whether it is in the Finance Bill. Where is it?

Mr. Oparanya: Mr. Temporary Deputy Chairman, Sir, financial management involves control of the Government's assets which include cash and fixed assets. Vehicles are part of fixed assets. The Assistant Minister said that we are going to repeat and yet this very Bill we are looking at has Clauses that exactly appear in the Public Audit Act. So, it is just a matter of emphasis.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Members!

Mr. Rotino: Put the Question!

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Rotino! You should not tell the Chair what to do. You are only required to subscribe to the ruling from the Chair.

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

(The House resumed)

(Mr. Deputy Speaker in the Chair)

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

THE GOVERNMENT FINANCIAL
MANAGEMENT BILL

Mr. Ethuro: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Government Financial Management Bill (Bill No.3) and approved the same with amendments.

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

The Assistant Minister for Local Government (Mr. Tarus) Seconded.

(Question proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I beg to move that The Government Financial Management Bill be now read the Third Time.

The Assistant Minister for Local Government (Mr. Tarus) seconded.

(Question proposed)

Mr. Kagwe: Mr. Deputy Speaker, Sir, on behalf of the Departmental Committee on Finance, Planning and Trade, I wish to thank the Minister for Finance for bringing to this House such an able Bill. I am sure it will go a long way in bringing efficiency in matters of Government financial management.

We are all aware that financial management in the Government has been one of the conditionalities regarding resumption of aid and bilateral relationships with many development partners of this country. We believe that this Bill is a signal that the Government is serious about the management of its funds and that the money our development partners give us will be in safe hands.

Mr. Deputy Speaker, Sir, I wish to take this opportunity to thank hon. Oparanya and the Departmental Committee on Finance, Planning and Trade as a whole, for the many hours that they have put in; in organising the amendments that have been moved here today.

Mr. Rotino: Mr. Deputy Speaker, Sir, it is important that we, as leaders in this country, manage well what we are given by the taxpayers. At least, we should set moral standards. Even in the eyes of God, when we are given responsibility to manage finances, we should display morality. Even as an individual in your own house, you are supposed to manage your finances well in order to take good care of your family. When you translate that, at the national level, as leaders, we should be seen by our people to be managing our finances well.

When our President, or his Minister, goes round the world to beg and borrow money and yet our people give us enough money to be able to run this country, it is annoying.

(Mr. Tarus stood up in his place)

Mr. Deputy Speaker, Sir, I do not know what hon. Tarus is standing up for!

It is important that we manage whatever finances we have well. We have been given the responsibility to do that and we must deliver.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I want to take this opportunity, after chairing the Committee of the whole House, to applaud the spirit that has prevailed in this House. Issues, and not policies, mattered. We had the best from our professionals both from the Government side and the Back Bench.

I am happy that this Bill has spelt out clearly the various responsible offices. For example, it has defined clearly the office of the Internal Auditor. This is one question we in the Public Accounts Committee (PAC) have been asking ourselves: Where are the internal auditors? I am happy that the Minister was able to address some of the shortcomings that we have been experiencing in the Government's systems and procedures.

Mr. Deputy Speaker, Sir, it is not enough to pass these laws, but it matters that we implement them. I pray and hope that the provisions of this Bill will be implemented.

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, I wish to thank the Minister for Finance for bringing this Bill to this House. The real test of leadership is the ability of leaders to manage public funds. The Government Financial Management Bill is a step in the right direction. The challenge that we have is to take care of the taxpayers' money so that we build public confidence in us.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, on behalf of the Ministry, I would like to thank all hon. Members and agree with the Chairman of the Committee that the spirit of the discussion and debate on this Bill has been extremely good. I want to assure this House that the new spirit of financial management in the Government is that we will take everything that will go a long way to save money that is being wasted in this country. We are ready to take good suggestions, and we hope that hon. Members will bring forth proposals that will assist this country rather than politicizing some of the issues that will draw us back.

So, on behalf of the Ministry, I would like to thank hon. Members for their contributions to this Bill. Thank you.

(Question put and agreed to)

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

Mr. Deputy Speaker: Next Order!

BILL

Second Reading

THE WILDLIFE (CONSERVATION AND MANAGEMENT) (AMENDMENT) BILL

(Mr. G.G. Kariuki on 24.11.2004)

*(Resumption of Debate interrupted
on 24.11.2004)*

Mr. G.G. Kariuki, you were on the Floor. Continue!

Mr. G.G. Kariuki: Yesterday, I was moving this Bill, before the House was adjourned due to lack of quorum. I hope we have quorum now.

Currently, there are 27 National Parks, 34 Game Reserves and four national sanctuaries; all covering a total of 47,574.14 square kilometres of country landmass. Out of our total landmass of 582,650 square kilometres, you will see that wildlife is enjoying 8.19 per cent of the landmass. Within that landmass that is enjoyed by wildlife, 70 per cent of the wildlife in this country enjoys living on private land owned by individuals. You will see that the land occupied by wildlife is very small because of mismanagement. If the land was properly managed, wildlife would be controlled to enjoy what they have been given by the State.

Going further, you will see that the conserved or protected areas cannot be maintained without addressing the needs and rights of communities living with the wildlife, and hence their sustainability is a big problem. Therefore, we need a strategy that will try to bring peace between wildlife and human beings, so that they can co-exist. This is unfortunate because you cannot talk to the animals, but you can talk to the human beings. Human beings have tried as much as possible especially in areas where they are neighbouring natural habitats of wildlife to sustain the co-existence between the two conflicting parties. People have accepted to live and to co-exist with wildlife, but it cannot be done fully unless proper management is introduced. If you introduce proper management, you will reduce areas of conflict. But the way wild animals are left now, they are free to go anywhere they want, destroy people's property and kill with impunity.

Since 1976, when the law was partially amended and then in 1989, you will see that there is no time human life was taken seriously. No one in this House is capable of explaining the reason why that situation happened; even the past two Governments cannot explain why they did not see the reason why human life was not important. Before this amendment was proposed, the principle of broad consultation and the participation of all key stakeholders guided the policy on the legislation amendment process in order to conserve wildlife for the benefit of all concerned. In other words, when this (Amendment) Bill was mooted, the consideration of wildlife, as our natural resource, was taken very seriously and, as a result, the consultation was properly conducted by those who have interests in wildlife management and those who survive on wildlife. For example, we tried as much as possible to speak to the Director of the Kenya Wildlife Service (KWS), we also invited the Minister at that time and after holding several meetings, my friends did not turn up. I think it was taken as if we were just joking. But now, it has become a reality, that the document is in the hands of this House to decide on the way forward.

I feel proud that this House allowed this (Amendment) Bill to be introduced into this House. As it has turned out, I discovered that there are a lot of people in this country, institutions and companies, both local and international, which are very much interested in this (Amendment) Bill. No one is saying that we should not compensate our people, but the method to be used to compensate people, and how much to pay, is the biggest issue. I think that the judge of what is going to happen regarding these decisions is this honourable House.

The proposed amendments were, therefore, done in consultation with stakeholders in wildlife utilization and management; bringing together people affected or interested in wildlife management. The process that we followed in preparing this (Amendment) Bill has taken the following steps: The Motion was moved in this House and it was accepted. It is my responsibility to remind hon. Members that the Motion was moved last year in April. Indeed, it has taken all that time to become reality. During this time, there has been a lot of consultations, which affected many people. When I was thinking of the amendment, I never thought I would see the type of people I have seen. I have also heard many things which I would never have heard about the animals.

Now, when the Motion was passed, and before I started working on the amendment, we held another meeting at the Old Chamber of Parliament, which was attended by Members and other

people. We invited quite a number of stakeholders, and we asked them to give us their proposals, because this is a new phenomenon and it was important that we all moved together. I am happy to report that they came, we proposed what we wanted to say and we adjourned our meeting, and later on we held another meeting, so that they could bring whatever they thought was important.

When we finally brought the proposed amendment, for First Reading, I appeared before hon. Kagwe's Committee to try and let them know what I had in mind; in trying to think the way I thought. We had a very nice meeting with hon. Kagwe's Committee. Hon. Sasura was one of the appointed experts in that Committee, and I was very impressed that he seemed to understand the Bill more than I did. He had a lot of time to look at it. We did not stop there, as we tried to build consensus. But I found that consensus is always an impossible thing when interests are too many. It is almost like trying to seek consensus in the constitutional review process.

Mr. Deputy Speaker, Sir, from there, we proceeded to Mt. Kenya Safari Club, Nanyuki. We invited all the stakeholders. In this country, we have about four forums of interested groups. The Kenya Wildlife Service (KWS) showed up at that time, yet they had refused before. They brought in their experts. Instead of the Ministry teaming up with the KWS, only KWS advisers came with one official from the Ministry. KWS had appointed a firm called Kuria and Associates to advise them on the proposed Bill. We did a lot of work to try and tell them that whatever we had proposed was not final, and that what would be final is what would eventually be passed by this House. We told them that we were not proposing the Bill because we were fighting with any particular group. We were proposing the Bill so that other people could bring their ideas so that we could take the best ideas, which are more acceptable to the people of this country.

Mr. Deputy Speaker, Sir, hon. Kagwe's Committee has reported to this House. I have a big document here; on their proposals.

Mr. Deputy Speaker: Mr. G.G. Kariuki, just for the interest of the House, and proper recording of the HANSARD, I think it is fair to say which Committee you are referring to.

An hon. Member: It is the Departmental Committee on Finance, Planning and Trade!

Mr. Deputy Speaker: Yes, I know that, but I did not hear him say it. You know, there is no Committee in the House called the "Kagwe Committee." I just wanted you to put it in the right perspective.

Mr. G.G. Kariuki: Mr. Deputy Speaker, Sir, I am sorry. You know, we are not used to this business of standing here and moving a Bill. This is the only Bill this year. The Committee I am referring to is Finance, Planning and Trade Committee. I refer to it as "Kagwe's Committee", because I did not know hon. Kagwe is in so many other Committees, but I am now being reminded that he sits on a number of Committees.

Mr. Deputy Speaker, Sir, the Departmental Committee which I have just referred to presented their report, which I have gone through and I think some of the areas they have talked about could be discussed and considered by this House. I am trying to explain all this to the hon. Members so that when they speak, they should realise that we have really done a big job and that we have consulted widely. We also discussed the proposals with Kenya Wildlife Working Groups on 10th December, 2003. I had a meeting, personally, with fellow Members of Parliament; the Wildlife Forum. Hon. Lesrima was chairing the one for Members of Parliament. So, I am saying what really transpired. I attended a meeting of the Kenya Wildlife Working Groups and other conservation stakeholders on 11th February, 2004 at the Old Chamber. This is the time we asked them to present their final document and to consider these particular proposals of the Bill. We gave them 14 days to report back to us. None of them reported back and I thought they were satisfied, only to find out that, that was not the case. We also met stakeholders to review the Bill again, on 20th April, at the East African Wildlife Society.

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

Mr. Temporary Deputy Speaker, Sir, the proposals considered in review of the Bill, if I may be allowed to read, were from the Kenya Human Wildlife Management Network. This is very important for Members to know so that if any of these groups have a contrary view, it is a second thought. But the original thought is what we put in this Bill. Kenya Human Wildlife Management Network, Policy Review recommendations from the 12 wildlife forums, Members of Parliament, especially those from wildlife areas, Kenya Wildlife Working Group and other stakeholders, concept papers and report from Action Aid Kenya, East African Wildlife Society, various websites, other stakeholders involved in sustainable wildlife management and utilisation were considered. So, this is a testimony of what really happened when we are dealing with these amendments which will come. Areas that were covered were the management of KWS, representation of land owners and communities, protection of wild animals, compensation, raising of compensation funds through insurance or whatever, benefits of wildlife and management of KWS.

Mr. Temporary Deputy Speaker, Sir, Clause 3 says:-

"Section 3(B) of the principal Act is amended by deleting subsection(1)(i) and substituting therefor the following new subsection-

(i)"Nine other Trustees, five of whom shall be elected by the community and four who shall be persons with knowledge and experience in matters relating to wildlife conservation."

So, I want the same number be retained.

Mr. Temporary Deputy Speaker, Sir, the Bill seeks to ensure that the management of the Kenya Wildlife Service (KWS) rests with the Board of Trustees for proper management of wildlife resources and business purposes. The KWS must be run as a business entity which generates its own money without relying heavily on the Exchequer. If need be, the Government can give this work to people with business knowledge. This will ensure that communities living around game reserves and national parks benefit enormously. They need to have a voice in the KWS Board of Trustees. That is deliberately thought-out because about 70 per cent of national parks and reserves are managed by NGOs and private land owners. This needs to be considered very seriously. The Bill also provides for direct representation and participation by those land owners and communities in the Board of Trustees. This will assist the Government to involve local communities in the management of their resources. It will also ensure that there is respect to private property and provision of adequate compensation in case of injury, death and damage to property. This is a very crucial matter in our consideration. Currently, this is not even in law. Maybe it is within the regulations or rules. When one is killed by a wild animal, his or her people are compensated some Kshs30,000. I have thought about this very seriously. I will address this very soon.

Mr. Temporary Deputy Speaker, Sir, in the current Act, the appointment of the director is done by the President. However, this Bill seeks to empower the Board of Trustees. It provides that the Board of Trustees be consulted before the appointment of the managing director is done. I think this is the best practice. That we do not appoint members to the board and then we do not consult them when we appoint a managing director who will manage the organisation without their participation. So, members of the board need to be brought to the light when the appointment of the Managing Director of the KWS is done. The Bill also seeks to make the Director of the KWS an appointee of the Board of Trustees, so that he is answerable to them.

Currently, some roles performed by the Minister in the principal Act are now to be played by the Board of Trustees who the community can relate with. Sections 4, 5(D)(1) and (2), 9(B) and

9(C), 10(A), 12 and subsection 53 specify this. When the Act was amended in 1989, a Board of Trustees was established to manage the KWS. However, it does not have the managerial authority it is purported to have. We want it to be regulated by the Director, who is directly involved, through the Board of Trustees.

Mr. Temporary Deputy Speaker, Sir, the power to establish a national game reserve, in the current Act, lies with the Minister. Anyone wishing to establish a game reserve must consult the Minister for approval. This power, is proposed to be taken over by the Board of Trustees. As it is, the board will be represented all over the country. It will also not have intimidatory power to intimidate any community to establish a new area for animal habitat.

Mr. Temporary Deputy Speaker, Sir, on authorization of hunting, publishing hunting of any game and means of hunting restriction on importation of trophies should lie in the hands of the members of the Board of Trustees. The Bill seeks to make the establishment of the District Advisory Committees (DACs) mandatory rather than optional, so that in line with the Government election pledge, local communities have a direct influence on wildlife policies that affect them. This issue of DACs has been raised through Questions and Motions. When I looked at the HANSARD, this was even done in the last Parliament. It is only fair to bring this into law, so that the people who live around wildlife sanctuaries understand that they have a right to direct the maintenance of those animals. Therefore, communities are being introduced in the Bill.

Mr. Temporary Deputy Speaker, Sir, Section 5(B) of the current Act says:-

"The Wildlife Advisory Council may be established by the Board of Directors in those areas and the members are appointed by the Board of Trustees."

We have, therefore, deleted Section 2 and substituted a new section which indicates the establishment of an Advisory Council. There is mandatory representation of two representatives nominated by the country's wildlife community. The second representative is one man and, in gender consideration, one woman from the local community. The local community, according to me, unless otherwise, means people who actually live very close to national parks as agriculturalists or pastoralists and they are disturbed by wild animals. So, there is need to have a claim. That is why I propose inclusion of a councillor from the constituency and the District Officer (DO) based in that constituency. I have seen the recommendation by the Departmental Committee on Finance, Planning and Trade. They think the constituency does not represent the wider views of hon. Members. It is for hon. Members of Parliament to determine whether we will go by constituency or by---

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. With all due respect to Mr. G. G. Kariuki, would I be in order to ask him to desist from pre-empting the proposals by our Committee, to pre-empt hon. Members contributions and restrict himself to the Bill?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. G.G. Kariuki, you are very well advised!

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am very well advised. I am much obliged but the Bill has already been circulated. There is no Standing Order to stop me from referring to a document which has been publicised. However, for the benefit of my good friend, I will try to desist from it but I want it to be understood that I am not at war with any recommendation here.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. G.G. Kariuki! All Mr. Sasura is suggesting is that by the time you published the Bill, you had your own arguments. The Committee has looked at it and its own proposals which it would like to bring.

Mr. G.G. Kariuki: Yes, Mr. Temporary Deputy Speaker, Sir. I accept that for management or understanding. We could agree although there is nothing to prohibit us from referring to it.

Mr. Temporary Deputy Speaker, Sir, for the advisory council, we have proposed broad-based powers in terms of their representation and it should also be gender-sensitive. An advisory council shall not take part in the day-to-day business of wildlife conservation and management but shall be brought into the notice of the Board of Trustees for appropriate action on all problems and other matters relative to wildlife conservation and management affecting the area for which the advisory council is established.

Mr. Temporary Deputy Speaker, Sir, we also proposed the protection of wild animals. The Director shall ensure that census of all animals in protected and non-protected areas is undertaken at least once every year. This will ensure that a situation like poaching which saw the disappearance of 85 per cent of the nation's elephants and 97 per cent of the rhinos between 1975 and 1985 is not repeated. This is because during the period when the current Act has been in place, although the Director still had the power to supervise and count wildlife, it has not been strictly observed and that is why we thought we need to bring a clear-cut clause which is going to command or demand the Director to act accordingly.

Mr. Temporary Deputy Speaker, Sir, from 16,000 elephants in 1989, I am told the population has increased to 26,000 and the rhino population is now up to 475. This is from all the information that was given to me during the process of preparing this Amendment Bill. Section 21(A) of the principal Act gives wardens appointed by the Director in consultation with wildlife resource owners, power to monitor hunting activities and animal movement outside the protected areas. The appointment of honorary game warden is proposed to be done by the Board of Trustees. I think with the recommendations and support of the local advisory council in the existing Act, where the appointment is done by the Director in Section 4(I) is what we are trying to support as well.

Mr. Temporary Deputy Speaker, Sir, the repealing of Section 29(1) so that no person other than the owner of the land shall hunt on private land without written consent of the owner of the land and approval from the local advisory council, will also reduce poaching. That is our assumption and this is a very crucial matter because there was talk in the Press, and some people out there, that we are trying to support land owners so that they can enjoy the fruits of keeping wildlife. We are not deliberately doing that but we only want to ask ourselves simple questions like: If you have wild animals in your farm and if you have to protect them from being eliminated, you have to have a way of enjoying their being on your farm. That is all we are saying. This is, therefore, a simplified Section 29 of the Act and it is entrusting land owners with the right to grant or refuse permission to hunt on their land and remove the present ambiguity. I think that is understood; that all we want is that if you have your own land and animals, no one should come and hunt there without your knowledge. Again, even if it is with your knowledge, the law which we are proposing here is that the farm owner or the so-called private conservator will have to go to the advisory council in the area to get permission and a game warden has a right to inspect the farm and see whether the animals he is talking about are there or not and how many animals he has killed in the previous period. They have to keep records. He has no right to kill without permission from the advisory council. That is our contention.

Mr. Temporary Deputy Speaker, Sir, we are now going to compensation which is a very crucial area where most people think it is totally unworkable but I will leave it to the wisdom of the House to decide what is workable and what is not because the Bill now has become a public property. It is no longer mine. When it is on this Table, it is now for Parliament, on behalf of the people, to direct their wisdom appropriately. Now, to redress gross injustices that arise through death, injury or damage to crops, livestock and property that are caused by wild animals there is need to compensate wildlife-related losses, damages, death and injuries and this should be recognised by law. That is what we are trying to do. The Bill, therefore, seeks to provide the compensation in case of bodily injury, death and damage to property. This is in line with what we

are trying to do. This is addressed in Section 62(1) where a competent authority is in charge of any land benefiting from the presence of wild animals on that land through hunting, game cropping, game viewing, tourism or other income-generating activities. That competent authority shall be liable for any death or damage inflicted by the wild animals on the community, crops, livestock or property.

Mr. Temporary Deputy Speaker, Sir, that clause is very clear that if you have animals on your own land and you are generating income from that land, you also have to understand that for any damage caused by animals living on your farm by trespassing, you will be liable for compensation. That will be through the advisory council which will be responsible for demanding what they think is appropriate but we are going to propose the compensation figures. It must be noted that compensation should act as a deterrent mechanism.

Today, you talk of wildlife compensation or people who have been killed by wildlife. Some people in this country just say it is not possible and it cannot be done and they are just saying it as if the animals belong to nobody. You cannot have your cake and eat it. If we want to maintain and retain wildlife for the purposes of economic development and if we want to get something from the wildlife industry, we have to understand business. You spend money to make money in any business. Therefore, a deterrent mechanism is what is being proposed here.

I want to clear the minds of my friends. It was not intended as some people thought, that if you allow Ksh10 million as compensation for one person killed by wild animals, most people will just go and seek to be killed by animals. That is what some people have been saying but I do not think Kenyans would want to lose their lives because of Kshs10 million although I know there are people who commit suicide and they can try to commit suicide through this way. That cannot stop the Bill from considering mechanisms to control damage caused by wildlife.

Mr. Temporary Deputy Speaker, Sir, in the current Act, compensation for injury or loss of property is not provided for at all. Compensation for death is Kshs30,000 and that is not strictly in law. It is at the discretion of the Minister; whether you are dead or not. If he does not pay anything, it is just like nobody died, only part of wildlife passed away. We have to understand that we are all elected by people of this country to try and do everything possible to make their lives comfortable. Therefore, we cannot pretend to be making their lives comfortable when we cannot even consider compensation when their properties and lives are destroyed.

The Compensation Committee which we proposed includes the District Commissioner (DC), the District Officer (DO), Medical Officer of Health (MoH), the hon. Member of Parliament and all others. That is not what we have proposed in the Bill, but it is what other people think should be.

Mr. Temporary Deputy Speaker, Sir, there is a proposal to compensate bodily injury suffered; for example, if somebody is killed by wildlife. In the case of a deceased person, his representative shall be entitled to receive compensation as follows: Death by wildlife should be Kshs10 million. I have said that the idea is not to get this money paid but to make sure that wildlife is not left wandering around, killing people at will and getting away with it. Who is getting away with it? It is the Kenya Wildlife Service (KWS), the Government and the people of Kenya who allow members of their community to be killed by animals and nobody cares. Time has come for us to draw the line whether we will consider our people or just leave them to be killed by animals. We have also proposed compensation for the loss of a limb or an eye. All these explanations are in the Bill but they will be subject to hon. Members' decision. My job is almost complete when I bring this matter to the House. I am in the process of finishing my work by bringing this matter to this House. The loss of a finger has also been considered to be compensated at Kshs300,000 and medical expenses of up to Kshs1 million.

Damage of crops, stock or other property by wildlife or as a result of activities of wildlife,

shall be entitled to compensation from the competent authority, which shall be assessed at prevailing market rates as determined by the relevant Advisory Board. There is no market price of life but in this case we are talking about property and crops. It has nothing to do with life.

We also asked ourselves how we will raise the compensation funds. When I talked to all the stakeholders, we considered strategies of finding money that is intended to be used as compensation for damages caused by wildlife. Strategies to raise funds for sustainable compensation schemes can be developed by the competent authority; for example, the KWS which is the body charged with conservation of wildlife throughout the country. It is not the responsibility of this House to think about that. The KWS, the Government or for that matter the international community, can deal with this matter by raising funds. In America, for example, all the money that is used for compensation is donated by individuals and institutions and it is kept aside to deal with a situation like this one. We can also do that in this country.

Mr. Temporary Deputy Speaker, Sir, we are talking of about Kshs10 million compensation per person. We are told that about 200 people are killed each year in Nanyuki by wildlife, and in another meeting that I did not attend, they were told that it was 500 people. There is a terrible scare in this matter because nobody has clear figures of how many people die as a result of wildlife. We need to know the correct figures, but when we seek for them, we cannot get them. We are being intimidated even before we pass this Bill and we should demand for total compensation. I was working on these figures with a friend of mine a few minutes ago, and we found out that if 500 people are killed every year, it means that the Government is required to pay Kshs5 billion to the families of people killed by wildlife. These are fictitious figures! I must say that, because no one has come out specifically to the Departmental Committee on Finance, Planning and Trade with figures supporting the evidence. Therefore, if we are not careful - I am sorry to say this - we will be lied to by interested groups, particularly the KWS. What worries me is that when I was trying to bring the KWS to be part and parcel of these proposals, the first attitude was like I was taking away their powers. Let us agree here, and this is my strong feeling about what power is; it is nothing unless we make it a service. Anything else is an illusion. No single person in this world has power! It is with the people. The power that we may have is delegated to us peacefully by the common man.

This matter has been addressed in Section 62 which states that a competent authority which benefits from wildlife living on land under its control shall take up adequate general insurance cover to meet the liability specified in Section 62(1). Our job is not to look for money for compensation but to legislate and let the competent authority, including the Government to find a way of raising this money. If there were international and local campaigns or *Harambee*, people would get money for compensation. I am quite sure of that.

Mr. Temporary Deputy Speaker, Sir, there is also the issue of a person who might deliberately get harmed to get compensated. This has also been addressed in Section 62(3). There would be no compensation for death, injury, damage or loss which occurred in the course of any conduct on the part of the person which would constitute an offence under this Act. In other words, if the Advisory Council thinks that you went deliberately to get yourself killed, or you went poaching inside a protected area and got killed, this law will not cover you. That is what we are proposing here. The Bill provides for respect of private property and the resources therein. It also provides for the control, regulation, possession, movement, game ranching and game cropping of any animal or game bird meat.

Mr. Temporary Deputy Speaker, Sir, in the protected areas, the Kenya Wildlife Service (KWS) should ensure that there are protective barrier designs, which should include fencing, trenches, *et cetera*. The KWS has been attempting to do that, but because of lack of finances, they have not made any progress. Finances will never be secured from the Treasury unless a good proposal is presented. However, because this has not been given priority, the damage that wildlife is

causing to the people of this country has not been considered very seriously. The Government should ensure that the wildlife sector brings money to the country. We are told that tourism is the second biggest income earner in this country. However, since 1968, when I was the Vice-Chairman of the Kenya Tourist Development Corporation (KTDC), we were bombarded with stories that tourism was bringing in a lot of revenue to the Government. However, even today, nobody can give you concrete figures to show the true state of affairs.

Mr. Temporary Deputy Speaker, Sir, I challenge the Minister for Trade and Industry and the Minister for Finance to state the revenue this country earns from the tourism sector, except when they tour the parks, get accommodated in hotels and eat food which is produced in this country, thereby sustaining hotel development and creating employment for our people. However, our people never really benefit because they end up being remunerated very badly; they receive very meagre salaries. So, time has come for the NARC Government, the people of this country and hon. Members of Parliament, irrespective of their political party affiliation to see what they can do to put this question of tourism where it belongs. We have been singing this song for a long time now; that tourism and wildlife are earning this country this much, but nobody can specifically stand up and say the exact amount of earnings from this sector.

Mr. Temporary Deputy Speaker, Sir, to achieve sustainable wildlife utilization and management, there is need to recognise the user-rights of land owners and communities living around wildlife sanctuaries, and develop strategies for effective participation in conservation. We should also develop conducive institutional framework to support wildlife conservation at local and national levels. There is need to have regulation of wildlife utilization both in protected and non-protected areas. Those are very important issues. We must have a policy that recognizes both consumptive and non-consumptive forms of wildlife utilization.

Mr. Temporary Deputy Speaker, Sir, the primary role of communities and land owners should be recognized. Benefits from wildlife should be shared equitably. This has been addressed by Section 18 and Section 6, which state that all the money collected from the issuance of licences shall be apportioned between the wildlife resource, owners of the area and the service. The hon. Members will be expected to contribute in their own thinking, to how they think this can work better than it is. This is to say, I did not bring this Bill with the view that whatever I propose must be passed. It is what hon. Members of Parliament will find palatable, that will be accepted.

To this end, a tourist fund to support community consumptive programme and enhance management capacity conservation should be mooted. Now, the KWS should include local community participation in development and implementation of conservation programmes in their localities. However, when the KWS proposes to do anything in an area inhabited by wildlife, the community of that area needs to be brought on board so that they know what is happening in their areas.

Mr. Temporary Deputy Speaker, Sir, job training and replacement opportunities in the tourism industry should be extended to the locals rather than getting somebody, for example, from a fish farming area and taking them to areas where elephants are disturbing residents. This is the problem I am having in Laikipia District. Protection of animals in migratory corridors and lack of a national land policy are issues that need to be looked into. Designating special areas for wildlife dispersal and migration has not helped. This has led to wildlife habitat decline in wildlife numbers and loss of bio-diversity and conversely an increase in human-wildlife conflict. The land policy in this country is so poor. Land use needs to be looked at so that we know what kind of life we expect to live. This has been addressed in Section 1(b) and (c), which seeks to protect animals in migratory corridors, to compel the allocation of consumption quotas to be done only after counting of animals has been carried out in the areas concerned and to improve utilisation of wildlife through monitoring by hunting officers who can be held accountable.

Mr. Temporary Deputy Speaker, Sir, in the light of Legal Notice No.11 of 1993, we should incorporate wildlife conservation into the definition of agriculture to make it mandatory that, where agricultural land is involved, KWS should involve the Ministry of Agriculture in aspects of animal production, for example, cropping, handling and marketing of meat. That is where the authority lies for this type of business.

The causes of conflict have been explained. The communities' dissatisfaction or feeling cheated about the current level of wildlife, derived benefits being extended to the local communities; money and benefits from wildlife are not shared equitably and the amounts given are too little. For example, currently, KWS contributes approximately US\$10,000 among seven group ranches next to Amboseli National Park in spite of the fact that this park guarantees more tourism earnings than any other park in this country.

Mr. Temporary Deputy Speaker, Sir, in employment, when most locals are employed in this sector, they are paid almost nothing. The result has been situations where people take the law in their hands. They believe that no assistance is coming from the KWS and, therefore, the escalation of friction takes place. The KWS should establish cogent measures through which community participation in wildlife management can be enhanced to minimise conflict. Community-based eco-tourism programmes should be initiated, training community members through participatory rural appraisal, for example, community conservation scouts who assist the community's participation in conservation. Communities should be encouraged to come up with income generating projects instead of them expecting to share the money that comes from the KWS.

The short-term measures that communities should take include, observing strict personal safety, avoiding night travels, reporting at KWS offices or the nearest Government offices. The Provincial Administration offices should be nearer than KWS offices. They should also direct wildlife pool barriers to make their investment beneficial. Electric fencing is critical in areas like the Aberdares, Taita-Taveta, Samburu, Laikipia *et cetera*. Establishment of proper animal control units for rapid response in situations where people or livestock have been attacked is necessary. This, on the other hand, will discourage people from taking action on their own to address the problem. There should be a mode of handling community complaints and liaising with the wildlife authority for quick resolution and initiating water projects outside the parks to minimise human-wildlife contacts inside the park.

Mr. Temporary Deputy Speaker, Sir, on the way forward and as a conclusion, leaders should be in the forefront in seeking practical solutions to land use problems which are a prerequisite to resolving human-wildlife conflict. Hopefully, the on-going land policy review that is being undertaken by the Government should address this concern. We must acknowledge that the problem is a reality in our country.

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

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! It is now time to interrupt the business of the House. The House stands adjourned until Tuesday, 30th November, 2004 at 2.30 p.m. The House rose at 6.30 p.m.