

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 30th November, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

Dr. Galgallo: Mr. Speaker, Sir, two weeks ago, the Vice-Chairman of the Departmental Committee on Health, Housing, Labour and Social Welfare laid a Paper on the Table of the House which was supposed to be the Committee's Report on the National Social Health Insurance Fund Bill. Unfortunately, he just laid a list of recommendations that the Committee made and not the report. So, I wish to withdraw what he had laid on the Table and properly lay the actual Committee Report on the Bill today.

(Dr. Galgallo laid the Report on the Table)

POINT OF ORDER

PROF. KIBWANA IMPROPERLY DRESSED

Mr. Shakombo: On a point of order, Mr. Speaker, Sir. Is Prof. Kibwana properly dressed?

Mr. Speaker: Order, hon. Members! On this issue of dressing can I just ask aloud: What heroism is there in showing contempt to the House? What heroism do you find in this, Professor?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, if the House looks carefully, this is the national dress. Therefore, I know that I am properly dressed unless---

Mr. Speaker: Who declared it a national dress, and where was this done?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, the Ministry of Gender, Sports, Culture and Social Services went through a very elaborate process of determining what our national dress will be. Therefore, I simply came to the House---

Mr. Speaker: It is the opinion of the Chair that if that be our national dress, then that Ministry needs to go and think hard.

(Laughter)

The Minister for Gender, Sports, Culture and Social Services (Mr. Ochillo-Ayacko): Mr. Speaker, Sir, I know there will be occasion to debate this, but what Prof. Kibwana is wearing is the national dress although it is not the complete version. We are writing a Paper to the Cabinet which will eventually land in this House.

Mr. Speaker: Order! What we are saying is that the House is repulsed by the look of the

Professor because he is so casual. You cannot even go to teach a Standard Seven class in that attire! It is so casual. Whatever national dress the Ministry designs, it should make sure that it does make sense.

The Assistant Minister, Office of the President (Dr. Machage): On a point of order, Mr. Speaker, Sir. Are we in order, as Kenyans, to think that proper dressing is the British mode of dressing?

Mr. Speaker: Order! The issue is not about dressing British. It is dressing decently.

The Minister for Gender, Sports, Culture and Social Services (Mr. Ochillo-Ayacko): Mr. Deputy Speaker, Sir, I really want to plead with you to reserve your remarks on the national dress because it may prejudice the debate when we bring it to the House. I really respect your view, but if you make the point so firmly---

Mr. Speaker: Order, Minister! Who allowed you to decree that it is a national dress? Who told you it is a national dress?

The Minister for Gender, Sports, Culture and Social Services (Mr. Ochillo-Ayacko): The remarks that are being made from the Chair may prejudice this debate when it comes before the House.

Mr. Speaker: Order, Minister! I think you are missing the boat. It is what the House thinks is decent. By the way, I am also a Kenyan. There has not been any declaration of a national dress. I think whatever you people do, including the hon. Professor, you should, at least, come to the House with something that shows seriousness.

Mr. Ndile: Bw. Spika, hii suti yangu ni ya Ujerumani na sijui walikuwa na nia gani walipokuwa wanaiunda. Tunataka nguo za Wakenya. Ninafikiria hiyo nguo aliyovaa Prof. Kibwana inafaa kuwaliwa na Wakenya. Sioni kwa nini tunaipinga.

Mr. Speaker: Naomba kwanza nikupongeze kwa kuvaa vizuri. Naomba Wabunge wenzako wavae vizuri. By the way, why are we wasting time on this issue?

Dr. Galgalo: Mr. Speaker, Sir, I totally agree with you and the hon. Members who are expressing their outrage at the way Prof. Kibwana is dressed. His chest is exposed. By any standards, that would not be our national dress. We will not accept it. Even if the Ministry of Gender, Sports, Culture and Social Services declared it a national dress, we will reject it in this House because it is indecent. In the meantime, he should take his leave and leave us to discuss business of the House.

Mr. Speaker: Order! Prof. Kibwana, in the meantime, you must go and put on something decent.

(Applause)

You must go and put on something that will make your colleagues happy.

(Applause)

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, whereas I respect any ruling that you make, because that is our tradition, it is really unfortunate that when an hon. Member comes to the House wearing what has been judged as a national dress, he is sent out.

Mr. Speaker: Order, Prof. Kibwana! I think I have made my ruling. The House is displeased with this, and it is not simple. By the way, you are not expelled. Just go and put on something that does not make your colleagues unhappy.

(Prof. Kibwana withdrew from the House)

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, with all due respect, Prof. Kibwana is one of the Assistant Ministers who are supposed to answer Questions this afternoon. What will happen now that you have sent him out?

Mr. Speaker: Order! Maybe, he did not want to answer Questions. That is why he came dressed like that. He has never been dressed like that!

Mr. Mukiri: On a point of order, Mr. Speaker, Sir. I think there is inconsistency in the rulings from the Chair. Last time, when Mr. Wamwere was expelled from the House, the Chair said that he was waiting for a report from a certain Committee. A trend has now started where the Chair will start chasing hon. Members out of the House. Could we know what is the position? Has the Committee come up with recommendations?

Mr. Speaker: Can I tell you the following? When we wait for whatever the dress code will be, you certainly must dress decently. Whatever the case is, it is through the eyes of the Chair! That is it! Shall we continue?

PAPERS LAID

The following Papers were laid on the Table:-

The Annual Report and Accounts of the Kenya Ferry Services Limited for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Transport
(Mr. Ligale) on behalf of the Minister
for Transport)*

The Annual Report and Accounts of Investments Promotion Centre for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Transport
(Mr. Ligale) on behalf of the Minister
for Trade and Industry)*

The Annual Report of the Controller and Auditor-General on the Financial Statements of State Corporations Appeal Tribunal for the year ended 30th June, 2002, and the Certificate thereon by the Auditor-General.

The Annual Report and Accounts of the Registration of the Certified Public Secretaries Board for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Transport
(Mr. Ligale) on behalf of the
Minister for Finance)*

The Annual Report and Accounts of the Agro-Chemical and Food Company Limited for the year ended 30th June, 2003, and the Certificate thereon by the Controller and Auditor-General.

The Annual Report and Accounts of the Horticultural Crops Development Authority for the

year ended 30th June, 2001, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Transport
(Mr. Ligale) on behalf of the Minister
for Agriculture)*

The Annual Report and Accounts of Retirement Benefits Authority for the year ended 30th June, 2003, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Transport
(Mr. Ligale) on behalf of the
Minister for Labour and Human
Resource Development)*

The Report by the Departmental Committee No."A" on Agriculture, Lands and Natural Resources on visits to sugar warehouses in Mombasa, Mombasa Agricultural Show, Kenya Marine and Fisheries Research Institute in Mombasa, and the Cashewnut Factory in Kilifi, from 25th to 28th August, 2004.

(By Mr. Bett)

NOTICE OF MOTION

FENCING OF PARKS AND FOREST RESERVERS

Mr. Kimeto: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, in view of the threat to many of the endangered species of fauna and flora caused by the static eco-system, due to poaching, pollution and problems caused by increased population; aware that the rich fauna and flora, both land and marine, are major attraction of tourists visiting Kenya, this House urges the Government to fence all the conservation parks and forest reserves and maintain all roads leading to these areas.

ORAL ANSWERS TO QUESTIONS

Question No.073

NUMBER OF KITUTU MASABA RESIDENTS KILLED BY POLICE

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

- (a) how many people have been killed by the police in Kitutu Masaba in the last five years;
- (b) what has he has taken to stop further loss of life; and,
- (c) how many people, so far, have been compensated by the Government as a result of (a) above.

The Assistant Minister, Office of the President Dr. Machage): Mr. Speaker, Sir, this

Question was supposed to be answered by Prof. Kibwana, and you have sent him out.

Dr. Godana: Mr. Speaker, Sir, there is no Question for Prof. Kibwana. The Question is addressed to the Office of the President, and Ministers in the Office of the President are here. The tradition in this House is that once the answer is here, any Minister can answer the Question. Why is the Assistant Minister telling us that because Prof. Kibwana is not here, the Question cannot be answered?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, it would not be proper for any Minister to answer a Question that he is not prepared to answer. There was an Assistant Minister who was prepared to answer the Question. If any Minister was to answer the Question, he will do so without the relevant information.

Mr. Speaker: Order! I think the most misunderstood concept is the concept of collective responsibility. It entails that the Government ensures that it never loses face in Parliament. Any Minister can answer a Question. So, if you want to lose face, that is fine. The Chair has no problem. You can all refuse to answer Questions and I have no problem at all.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, there is always the main Question that is asked, but there are supplementary questions that are asked by the hon. Members, which require a certain Minister to prepare for that. Prof. Kibwana was here ready to answer the Question.

Mr. Speaker: Let us hope that he comes back.

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mr. Balala): Mr. Speaker, Sir, I request the indulgence of the House for this Question to be answered tomorrow.

Mr. Speaker: Very well. That is granted. That is how it should be, actually.

(Question deferred)

Next Question, Eng. Nyamunga!

Eng. Nyamunga: Mr. Speaker, Sir, I have not received a written answer to my Question.

Question No.954

IMPORTATION OF MR. ERNEST
MUGA'S VEHICLES

Eng. Nyamunga asked the Minister for Foreign Affairs:-

- (a) whether he is aware that Mr. Ernest Muga, P/No.68009822, who worked in the Kenya High Commission in Nigeria from 1987 to 1994, left his two vehicles; Mercedes Benz 200E, registration 74 CD 16, and Peugeot 505, registration 74 CD 15 to be imported to Kenya by the Ministry, but this has not been done to date;
- (b) if he could inform the House what has led to the ten years delay; and,
- (c) if he could further inform the House when the vehicles will be brought to Kenya and delivered to the owner.

The Minister for Foreign Affairs (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Muga's two vehicles were not imported to Kenya after his departure from Nigeria in December, 1994, due to complications which arose from the shipment because the officer exceeded his shipping weight entitlement in accordance with the foreign service regulations. Mr. Muga was, therefore, required to bear the cost of the extra weight for the shipment. He failed to do this.

(b) The motor vehicles were left behind at the shippers warehouse, pending the payment of

the outstanding bill, which continued to accumulate, leading to heavy demurrage charges. It took long negotiations, including arbitration by the Nigerian State Committee on Ethics, Privileges and Petitions, before a settlement was reached, and the vehicles were released to the Mission in March, 2000. At that stage, taking into account the age and the mechanical condition of the vehicles, and after consultations with Mr. Muga, the vehicles were sold with the understanding that the proceeds would be paid to Mr. Muga. It appears that Mr. Muga is dissatisfied with the amount raised from the sale of the two vehicles, and he is demanding their repossession.

(c) This is practically impossible because the ownership of the vehicles changed hands after the sale of the same.

Eng. Nyamunga: I wish I had received a copy of the written answer. However, how much did the Government spend on the agents after arbitration?

Mr. Mwakwere: Mr. Speaker, Sir, since the vehicles were in the hands of the agents for eight years, demurrage charges and other charges amounted to Kshs4 million.

Eng. Nyamunga: Mr. Speaker, Sir, I find it very interesting. The Government is able to pay Kshs4 million as demurrage charges to a Nigerian. However, if there was overweight, why could the vehicles not be imported into the country and Mr. Muga be made to pay the extra costs? Why leave the goods to incur demurrage in Nigeria when he was still an employee of the Ministry until 2001?

Mr. Mwakwere: Mr. Speaker, Sir, the Government intervened because they had to take responsibility for an officer who was still in employment, but had left the station. Whatever balance there was, the same was to be paid to Mr. Muga.

Mr. Speaker: Very well. Next Question by Mr. Munya!

Question No.298

EXPULSION/SUSPENSION OF STUDENTS
FROM PUBLIC UNIVERSITIES

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

(a) whether he could table a list of all students expelled or suspended from the public universities since January, 2003; and,

(b) what the Ministry is doing to have their cases reviewed by the respective university administrations.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I would like to beg the indulgence of the House. I am not satisfied with the answer that I got. Therefore, I would like to get a little bit more information and answer this Question on Thursday.

Mr. Speaker: Is that okay, Mr. Munya?

Mr. Munya: Mr. Speaker, Sir, I agree with the Assistant Minister. I would like him to come up with a comprehensive answer because this is a serious Question!

Mr. Speaker: Very well. Ordered as requested!

(Question deferred)

Next Question by Mr. Sasura!

Question No.537

OWNERSHIP OF KICC

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

- (a) who owns Kenyatta International Conference Centre; and,
- (b) how much money in rent has been collected from KICC tenants since April, 2003, and to which accounts were the proceedings remitted.

Mr. Speaker: Is anyone here from the Ministry of Information and Communications? Mr. Kiunjuri, are you the Leader of Government Business? Could you tell us something about this?

(Laughter)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, I now take over as the acting Leader of Government Business! I will communicate to the Ministry. I apologise for the Question not being answered.

Mr. Speaker: Is that okay with you, Mr. Sasura? Can I defer it to next week?

Mr. Sasura: Mr. Speaker, Sir, the only thing which will be okay with me is for the Question to be answered. So, I do not know what you want me to do.

Mr. Speaker: Mr. Kiunjuri, will Thursday be all right?

The Assistant Minister for Energy (Mr. Kiunjuri): Yes, Mr. Speaker, Sir. We will answer it on Thursday, this week.

Mr. Speaker: All right. The Question is deferred to Thursday, this week!

(Question deferred)

Next Question by Mr. Ojaamong!

Question No.437

DEMOLITION OF BUILDINGS
IN TESO DISTRICT

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

- (a) whether he is aware that officers from his Ministry based in Teso District have marked various buildings earmarked for demolition;
- (b) whether he is further aware that the construction of those buildings was authorised by the relevant Government departments and local authorities; and,
- (c) if the answers to "a" and "b" are in the affirmative, whether the Government could compensate the traders whose buildings will be demolished.

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

(a) I am aware that officers from my Ministry based in Teso District have placed a mark on various buildings and earmarked them for demolition.

(b) I am not aware that the construction of these buildings was authorized by the relevant Government departments and local authorities.

(c) The Government will not compensate the traders whose buildings will be removed from the road reserve since it is illegal to erect any structure or interfere with the road reserves of all classified road networks for public or private purposes. This is in accordance with Section 91 of the

Traffic Act, Cap.403 of the Laws of Kenya.

Mr. Ojaamong: Mr. Speaker, Sir, when the Northern Corridor Road was constructed, measurements were being done in feet. The road reserve was given six feet on either side of the road. How come then that the Ministry, when the NARC Government came into power, changed from six feet to six metres for the road reserve?

Eng. Toro: Mr. Speaker, Sir, nothing has changed as far as road reserves are concerned since the NARC Government came into power. This is because the road reserves and the Traffic Act remain the same. It is only that people were free during the previous regime to erect buildings and put up some structures on road reserves without anybody bothering to tell them that they were in the wrong place.

Dr. Godana: Mr. Speaker, Sir, the hon. Assistant Minister, in his answer to part "b" of the Question, said he is not aware that the construction of the buildings was authorized by relevant Government departments and local authorities. Now that he has been made aware of those cases; that, indeed, the owners spent their monies after appropriate approvals by relevant authorities, will he undertake to compensate them for the demolitions?

Eng. Toro: Mr. Speaker, Sir, as far as road reserves are concerned, the relevant Ministry to authorize is the Ministry of Roads and Public Works. Any other authority is not legal.

Dr. Godana: On a point of order, Mr. Speaker, Sir. I think the Assistant Minister should take this seriously. It is true, if the construction was on the road reserve, in wanton disregard of procedures, there is no validity or justification for the construction. But where, indeed, relevant authorities decided that the property is on the right spot, outside the road reserve, and now it turns out that it is on the road reserve and yet, the Government authorized the construction; why does he not accept that the owners who were innocently misled should be compensated?

Eng. Toro: Mr. Speaker, Sir, I do not agree with Dr. Godana that two wrongs can make a right. The hon. Member knows that even where he comes from, the Isiolo-Moyale Road was neglected. Now that the NARC Government is in power, he cannot tell us to stop constructing because it was not constructed by the legitimate Government that was there.

Mr. Serut: Mr. Speaker, Sir, you have heard the Assistant Minister say that they cannot compensate the owners of those buildings. It is common knowledge that the Ministry of Roads and Public Works has decided to mark "X" even on buildings which were constructed in the 1950's. Is the Government going to compensate rural people whose buildings are earmarked for demolition?

Eng. Toro: Mr. Speaker, Sir, the Ministry is ready to compensate those buildings that are affected by the expansion of road reserves. Those are cases where it has been found necessary to expand the road reserves because of the nature of the roads which have been upgraded. Those ones are compensated accordingly. However, those who have put structures on road reserves which are not expanded, will have to bear the consequences of the demolition. In most cases, the Ministry will even demand payments for demolition from the owners of those structures.

Mr Ndile: Bw. Spika, kuna shida katika Wizara hiyo kwa sababu kuna maafisa wanaotumia vitisho kwa kuweka alama za kubomoa katika nyumba za watu wengine, ili watafutiwe kitu kidogo saa zingine. Wakipewa kitu kidogo, wanafuta alama hizo. Je, Wizara itahakikisha namna gani kwamba alama zinazowekwa ni za ukweli, na siyo za kutisha watu ili watoe pesa?

(Applause)

Jambo la pili, Wizara hiyo ina mambo mengi! Unakumbuka kuna shida hapa Bunge! Bw. Spika, nataka utusaidie. Tulipoingia Bungeni mara ya kwanza, kulisemekana njia inayopita katikati ya majengo ya Bunge itafungwa. Lakini kuna mtu ameruka kupitia kwa ukuta na karibu amuumize

Waziri. Ameng'oa bendera ya Waziri, Bw. Munyao, na kutaka kumpiga Bw. George Khaniri nayo. Tunahofia usalama wetu! Hatujui ni nini kinafanyika! Hata sasa hivi, sijui Bw. Munyao ataenda na nini! Hana bendera!

(Laughter)

Mr. Speaker: Order, hon. Members! I was following Mr. Ndile in relation to the markings of buildings which are to be demolished and, somehow, a flag comes in. What has a flag got to do with the roads?

Mr. Ndile: Bw. Spika, kisa ninachokieleza sasa hivi kina uhusiano na barabara kwa sababu tuliambiwa kwamba, kwa usalama wetu, njia itatengenezwa kwa Wabunge kuingia ndani. Wizara hiyo ndiyo ingefanya hiyo kazi. Nimepeana mfano huo kwa sababu Bw. Munyao hana bendera. Pengine mtu huyo alikuwa ametumwa. Tunataka kuhakikisha kwa sababu usalama wetu---

Mr. Speaker: Mr. Ndile, is that flag necessary for the comfort of the Minister when he is seated here? Does he need it in the House?

Mr. Assistant Minister, please, proceed!

Eng. Toro: Mr. Speaker, Sir, Mr. Ndile did not tell us whether Mr. Munyao's car was marked with an "X", so that his flag could be removed. However, to answer Mr. Ndile's contention that there are some officers who are marking buildings and later on, when they are given money, erase the demolition marks, that is corruption! It should be brought to the notice of the Ministry, and disciplinary action will be taken against those officers.

Mr. Speaker: Very well! Last question, Mr. Ojaamong!

Mr Ojaamong: Mr. Speaker, Sir, the Assistant Minister has admitted that if the demolitions are done to upgrade the roads, the traders will be compensated. I fully agree with him on that. The Northern Corridor is being expanded. The road reserve is being expanded from six feet to six metres. I am sure the traders will be compensated.

In the rural areas, so many commercial buildings have been marked. Since the NARC Government came to power on the basis of promoting small-scale traders, and considering that almost all the shops will be demolished, could the Assistant Minister divert the bypasses to pass somewhere else?

Eng. Toro: Mr. Speaker, Sir, before a road is constructed, survey is done. If it is not economical to divert a road to pass elsewhere, then, unfortunately, the buildings will have to go. However, when the hon. Member says that NARC came to power on a platform of helping the people to grow economically, he should also note that it also came to power on a platform of law and order. Therefore, law and order will be upheld.

Question No.797

POWER GENERATION BY JAMES
FINLAY/BROOKE BOND COMPANIES

Mr. Keter asked the Minister for Energy:-

- (a) how much power James Finlay Company Ltd and Brooke Bond Co. Ltd. generate and contribute to the national grid;
- (b) whether he could table the list of all the primary schools which have been supplied with electricity within the two companies; and,
- (c) what the Ministry is doing to make sure that all primary schools within the tea

estates are supplied with electricity.

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

(a) The power capacity generated by both James Finlay Company Ltd, and Brooke Bond Ltd, is 2.2 and 3.7 megawatts, respectively. Both companies generate power for their own use. However, James Finlay has an extra 1.2 megawatts on offer to the Kenya Power and Lighting Company. The two parties are about to sign a power purchase agreement.

(b) The list of schools supplied with power within the area operated by James Finlay Company Ltd and Brooke Bond Company Ltd in Kericho are many. I will table the list.

(Mr. Kiunjuri laid the list on the Table)

(c) The current Government policy on rural electrification gives priority to public establishments such trading centres, secondary schools, polytechnics, health centres and water projects. Due to financial resources constraints, and given the high demand for rural electrification, primary schools' ranking is, therefore, low. They are only considered if they are within the electricity supply radius of those top priority institutions and trading centres. Consequently, the Ministry does not have any current plans to ensure that all primary schools within tea estate areas are supplied with electricity.

Mr. Keter: Mr. Speaker, Sir, James Finlay Company Ltd generates 2.2 megawatts and Brooke Bond Ltd generates 3.7 megawatts. James Finlay Company Ltd has about 16 primary schools, out of which, they have supplied 14 primary schools with electricity. On the other hand, Brooke Bond Ltd, with 3.7 megawatts, has 20 primary schools and one secondary school. It has only supplied four primary school with electricity. The information supplied by Brooke Bond Ltd is not true. I would like to seek the guidance of the Chair. They have listed four primary schools; that is, Sambret, Kericho, Kerenga and Jamji within my constituency. Jamji Primary School is next to my home area and, as I talk now, it does not have electricity. Could the Assistant Minister ensure that Brooke Bond Ltd, gives the right information? The information they have given here is wrong!

Mr. Kiunjuri: Mr. Speaker, Sir, the information we have is that Brooke Bond Limited is not even able to generate enough power for itself. But it would also be criminal for them to give us wrong information, especially when they say that they have supplied electricity to primary schools which do not have it. It is criminal and subject to investigations.

Mr. Sambu: Mr. Speaker, Sir, when the British colonialists attacked our people at the turn of the last century and took their land by force--- They still retain the land up to today. What powers do they have over our rivers to tap electricity for their own use? If you go to Brooke Bond Ltd now, all the African tea-pickers in the camps have no electricity in their houses, when all the colonialists have electricity and all sorts of other things. Is that right, Mr. Speaker, Sir?

Mr. Speaker: Who are called "colonialists"?

Mr. Sambu: Mr. Speaker, Sir, the settlers. Those settlers are colonialists. They acquired that land through their colonial powers. We did not give it to them.

Mr. Speaker: Order, Mr. Sambu! Always talk in moderation! Could we moderate our language?

Mr. Assistant Minister, would you like to answer?

Mr. Kiunjuri: Mr. Speaker, Sir, I agree that they are no longer colonialists, but they can be racists. If that is the position, let me give a final undertaking that we are going to investigate that.

Mr. Keter: Mr. Speaker, Sir, I want to thank the Assistant Minister for undertaking to carry out investigations. However, when will he agree to come with me to go and check whether Sambret Primary School has electricity. I have always said that the Managing Director of Brooke Bond

Company Ltd., Mr. Frereburn, is a racist. I thank the Assistant Minister for echoing similar sentiments.

Mr. Kiunjuri: Mr. Speaker, Sir, my own opinion is informed and I will go to the ground. During the first two weeks of January, I will contact the hon. Member so that we can visit the place. Thereafter, we shall be able to come up with a thorough report.

Mr. Weya: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that the Managing Director of Brooke Bond Company Ltd is a racist. What is he still doing in our country? He should be deported!

Mr. Speaker: Have you got the facts that he really is racist?

Mr. Kiunjuri: Mr. Speaker, Sir, hon. Sambu said that they are colonialists. What I said, and it can be traced from the HANSARD, is that they cannot be colonialists because we are an independent country. However, I said that they could be racists and that can be proven.

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

Mr. Speaker: Order, all of you! Semantics are semantics and it will remain so. We will not waste time on semantics. We will not use the Floor of the House to accuse and judge people. There are better avenues to do that now that those people are not allowed to come to this House to defend themselves. That must be the position throughout.

Question No.891

CONGESTION AT MAASAI MARKET

Mr. Korir asked the Minister for Local Government:-

(a) if he is aware that the popular Maasai Market in Nairobi has become too congested; and,

(b) if he could consider relocating the market to more spacious grounds.

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Speaker, Sir, I beg to reply.

(a) It is true that the popular Maasai Market is congested. It has between 800 to 1,000 traders who do their business on Tuesdays only.

(b) The council is in the process of getting an alternative site where the traders will be moved to.

Mr. Korir: Mr. Speaker, Sir, I thank the Assistant Minister for that answer. He has recognised the importance of that market. It serves close to 1,000 people and also tourists, thereby earning us foreign exchange. Could the Assistant Minister, now that he has realised the importance of this market, tell us when he will identify a more spacious site for this market?

Mr. Kamanda: Mr. Speaker, Sir, Maasai Market is for hawkers and before we relocate them, we must get other facilities such as toilets. We are intending to close two lanes for their use and even allocate them two days; perhaps, Saturdays and Sundays, for trading.

Prof. Oniang'o: Mr. Speaker, Sir, each time there is this kind of relocation, the traders are moved to inaccessible areas, thereby costing traders more money. Could the Assistant Minister give us an assurance that this will not happen, and that he will consult with the hawkers themselves before he thinks of relocating them to another site?

Mr. Kamanda: Mr. Speaker, Sir, the majority of the traders are my voters. I will consult

them and we shall agree on where they will be relocated.

Mr. Munya: Mr. Speaker, Sir, the Maasai Market is a very important market. Presently, the traders occupy an area around a very dangerous road and accidents can occur any time. The relocation is actually an emergency step. Could the Minister tell us which are the lanes he will consider closing for the traders' use on Saturdays and Sundays? We also need to give our views on that.

Mr. Kamanda: Mr. Speaker, Sir, I cannot state the lanes now. We have to put up toilets for them and get other essential facilities for them.

Mr. Korir: Because of the importance of this market, could the Assistant Minister consider allowing the market to carry out business twice a week? The market is important for the people of Nairobi and tourists. Could he also consider providing basic facilities such as toilets, even if temporarily, for the hawkers and buyers of commodities in the market?

Mr. Kamanda: Mr. Speaker, Sir, I just answered that question. This is not the only market we have in Nairobi. Maasai Markets are almost all over in Nairobi. For instance, the market is at Yaya Centre, Village Market and other areas. However, before we relocate them, we need to make sure that the traders are first provided with basic facilities.

Question No.897

UPGRADING OF DISPENSARIES
IN MANDERA EAST CONSTITUENCY

Mr. Speaker: This Question is deferred until later.
Next Question!

(Question deferred)

Question No.988

COMPLETION OF SERGOIT WATER PROJECT

Mr. Speaker: Is Mr. Chepkitony present? The Question is dropped.

(Question dropped)

Question No.788

UNDERVALUING OF TREES
HARVESTED FROM BAHATI FOREST
BY COMPLY INDUSTRIES LTD

Mr. Speaker: Mr. Wamwere is not present? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

DEATH OF MR. JOHN MUIRURI WAITHIRA
IN SHAMATA POLICE CELL

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

(a) Is the Minister aware that Mr. John Muiruri Waithira from Warukira area died on 31st October, 2004, in the police cell at Shamata Police Post in Ndaragwa?

(b) Is he further aware that prior to his death, he was brutally beaten and manhandled by the police?

(c) Could the Minister confirm the result of the postmortem?

(d) Could the Minister inform the House what action he has taken against the two police officers who perpetrated the heinous act?

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, my Ministry was ready to answer this Question through the Assistant Minister, Prof. Kibwana, who has been sent away. I, therefore, beg the indulgence of the House that this Question be deferred until tomorrow.

Mr. Speaker: Dr. Machage, how many Assistant Ministers are there in the Office of the President?

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, there are very many.

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

Mr. Muchiri: Mr. Speaker, Sir, I have not received any written answer and I am doubtful whether they are ready with an answer anyway. However, if they will be ready tomorrow, I have no problem with that.

Mr. Speaker: I think I can only defer it until Thursday because tomorrow's Order Paper is already out. Will that be okay with you?

Mr. Muchiri: Mr. Speaker, Sir, that is okay with me.

(Question deferred)

TERMS OF CONTRACT FOR IMPORTATION
OF FAMINE RELIEF MAIZE

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

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?

Mr. Speaker: I am told that Mr. Billow has gone to collect the answer. I will wait for him. Next Question!

INFLECTION OF CORPORAL PUNISHMENT
ON MASTER KIZITO MUSIDIA

Mrs. Kihara: Mr. Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Considering that corporal punishment in schools was abolished by the Ministry, why was the same meted on a pupil, Master Kizito Musidia of Maua Primary School, Sulmac, on 23rd May,

2004?

(b) Could the Minister explain why no action was taken against the two teachers involved, that is, Ms. Nyokabi and Mr. Orao, in spite of inflicting grievous bodily harm that resulted in the pupil becoming dumb?

(c) Why did the police at both Naivasha and Kongoni police posts not take any action even after the matter was reported to them?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply. However, I would like to remind the House that last Tuesday I answered this Question. Unfortunately, the answer is pretty much the same one I gave. Although hon. Kihara gave me the police report, there was no OB reference number. We were supposed to use the number as a basis for further investigations.

Mr. Speaker, Sir, I have spoken to the teachers, the District Education Officer and his assistant. They all stand by the information we gave. The hon. Member is not satisfied because the case is in court. I think we should leave the matter to be addressed in court. The case begins on 20th December.

Mr. Speaker: Is the matter still in court? It is between who and who?

Dr. Mwiria: The parents themselves reported the matter to the police and have accused the teachers of caning the child.

Mr. Speaker: Has anybody been charged?

Dr. Mwiria: Nobody has been charged.

Mrs. Kihara: Mr. Speaker, Sir, like I said before, I am saddened, because this child is dumb now. I pity the Assistant Minister because those people that he is covering are the same people he is going to sue. I spoke to the Kongoni Officer Commanding Station (OCS) and he says that he has taken this matter to court. Now, I would like to ask the Assistant Minister this question: Is it the parents or the police who have taken the matter to court?

Dr. Mwiria: I am sorry, Mr. Speaker, Sir. It is the parents who have taken the matter to court, and there is a reference number; Court File No.4051/04.

Mr. Speaker: Well then, if it is pending in court, why do we not leave it there and let the courts decide one way or the other?

IMPLEMENTATION OF TANA DELTA SUGAR PROJECT

Mr. Wario: Mr. Speaker, Sir, I beg to ask the Assistant Minister for Environment and Natural Resources the following Question by Private Notice.

(a) Is the Minister aware that a Kshs2.4 billion sugar project in Tana Delta is about to commence?

(b) Is he further aware that Tana Delta received international recognition as one of the four priority sites identified in Kenya under the East African Marine Ecosystem?

(c) Is he also aware that the implementation of this project will contravene Sections 42 and 43 of the Environmental Management and Co-ordination Act of 1999?

(d) What action is the Minister taking to ensure that the implementation of the above project complies with the law?

The Assistant Minister for Environment and Natural Resources (Prof. Maathai): Mr. Speaker, Sir, I beg to reply.

(a) I have not been formally informed that a Kshs2.4 billion sugar project in Tana Delta is about to commence. (b) I am aware that Tana Delta received international recognition as one of

the four priority sites identified in Kenya under the East African Marine Ecosystem (EAME). I also wish to state that the Government is an active partner in the EAME.

(c) I am aware that the implementation of this project will contravene Sections 42 and 43 of the Environmental Management and Co-ordination Act of 1999. These sections provide for the conservation and protection of wetland resources and the protection of the traditional interests of communities around wetlands respectively. The provisions of these sections are yet to be addressed by the proponents of the project. The investors have also not applied to the National Environmental Management Authority (NEMA) for an Environmental Impact Assessment (EIA) licence as provided for by Section 58 of the Environment Management and Co-ordination Act (EMCA) of 1999 and the Second Schedule of the Act.

(d) I expect the proponents of the project to fully comply with the relevant sections of the EMCA before it is implemented. This will ensure that the implementation of the project complies with the law.

Mr. Wario: Mr. Speaker, Sir, I wish to thank the Assistant Minister for that answer. As she has put it clearly, and you have heard that; Section 58 providing for an EIA has not been followed, and that they are contravening Sections 42 and 43 of the EMCA. Now that this project is illegal, what can the Ministry of Environment and Natural Resources do to stop it from taking place in this area?

Prof. Maathai: As far as the Ministry is concerned, this project has not yet commenced.

Mr. Sasura: Mr. Speaker, Sir, I also want to thank this Assistant Minister for being very honest with the House, and I want to believe that she is not party to the answer given to her. About a month ago, the Minister for Regional Development Authorities was in Tana River District, and he asked the people of that area to support that project in the spirit of collective responsibility. There seems to be a contradiction here; could the Minister who was in charge of Environment and Natural Resources then declare that, what we are hearing outside in the face of the Government is null and void?

Prof. Maathai: My understanding is that before a project of this nature is implemented, it is very important to involve the local communities, educate them on what the project is, and listen to the concerns of the community. This is what is happening on the ground.

Mr. Speaker: Very well. Last question, Mr. Wario!

Mr. Weya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is your point of order?

Mr. Weya: Mr. Speaker, Sir, I think the information going round in the House is wrong, because we are encouraging investors to come and invest in this country, and it is a procedure---

Mr. Speaker: Order! Order, Mr. Weya! That is your opinion; it is not a point of order! Order! You must follow the law. You cannot impose your views on others. If you want to ask a question, wait until you catch the Speaker's eye, but do not hijack the inside lane through an illegal point of order.

Proceed, Mr. Wario!

Mr. Wario: Mr. Speaker, Sir, it is a requirement by the EMCA for such a big project to submit a project paper to the NEMA, which has not been done. I would like to ask the Assistant Minister the following question. What monitoring mechanism can she put in place, to make sure that, that project complies with Sections 42, 43 and 58 of the EMCA?

Prof. Maathai: Since it is our law that such a project cannot be implemented without an EIA, the Government and the Ministry do not expect anybody to go there and start implementing this project until the EIA report is presented to NEMA and is approved.

(Applause)

Mr. Speaker: Last Question now, Mr. Sambu!

GRAVELLING OF ROAD D288

Mr. Sambu: Mr. Speaker, Sir, I beg to ask the Assistant Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that the District Roads Engineer, Nandi North District, recently gravelled 20 meters of Road D288 at Kapng'ombe?

(b) Is he further aware that after gravelling the 20-metre stretch, the said engineer claimed Kshs200,000 from the Mosop Constituency District Roads Fund?

(c) Is the Minister aware that at this rate of payment, the gravelling of roads will cost Kshs10 million per kilometre?

(d) What action is the Minister going to take against this engineer.

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

(a) I am not aware that the District Roads Engineer, Nandi North District, recently gravelled 20 meters of Road D288 at Kapng'ombe.

(b) I have sent my officers to the district to verify claims by the hon. Member. I will submit the information to the House in a week's time, if the Speaker so agrees.

Mr. Speaker: All right, if that is what you are saying, I will defer the Question to Tuesday next week. Is that all right, Mr. Sambu?

Mr. Sambu: That is all right, Mr. Speaker, Sir. This engineer has misused quite a lot of funds, so, I would like to request that we should get not only the people from the Ministry to carry out the investigation, because I suspect there is collusion; I would also request that we also get people from either the Efficiency Monitoring Unit, or from the National Anti-Corruption Commission to go with the officers from the Ministry and see what is happening on the ground.

Mr. Speaker: Very well, you can organize that with the hon. Assistant Minister. I think everybody wants it to be done well.

Hon. Members, that is the end of Question Time. Sorry, I forgot, Mr. Billow's Question for the second time. I was waiting for you.

TERMS OF CONTRACT FOR IMPORTATION
OF FAMINE RELIEF MAIZE

Mr. Billow: Thank you, Mr. Speaker, Sir. My apologies for coming late.

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. Speaker, Sir, as I attempted to answer this Question last Thursday, the Speaker ruled that, in today's session, the hon. Member would have read the answer and all I expect from him are questions.

(Laughter)

Mr. Speaker: Did you answer the Question before the House? I was not in the House then.

An hon. Member: *Amesahau!*

Dr. Machage: Mr. Speaker, Sir, the Speaker thought that the answer was too long, so I tabled it. But if you so command, I will answer the Question.

Mr. Speaker: There was an order. Are you asking the Question?

Mr. Billow: Mr. Speaker, Sir, the answer given by the Assistant Minister is that the terms of payments I was concerned about are the letters of credit, which I found very intriguing; that the Government can facilitate credit finance for supply of goods by a contractor. This is something that, in my assessment, is not in accordance with Government procurement regulations.

(Loud consultations)

Mr. Speaker: Order, Members! Hon. Billow, it is Question Time; just ask the Assistant Minister a question.

Mr. Billow: So, why did the Government find it necessary to provide credit finance to a contractor in this particular circumstance? What was special about it?

Dr. Machage: Mr. Speaker, Sir, the Government did not offer credit finance. All the Government offered was a letter of credit. Those are two different things.

Mr. Sambu: Mr. Speaker, Sir, in the North Rift, we are now harvesting maize. The Government has imported white maize at a price of about Kshs2,000 per 90kg bag, although it is coming in 50kg bags. Yet, the National Cereals and Produce Board (NCPB) in the North Rift and parts of Western and Nyanza that are harvesting maize now, is only buying maize at Kshs1,400 per 90kg bag. Why is there a big difference over local maize and imported maize? Why do we pay higher for imported maize and oppress our own farmers?

Dr. Machage: Mr. Speaker, Sir, I am very happy to hear that there is enough maize in some regions of this country. Indeed, maize was being imported into this country as an emergency and, therefore, the law of demand and supply applied. However, I have noted the sentiments of the Member and we will look into it.

Mr. Bahari: Mr. Speaker, Sir, this is a very important Question, given that it is about a contract, and we know the Government has not been doing very well with contracts. Could the Assistant Minister, for the benefit of this House, table a copy of the contract so that we can study it and, perhaps, ask relevant questions, even if it is on a later date?

Dr. Machage: Mr. Speaker, Sir, I will do that.

Capt. Nakitare: Mr. Speaker, Sir, you heard the Assistant Minister saying he is very happy importing maize from outside the country using taxpayers' money. At the same time, he said he was very happy to pay local farmers very little money, notwithstanding the cost of input for production of a bag of maize. What is he doing towards improving local production of maize to boost the food security of our country in future?

Dr. Machage: Mr. Speaker, Sir, I said completely the inverse of what the Member has said. I will, in collaboration with my colleagues in the Ministry of Agriculture, work very hard to alleviate any problem that might push us to a situation of food deficiency in this country.

Mr. Billow: Mr. Speaker, Sir, other terms that were very favourable to the suppliers in this contract included a 30-days' delivery period, which has not been complied with, in addition to an upward adjustment of the prices subsequent to the opening of the bids. Could the Assistant Minister confirm that in spite of all the favours to this contractor, only 15,000 metric tonnes of maize have been delivered out of the total 200,000 tonnes which should have been delivered by 30th September?

Dr. Machage: Mr. Speaker, Sir, we, indeed, ordered for 180,000 and not 280,000 metric

tonnes, and 70,000 metric tonnes of the same have already been delivered. The 15,000 metric tonnes that the hon. Member is talking about is the first delivery that arrived in Mombasa and was given to the World Food Programme for distribution.

MINISTERIAL STATEMENT

STATUS OF ROAD C83 - OL JORO ROK-DUNDORI ROAD

The Minister for Roads and Public Works (Mr. Raila): Mr. Speaker, Sir, on the 24th November, 2004, hon. Eng. Muriuki, the Member for Ol Kalou, requested for a Ministerial Statement on the status of the contracted rehabilitation works on Road C83, Ol'Jororok-Dundori, in Ol Kalou Constituency.

Mr. Speaker, Sir, Messrs. Victory Construction Company were contracted to rehabilitate the road under the *El Nino* Emergency Project in the year 2002. The intention was to restore the road condition of the section to the standards that were obtaining prior to the *El Nino* rains of 1997. The consultant supervising the works was Messrs. BCOM/F Consult Joint Venture. The works entailed the following:-

1. The constructing to bitumen standards a section of the road, 8 kilometres from Dundori towards Ol'Jororok. This involved construction of a road base, double surface dressing wearing course, drainage works and furniture.

2. Patching and applying a single sealed surface dressing, 4 kilometres, after the above mentioned reconstructed section.

3. Re-gravelling the remaining 18 kilometres to Ol'Jororok and doing all the necessary drainage works, including the construction of a single span bridge.

4. Gravelling of a 14-kilometre stretch from Dundori to Lanet.

In total, 44 kilometres of Lanet-Dundori-Ol'Jororok Road, C69, C83, was rehabilitated under the contract. All the above mentioned works were carried out at a revised contract sum of Kshs19,409,378.03, and substantially completed on 16th April, 2003. The final inspection at the end of the defects liability period was carried out on the 15th April, 2004. The defects liability certificate was issued on the 27th August, 2004. The amount paid to date to the contractor is Kshs91,275,644.04, being the exact value of works executed. The road was handed over to the Government on 15th April, 2004.

Finally, I am satisfied that the contract was completed satisfactorily within the original scope of works, and the additional works that were included in the addendum to the original contract. Blacklisting the contractor and consultant will, therefore, be unjustified.

Mr. Speaker: Is there any hon. Member wishing to seek clarification?

Mr. Muchiri: Mr. Speaker, Sir, I thank the Minister for that Ministerial Statement. However, the problem we have with Road C83 is that there are sections of it that are impassable. How can Kshs91 million be utilised to repair all the sections that are not passable? That is the problem being experienced in Nyandarua District. I speak on behalf of the hon. Member from that area.

Eng. Muriuki: Mr. Speaker, Sir, I apologise for having been out of the Chamber when the Ministerial Statement was being read. However, the main problem we have on that road is that even before the contractor left the site, that road was still impassable. If, in fact, the contractor followed the specifications, were they for a road which is not passable? Is the Minister satisfied that, that contractor should have left the site before the work was completed?

The Minister for Roads and Public Works (Mr. Raila): Mr. Speaker, Sir, the *El Nino* funded projects were originally under the Office of the President. They were subsequently handed to our Ministry sometime this year. However, the hon. Member must appreciate that, irrespective of the amount of money that was used, the road may deteriorate depending on the standards and specifications that were used at that time. However, I appreciate and understand the sentiments being expressed by the hon. Member of Parliament for Ol Kalou Constituency; that sections of this road are impassable. We are trying to treat the ills of the past and we should, therefore, not be held responsible for the mistakes that were done before we took over the Government.

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

Mr. Speaker: Order! Hon. Members, it is not Question Time! I have to end this matter here!

POINT OF ORDER

CANCELLATION OF ECONET WIRELESS LICENCE

Mr. K. Kilonzo: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Information and Communications regarding the cancellation of the licence of the third mobile phone provider. I would like to know whether the right procedures were, in the first place, followed to award the licence to Econet Wireless. If so, what motivated the cancellation of this licence? By so doing, will this not scare away potential investors? The Minister should also tell us how much the Government will pay in terms of damages and whether there were no other forces that influenced the cancellation of the licence.

Mr. Speaker: Is the Minister here to respond?

The Assistant Minister for Information and Communications (Mr. Were): Mr. Speaker, Sir, we will issue a Ministerial Statement on Tuesday, next week.

Mr. Speaker: Very well!
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. Speaker: Mr. G.G. Kariuki you were still on the Floor when this debate was interrupted.

Proceed and complete your contribution!

Mr. G.G. Kariuki: Mr. Speaker, Sir, on Thursday, when this debate was interrupted, I was explaining the purpose of this Bill. I had one and a half hours to talk about it. I also noticed that many hon. Members were ready to contribute to this Bill. However, as a result of Thursday's debate, I found that this Bill has attracted a number of interests and generated a lot of criticisms; some genuine, others not.

Mr. Speaker, Sir, the main purpose of this Bill is compensation. It seeks for compensation for injuries or deaths caused by wildlife. It also calls for compensation for property destroyed by animals. I still believe that this House will see to it that our people are fairly compensated when they lose their lives to wild animals. The Bill also seeks to an amount of Kshs10 million as compensation to a person who loses his or her life to wildlife. This will be a deterrent amount so that the Ministry and other people who are interested in wildlife can come forward and be responsible for the destruction caused by animals.

Mr. Speaker, Sir, I took a lot of time on Thursday moving this Bill, therefore, with those few remarks, I beg to move and ask Mr. Rotino to second the Bill.

Mr. Speaker: Mr. Rotino, are you ready?

Mr. Rotino: Yes, Mr. Speaker, Sir!

Mr. Speaker: Very well!

Proceed!

Mr. Rotino: Thank you, Mr. Speaker, Sir, for giving me this opportunity to second this Bill. This Bill is long over due. I would like to congratulate Mr. G.G. Kariuki for bringing this Bill to the House.

Mr. Speaker, Sir, there are issues in this Bill that we are trying to amend, which, in my opinion, were not really catering for areas where wild animals are found. For example, in my constituency, there is Nasolot Game Reserve, which is situated in both Turkana and West Pokot districts. Many people have lost their lives as a result of attacks by wildlife. As pastoralists, we live around game reserves and national parks. Therefore, there is a lot of conflict between our people and wildlife. When our people lose their lives, or are injured, the compensation they get is something that is not even worth talking about.

Mr. Speaker, Sir, it is unfortunate that, in this country, we value wildlife more than human life. As much as we say that tourism brings in a lot of foreign exchange to this country, we have to value our people. There are many people in my constituency whose livestock has come into conflict with wildlife. As a result, our people lose their animals. However, they are not even compensation because they do not have their representatives in the District Compensation Committees (DCCs). It is a pity that, in such committees, local communities are not represented. This means that their problems are not really taken care of. We only see the District Game Warden (DGW), who takes care of the district wildlife office and the DO of that particular area, are members of the DCC. It is only fair that representatives of the local communities are incorporated in this committee so that their problems are taken care of and their views are heard. Even the Kshs30,000 we are talking about does not reach the beneficiaries. For example, five people were killed by wildlife in my constituency, but none of them has ever been compensated. I have put a Question in this House with regard to this, but nothing has been done. Many of them were injured, but they have never been compensated. Even the procedure of compensation is not known to many local people. I believe the Ministry of Tourism and Wildlife should conduct civic education throughout the country so that people living around game reserves and national parks know the procedures to follow if they have problems with wildlife.

On Monday, we had a constituency leaders meeting which was attended by the District Game Warden. Unfortunately, he was not able to convince leaders in that area on what he was

doing. There is no good relationship between game wardens and the community that neighbours the game reserve. We understand that there are people who poach wildlife, take it to other countries like Somalia and Sudan, then export it to other markets from there.

Mr. Speaker, Sir, I was in the United States of America (USA) and met people who sell wildlife products from this country. There are people who poach wild animals even in my own constituency. They take wildlife products to Sudan and Somalia and then to other countries. We have no restrictions and game wardens are not careful on how they operate at the game reserves. Game wardens should be trained on how to take care of our wildlife.

We have been saying that selling of game meat is restricted only to some places. However, we find it at various places. What laws are supposed to govern this? We should be strict when it comes to our wildlife. We should also take care of the communities which live around game reserves. We should build boreholes and dams for people who live around game reserves.

Mr. Speaker, Sir, I want to talk about employment. Recently, there was a debate in this House about the rampant corruption in the Ministry of Tourism and Wildlife. In my constituency, we have a game reserve and yet the people who are employed as wardens are not from my community. People from other regions are brought to my constituency and employed to work at the game reserve. This is not right. As representatives of our constituencies, we are asked many questions by our constituents. My constituents ask me why we have people from other regions working in a game reserve which is in their constituency, while we have many qualified people who can do the same work. The Ministry should address this issue.

I want to thank the hon. Member who brought this Bill.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Planning and National Development (Mr. Lesrima): Thank you, Mr. Speaker, Sir. I wish to support this Bill on wildlife. This Bill is important. If we do not do something, we will not preserve our wildlife. There is a misunderstanding in this country; that wild animals are a nuisance. Some people would wish that the wild animals did not exist. There are a number of Questions which have been asked in this House, which remain unanswered. There is a problem of land use policy. We are aware that land use policy will not come into place until the end of next year. Therefore, we need to do something about wildlife because Kenyans are now aware that there are alternative uses of land. They are also aware that 70 per cent of the wildlife occupies community land. Kenyans are not willing to continue taking care of wild animals which they do not benefit from. The only way to save wildlife is by allowing communities to participate in managing game reserves, which can be of benefit to them. When I talk of benefitting from wildlife, I mean either directly or through cropping.

In many parts of the world, such as South Africa and Europe, wildlife is a source of very good food. Many communities in this country also believe that wildlife is a source of very good food. However, at the moment, we do not have a proper policy in place to crop wild animals and inspect game meat. Cropping and hunting are banned under a legal notice of 1977. Therefore, people end up engaging in bush meat trade. This is not good for our people. The best thing for us to do is to legalise cropping, bring it under the control of health inspectors and give communities quotas for cropping certain game, so that there is some kind of accountability.

Hunting was banned in the late 1970s because of a bad situation in the country. However, the situation has now changed. We are now living in a different era, and it is possible to have good governance and control sport-hunting. This would minimise corruption and misuse of wildlife. It is

important to recognise that unless people who are affected by wildlife are allowed to benefit from tourism and eating game meat, it is very clear that wildlife in this country will disappear. Kenyans prefer other kinds of land use other than land use that makes them have wildlife around them. Unless our wildlife has value to our people, Kenyans will not preserve it.

We have heard of wild pigs bothering people in Budalangi yet, we know they are a source of good food for certain communities. We have heard of nuisance that is brought about by monkeys in certain areas like Kakamega and Kijabe. We know that monkeys are a source of very good food for certain people in some parts of the world. Monkeys can also be exported for research purposes. Unless something is done about our wildlife, *wananchi* will get tired and start killing it. Indeed, Section 31 of the current Act provides for killing of wildlife as a way of self-defence if a person is attacked by a wild animal, or if it interferes with one's property.

Mr. Speaker, Sir, the other important aspect is the role of KWS in managing wildlife in Kenya. KWS has been an organisation which has changed its chief executives almost every two years. This is because KWS is not autonomous. It is controlled by the Government. The chief executive is appointed by the President. The board chairman is appointed by the President. The Minister, of course, is appointed by the President. When we have three people appointed by the President, there is a problem in terms of working relationship. Time has come for us to have KWS represented by communities where wildlife exists and these communities can pick their directors through the various wildlife forums.

KWS has assisted in the formation of wildlife forums and there are about 14 wildlife forums in Kenya. In fact, 14 wildlife forums could elect a number of directors to sit on the Board of KWS. I know there are people who feel that the KWS Board should be run by an elitist group of land owners or foreigners. However, if that mentality persists, then we are in for problems because our people are not satisfied with the arrangement whereby it is the elitist and wealthy foreigners who benefit from the resources of wildlife and yet it is our people who are killed and injured by wildlife.

Mr. Speaker, Sir, there is a notion that wildlife can only survive if it is under the control of foreigners. KWS should remain autonomous both in management and also financially because there are resources. If we lifted the ban on hunting and sale of ivory--- We have 38 tonnes of ivory. I do not know when the next burning ceremony is going to take place. Kenya does not have a very good reputation in the region. When you go to certain parts of Africa, Kenya is known to be a country at the forefront of Cities in fighting against the utilisation of wildlife and wildlife resources. In countries like Botswana and Zimbabwe, the equivalent of KWS are autonomous both in management and they are able to be independent financially because they utilise wildlife resources to run those organisations. So, it is about time that wildlife resources were used to support KWS.

Mr. Speaker, Sir, the question of compensation is a very complicated one because you cannot put value for life. However, Kshs30,000 as compensation for the life of a human being is equivalent to 30 pieces of silver. It is a betrayal of our people that we pay Kshs30,000 as compensation for human life and yet we believe that those who benefit from wildlife, either as land owners, group ranches or communities, should be able to pay some kind of conservation fee which I am sure the figures can be worked out. We lose a lot of Kenyans annually. Between 1990 and 2000, we have lost 887 Kenyans. In fact, 887 Kenyans have been killed by wildlife and 250 of them have been killed by predators like lions and hyenas; 221 of them have been killed by elephants and the other 144 have probably been killed by crocodiles although we also eat crocodiles. It is time that we reviewed the compensation formula so that people are properly compensated when live is lost or when property is destroyed.

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

Mr. M. Kilonzo: Mr. Speaker, Sir, thank you for giving me this opportunity to support this

very timely Wildlife (Conservation and Management) (Amendment) Bill.

Mr. Speaker, Sir, my contribution is very brief because I would like, first of all, to start by thanking the hon. Member for bringing this very timely Wildlife (Conservation and Management) (Amendment) Bill. One of the reasons for supporting this Bill is the fact that even as we talk about reform in law and management of human and public affairs, we also have an obligation to consider one of the most beautiful natural resources that God has conferred on this country. The Kenyan wildlife is, in itself, a spectacle that I doubt can be duplicated anywhere else. As you very well know, Nairobi City, for example, is the only city anywhere in the world where the boundaries of the city enclose a national park and it is, therefore, timely for the hon. Member to bring this amendment so that we can, at least, modernise the law.

Mr. Speaker, Sir, one of the other reasons I would like to advance is that you have noticed that we are suffering a lot of insecurity in this country and yet you know that speaking to some of the most distinguished politicians in this country like, hon. ole Ntimama, that wildlife does not kill in anger. Wildlife does not kill because it has envy against a fellow animal. Wildlife does not demolish anything because it merely wants to do it in the way our criminals are doing it. If you notice, only last week, we lost a church priest. Another one was attacked in Naivasha and yet wildlife only kills when it wants to have food. It is true some of them damage growing crops but that damage can be related to the food chain as understood in natural affairs.

Mr. Speaker, Sir, the other thing I would like to mention is that for our future generations of this country, there will come a time that you will find that if they want to see wildlife they will have to go to zoos. In Europe and other countries, if you want to see a lion you have to go to a zoo. If you want to see exotic birds you have to go to a zoo and yet in this country, if you go to some of our beautiful lakes like Lake Baringo, you will find some of the most beautiful birds feeding on fish and so on. Therefore, the desire to modernise the law pertaining to the management of wildlife is very urgent at this particular time.

Mr. Speaker, Sir, allow me to mention the issue of desertification. It has now been proved that a large part of our country is becoming a desert almost on a regular basis. It has been proven, through research, that, in fact, areas which are inhabited by wildlife exclusively do not undergo the same desertification problems at the speed that it occurs in other areas occupied by human beings because, as you know, wildlife does not burn charcoal. Wildlife does not use firewood and inevitably it will also not undermine the ground water that is so important in desertification.

Mr. Speaker, Sir, what is the other thing that I would like to mention? I would like you to allow me to say this: In other countries, the fact of the matter is that game meat has been commercialised. In fact, I would like to say that unknown to many people, ostriches, for example, are only second to gold when it comes to the natural resources of a country like South Africa. However, if you look at our current law right now, you will find that our ostriches are still treated as wildlife, meaning that you cannot, in fact, market ostrich meat in Europe and other countries which will only accept wildlife as long as it has been domesticated. I would urge this honourable House to take notice of the fact that our climate is extremely permitting such that we can make an enormous amount of money out of ostriches and other wildlife. In fact, as I say this, most people think that the modernisation that I am mentioning purely about commercialising the Kenya Wildlife Service (KWS) and our natural resources. The fact is that if we were to modernise our laws and permit our farmers to actually carry out ostrich farming, the amount of money that would come into this country would be amazing.

Mr. Speaker, Sir, I would like to inform this House that not a single piece of the ostrich, as a bird, is wasted. The feathers are used as dusters, the legs are turned into all sorts of beautiful decorative items and the skin forms some of the most expensive ladies' and gents' shoes as well as

belts. Therefore, the hon. Member needs to be congratulated for thinking of this very dramatic and timely measure of modernising this sort of thing. However, I will urge him to go a little further after we pass this Bill - I hope hon. Members will agree to pass it. We should go ahead and ask the Government, and the Ministry in particular, to start, at the very least, by changing ostriches from wildlife to domesticated animals, subject to proper licensing. The dramatic change that he will see in our wildlife will be great.

May I mention that it has been established that game meat, although it tastes like beef, does not have the cholesterol that we get from other ordinary beef and mutton. Therefore, it does not lead to the health problems that are so much dramatised mainly in the USA, Europe and increasingly in Africa, where you find obesity which creates enormous problems and stress in the health services of any country. Therefore, if the Government was to accept that we need to domesticate game meat subject to good management methods, we would export not only game meat on commercial terms, but we would also put it in the local market. I have seen the media sometimes saying that some of the meat in our butcheries is game meat. The suggestion is that game meat is bad for your health. Time has come for our media to stop misinforming the country. As a matter of fact, you are better off eating the steak of an ostrich than the steak of a well-fed calf, because the calf steak will give you cholesterol that may lead to health and heart problems, whereas game meat does not cause you to suffer those problems. I am neither encouraging nor suggesting that wildlife should be slaughtered at random or without proper management. I am also not saying that crooks should be allowed to go and kill wildlife and pretend that it is game meat.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

I am saying that time has come for us to introduce proper laws and regulations that would ensure that butchers can, in fact, not label it as "insect meat", as one Minister said. The law should allow them to say: "This is good for you. It is ostrich meat".

Mr. Deputy Speaker, Sir, what is the other thing that I would like tell this House this afternoon? It is the issue of compensation. The fact is, and it cannot be dismissed lightly, that a lot of human population suffers injuries arising from wildlife, and a lot of crops are wasted and I salute the hon. Member for thinking of compensation. It is true that the figure of Kshs10 million proposed in the Bill may be frightening to some people, particularly the Minister for Finance, because I can see how much he worries about financial implications. However, I would like to urge him to remember, and I say this with absolute humility, that 70 per cent of Kenyan wildlife is in private ranches. In fact, the element of compensation would be restricted to the 30 per cent of damage that only occurs in public game parks, and subject to negotiations with the hon. Member, I have no doubt that we will come to a reasonable arrangement.

Allow me now to talk about the issue of wildlife on land. It is important for hon. Members to draw a distinction between the management of wildlife that is in game parks and public property. There is also the problem of wildlife that is on the land of private owners. It is true that if you go to countries like South Africa and others, you will find enormous amounts of money changing hands through auctions of wildlife. If you gave me some money and you had land to put in a lion, I could very easily through e-mail communicate with a colleague in South Africa who will go to an auction and buy a lion for you. As a country and a region, we have forgotten that wildlife is a gift from God and we have to find a method of utilising it. I am not in favour of sale, outright or unconsidered liberalisation of the system by privatising the KWS. However, I am saying that with proper

planning, we can make this beautiful gift from God something that is attractive and useful to the Kenyan people, even as we preserve it.

The final issue that I would like to talk about is liberalisation and the request to farmers to consider it. It is time when farmers who have land on which wildlife lives, considered setting up trusts, so that, that land would not be subdivided at any time. Instead, it should be left in trust; that would permit the existence of wildlife, for generations to come, while preserving the land rights of the particular land owners. This is an extremely complicated concept, but there are a lot of people in this country who are thinking about it. When it is ripe, I hope this House will join me in recommending a method by which farmers can benefit from wildlife, while at the same time preserving their rights of land ownership. That is what I mean by reform of law, infrastructure and all that we have always been thinking about concerning our wildlife.

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

The Assistant Minister for Energy (Mr. Kiunjuri): Thank you, Mr. Deputy Speaker, Sir. It is in the record of this House that we tried to amend the parent law and I would like to congratulate my colleague, Mr. G.G. Kariuki, for having succeeded in doing so. This Bill will, for the first time, enable us to answer a few questions. For example, who owns wildlife in this country? Who really benefits from it? Who is abusing it? Who is suffering as a consequence of other people owning wildlife?

For the first time, we will be able to carry out a census of all the animals that we have and, as we do that, we shall introduce controls on those people who will misuse this new law by continuing to induce animals to their own large-scale farms. It is on record that all Government-owned game parks and game reserves do not have animals now, because ranchers own all of them. They have induced all the animals to their own land by providing dams and putting salt in them, thus creating a conducive atmosphere for those animals.

Since this Bill already addresses the issue of census, we will know how many animals will be allocated to those farmers. We must, therefore, amend the law to provide the measures to be taken against those who induce animals to their land. It will also help us to know at what level we need to allow inducement of those animals. This will ensure that other areas will continue benefiting, and the Government will be a good competitor in the field of conservation. With that, we shall, for the first time, answer the question of what to do with owners of big ranches and those who are already inducing animals. They have provided good conditions that attract wild animals and birds to their ranches. A lot of birds, snakes and monkeys are attracted to these ranches. Even if they fence those ranches, reptiles like snakes will not be contained by those fences. What will happen if such wildlife harms members of the communities living around those ranches? For the first time, we will be able to address that question. Since I come from an area where people have really suffered from the wildlife menace, I will be very proud to move amendments to protect my constituents.

Mr. Deputy Speaker, Sir, the question of profitability and how the Government will benefit will also be addressed. For the first time, we will ask ourselves: Where did the wild animals in the ranches come from? It is true that you own the land. We have carried out a wildlife census and discovered that you have 1,000 animals on your land. We have the migratory corridors, where wildlife is allowed to roam all over. However, you have lured them to your ranch, so that you can have many of them on it. How will the Government and the local communities benefit? So, for the first time, we will address the question of how proceeds from wildlife in privately-owned land will be shared amongst the owners of that land, the Government and the community living around those ranches.

We cannot draw a line between public land and privately-owned land when we talk about wild animals because, at any given time, wild animals will be in either public land or privately-

owned land. This point must be included in this Bill in black and white. We should be categorical. Ranching should be considered to be similar to keeping of beef cattle or large-scale wheat growing. Ranching should be clearly defined, so that any person keeping wildlife in his ranch can know that he must share the profits arising from wildlife activities with the Government and the local authorities. We must be specific, so that for the first time, the Government stops the misuse of local communities by individuals.

Mr. Deputy Speaker, Sir, wildlife scouting should now be done very openly. I am happy that we are now addressing the issue. We have the community game scouts. However, we must be clear that they will not only be scouting on wildlife outside protected areas. There should be a clear understanding of the term "protected areas" and those areas which are not protected. We should allow game scouts to get into any land, including privately-owned land. When we talk of privately-owned land, we only refer to people with big chunks of land. That is the only time we identify private ownership of land. The Government does not consider a person who owns one acre of land, like myself, to be a private owner, and it allows wildlife and people to abuse that land. So, "privately-owned land" should be any land that is not owned by the Government. "Protected areas" will be forests that are gazetted.

Game scouts should be allowed to get into privately-owned farms and find out what goes on in it. We know what has been going on in private ranches. The owners of those ranches have been exploiting the Government. They exploited the KANU Government. They now want to exploit the NARC Government. Tourism is still going on in those ranches, but their owners are not remitting any taxes to the Government. So, for the first time, we will follow up and know how much money those ranches earn from wildlife-related tourism. We will only counter sport-hunting through the use of game scouts.

Mr. Deputy Speaker, Sir, we are aware that there are people who want to sneak amendments into this Bill to re-introduce sport-hunting. We may not be opposed to that idea but everything must, for the first time, be monitored. We should specify when we talk of wild animal ownership, animal cropping and hunting. I have seen the words "sport-hunting" in this Bill. We should be very specific. If game hunting is what is intended to be provided for in this Bill, let us not call it sport-hunting. Let that be specified. Otherwise, such a provision will be abused.

We should also address the issue of fines for wildlife poaching. The current fine regime provided for in law is very lenient. For the first time, we must make a law which will be respected. We should not expect anybody to respect a law which provides that if he kills an elephant, he will be fined Kshs10,000, when the value of an elephant is Kshs200,000. One will be ready to kill an elephant, pay the Kshs10,000 fine and pocket Kshs190,000. So, we must be very strict with penalties. We must provide for appropriate penalties to deter people from abusing our wildlife resources. Leniency must end.

Mr. Deputy Speaker, Sir, the issue of compensation is also very important. While trying to amend the parent Act, our main focus was on compensation. That is why we are talking of this aspect. Lawyers will tell you of the rule in Rylands-versus-Fletcher, which is about taking responsibility for any harm flowing out of your land. This principle must be taken into consideration. If a snake that you enticed to stay in your ranch sneaks out and causes harm to an individual, you must take responsibility. If a monkey wanders out of your ranch and destroys crops in the neighbourhood, you must take responsibility. People will only co-exist peacefully with wildlife if laws are applied accordingly.

The Kshs10 million compensation proposed in this Bill for death occasioned by wildlife is very good. The amounts provided for, for loss of an eye or a limb are also good. However, with respect to grievous bodily harm, we must be specific. In any case, if you are attacked by an

elephant, if you do not die, you will be disabled or suffer grievous bodily harm. So, we will address this aspect through an appropriate amendment to the Bill. We must be clear about when one suffers grievous bodily harm, disability or minor injuries, and how to mitigate each situation. We will be very specific as I support this Bill. We will scrutinise it clause by clause to ensure that the law we are making will not be abused, but properly applied.

With those few remarks, I beg to support.

Mr. Poghiso: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill.

It would have been much better if this Bill was brought to the House by the Government, because we would know its position on it. As of now, we do not know what the Government wants. Amendments like the ones in this Bill affect the lives of the people.

Mr. Deputy Speaker, Sir, I will only say a few things about this Bill, starting with conservation. The conservation culture of this country rests mostly with people who have not been consulted on this issue, namely, the pastoralists. The only people with a track record of conserving wildlife, naturally, are the people who live with it. Those are the pastoralists. It is, therefore, unrealistic for us to purport to understand certain things which affect pastoral communities. I would have been happier if the Mover of this Bill, and all those people who purport to support it, invested heavily in the economy of the pastoralists, because those are the people who will protect the wildlife for them.

I will begin by raising issues that affect the home ground; where wildlife lives. The rest of the issues we are going to talk about are about compensation, sport-hunting, protected lands and unprotected lands. All those things will not matter, because we do not have a conservation culture in this country. Most of the people who are going to support or oppose this Bill do not protect even a small hare or rabbit in their own areas; they kill it. So, I believe that we do not have a conservation culture. We need to, first of all, train ourselves before we pass all these amendments. As a country, we should train ourselves to conserve wildlife, so that when I see an elephant coming my way, I know that it is not for killing. When I know that any wildlife coming my way is not for hunting, then I will understand what to do as a Kenyan.

Unless this Bill is heavily amended, I am ready to oppose it. I would rather we maintain the status quo until we are knowledgeable enough about wildlife conservation. All the meetings that have been held to try and understand this Bill have been held by us, the elite class of the country. We have held meetings in Mombasa and everywhere else, but we are not the people who are conserving this wildlife.

Mr. Deputy Speaker, Sir, the other problem I have is in defining the so-called protected and unprotected wildlife areas. The protected areas are the ones that we call national parks and game reserves. The other ones that are being included are just ranches, private lands and so forth. The danger of handling this Bill, the way we are handling it now, is that all our laws pertaining to wildlife management are intertwined with the land laws of this country. Until we correct our land laws in this country, we are going to run into a lot of problems. I could become a rancher tomorrow excise land, and take all the wildlife in it. We are living in times when land can just vanish in this country. In fact, a whole game reserve can vanish and belong to one person. Our land laws are so weak that anyone can play with them and all of a sudden he or she owns the Trans Mara National Park or even the one at Nasolot in West Pokot. Other than that, we have allowed people to come from outside and buy land in this country so freely. So, anyone can come and buy a whole division because he has the money. Until we look critically at our land laws, we may run into problems if we enact the amendments that we are trying to make right now.

Mr. Deputy Speaker, Sir, it is a good Bill, it has been done well, but the devil is in the deep

sea. It is the deep sea that must be looked at, and nobody has looked at those details so much. That is why, if I am not wrong, you will realise that there are so many calls for amendments. That tells you that people are wary of the details of this Bill. We must be very critical because, eventually, the people who are going to be left to deal with this Bill are the nomadic pastoralist people of this country who do not understand what we are talking about here. We have not taken this fight to their turf.

Mr. Deputy Speaker, Sir, when we amend this Bill, we should bear in mind that you and I will have a chance to go and watch wildlife in restricted areas. We can go to the zoos or fly to other countries and watch them. If we do not handle this wildlife well now, it is going to be a problem for the people who care about this wildlife. I am only talking about that because I come from West Pokot, and I know that in areas where the laws have been lax, the animals have vanished from this country.

Mr. Deputy Speaker, Sir, one hon. Member said that we must now begin to convert ostriches from the wild to domestication, whereas domesticated animals are also facing problems because of the problem of land ownership in this country. If we domesticate bigger animals we are going to have more problems. In fact, small ones like goats have hardly had enough places to travel or walk. So, we should be very careful how we handle these things. I know the private land owners have an interest in this thing. I know that sporthunting people have an interest in this thing, but let us be careful and protect our country. Who are these sport-hunters? I dare ask. I do not know them. First of all, in order to be allowed to sport-hunt in this country, even just to acquire the hunting weaponry, it will not be the ordinary people who are going to do it. Can somebody from, for example, Kacheliba Constituency wake up one morning and say that he wants a hunting licence? Will he be given? He may have to declare everything that he has in order to be given a licence. So all these questions are there. They are good intentions, but are we ready? This is a country which is just beginning to put free education in place. Are we ready really to handle these big things that are coming our way? I am asking more questions than I am given answers.

Mr. Deputy Speaker, Sir, I would like to focus on the idea of the proposal to re-introduce sporthunting. This was banned in 1977. Kenya as a Government banned this vide the Legal Notice No.120 of 1977. Now we want, in a way, through this Bill, to re-introduce it. What was wise at that time? Then the Government tried a pilot project in a little way to try and re-introduce it, but failed. Now we want to re-introduce it, but I think we should go slow. What I think we should have done, and I think we should still do, is to wait for some of the things that we want to amend. We should wait on some of things we want to change and do very little in amending this Bill until we have brought on board the people who are not with us right now; who matter in the conservation.

I am not even an interested party; I am not a hunter and neither do I run a ranch. I think by just looking at how KWS is operating, I am tempted to think that this is not an easy thing to manage.

The KWS has been heavily funded and yet they are failing. It is failing because it is the same things that Kenyans are good at doing; they are good at tribalising things, including the KWS itself. It is good at making it reflect on who is leading the organization. In fact, sometimes I am amazed. When we look at the recruitment of the people who are going to take care of wildlife, naturally people who know how to take care of wildlife come from specific areas. Recruit those people to take care of your wildlife because, naturally, they will protect the wildlife. In fact, sometimes, I wonder even when we recruit people to the armed forces, the police and so forth, we know the people who can fight for us and where we should be recruiting them from, yet we are not going there. We are not recruiting the people who we know will protect us. So, that is why we cannot get the right people to do things for us because somebody wants, for example, his whole village to be in the Kenya Army, the Kenya Police and in KWS, and you know they are not going to do anything.

Mr. Deputy Speaker, Sir, even if we amend as much as we want in order to reflect the good things that we believe in, we do not have the capacity and the culture of conservation. We do not even have the ability to do the international trade that we are purporting to do using this Bill. I know that it looks good and easy, but I think we do not have it. I am sorry to pour cold water on this, but I have to say that we should be very careful with this Bill. I am going to see how many amendments come and how they are going to change the Bill. I am only raising the main issues.

Mr. Deputy Speaker, Sir, finally, let me talk about compensation. This Bill purports to introduce good compensation. I wish it were true and possible. I support that. We have been talking about Government paying just Kshs30,000 as compensation for death of a person and they have not been able to do it. This is a Government that we know. We know our Government well, and how we manage resources in this country. So, we can actually support it and it goes through; Kshs10 million as compensation. Anybody you ask to pay Kshs10 million for one person will ask you - that is why the caveats are coming in - to go and take life insurance. Now, the people who get killed everyday do not know where to begin with insurance. All that the people want is to take care of their homes and livestock. So, there is big business there for insurance companies. But who is going to do that? You are telling me that we are going to have more money for people who are injured or who have died. But then, you have made it very difficult for those people to get that money. I do not understand how we are going to succeed in that. It is a good amendment; from Kshs30,000 to Kshs10 million! I think we can make things more simpler than that. I am sure we have our dreams, but this one is a bit on the higher side.

Mr. Deputy Speaker, Sir, I would like to conclude by saying that this is a good move. But it has not been brought at a good time. We are not ready for it. I know the people that I represent do not understand it. Until such a time that the people will understand and sign away their rights, they are not ready now.

With those few remarks, I beg to oppose.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Deputy Speaker, Sir, thank you very much for this chance. I would also like to make my observations on this Bill. I know that there are a number of shortcomings in it, but with the goodwill of hon. Members, we can introduce the necessary amendments.

Mr. Deputy Speaker, Sir, my first problem with this Bill is that this is the third piece of legislation on the Kenya Wildlife Service (KWS). There is the Principal Act, a major amendment of 1989 and this major amendment which is before the House. I think for purposes of harmonisation and neatness, it is important that we have one consolidated Act, rather than having three separate pieces of legislation on the same subject matter. That should have been addressed. If you read the Principal Act and the 1989 amendment, you will find that there are some very essential details which are, perhaps, being amended here and which, most hon. Members might lose sight of.

Mr. Deputy Speaker, Sir, the issue of wildlife is part of the human life. I want to look at the Bible as the reference point. The animals and plants - flora and fauna - came a while before man. Man was the last exercise that God carried out. Therefore, he wanted to create a proper environment where man can be happy and enjoy life. We have to preserve and conserve wildlife and flora and fauna, as part of ensuring that during our stay in this world, we are able to enjoy. We have to preserve the environment for posterity.

Mr. Deputy Speaker, Sir, I would like to point out a few things that should be addressed. I would like to thank the last speaker for making an observation on this. I think it is long overdue that this country should have a land policy and, more so, a land use policy. We are talking about creation of parks and game reserves in areas that have not been alienated or demarcated. It is important that in order to manage wildlife, we need to, first, manage land as a resource. I think that is something

that we have not had courage to do. I saw that the Minister for Lands and Housing has invited people to put in their submissions. But I think that, that requires a greater debate. It is important that, as we discuss this Bill, we also bear in mind that we do not have a land policy and a land use policy.

Mr. ole Ntimama is particularly concerned that his people require to expand space to move into Laikipia, where there are a number of private game parks and game reserves. We must admit that there is a very heavy component of private sector interest in this particular amendment. There might be fears that the Maasai might never recover their traditional land with this particular Bill. I think those fears should be allayed by boldly addressing the question of land and land use.

Mr. Deputy Speaker, Sir, I have seen that a number of challenges we are facing today have not been addressed. I come from a constituency that has a National Park; Lake Nakuru National Park, which is very unique. Apart from Nairobi and Nakuru, there are no other towns or cities in the world with a national park or game reserve within its boundaries. Nakuru Game Park is unique because it is a bird sanctuary. Apart from birds, we have all types of animals there. The local residents have never enjoyed even a single cent from the revenue that is realised from that national park. One of the things that the amendment should have addressed is the differentiation between a national park and a game reserve. What is in a national park other than animals and birds? What is in a game reserve other than animals and birds? But the difference becomes so great that in areas where there are game reserves, the KWS enters into negotiations with the local authorities to have 40 per cent of the revenues remitted to the local authorities. In areas where we have national parks, we do not enjoy any benefits at all. One of the amendments that I propose to bring here is to do away with that difference.

The management of wildlife should be a partnership between the KWS and the local community, regardless of whether it is a national park or a game reserve. That is because without the goodwill of the people of Nakuru, Nakuru National Park would not exist. Every year, we suffer because animals jump over the fence, destroy crops and even threaten human life! Yet, what do we get at the end of the day? Nothing! The Nakuru National Park, by a legal notice that was gazetted in 1996, is required to pay landrates. It has not paid any land rates and it is in arrears of Kshs540 million to the local authority. It is much easier for KWS to enter into a partnership with Nakuru Municipal Council and give it 40 per cent as part of the gate collection. We would be quite comfortable and co-operate with the management of the national park.

Mr. Deputy Speaker, Sir, let me also point out that I have been involved in a long litigation with Lake Bogoria Game Reserve, on behalf of the Endorois community. They have fought for their rights for a long time. They have not been able to realise then until now. One of the negotiations that went on, and which was supposed to be implemented was that, during employment, 40 per cent of the game wardens should be recruited from that area. I am sure Mr. Sasura will support me on that because he has a huge game reserve. It is important to involve the community and give it a share of the personnel that is going to conserve wildlife in those areas. That should be across-the-board policy and not only for the Endorois community. It should be for the people of Nakuru, Isiolo and elsewhere. In the recruitment of game wardens, the local communities should get 40 per cent, in the same way that they should get the 40 per cent of gate collection fees, so that they can feel that they own something. But, as things stand now, the only thing that the people of Nakuru enjoy from that national park is the weekend rides in the KWS buses with subsidised rates. We take a ride by bus on Saturday and Sunday and when we want a break at the end of it all, it is them who get the money from us! We do not get anything in return.

Mr. Deputy Speaker, Sir, it is also important to realise that today, all corporations; whether they are state corporations or multinationals, have a corporate social responsibility to support the local communities where their businesses are. In that regard, even if there is no clear partnership

between KWS and the local authorities, the KWS has a corporate social responsibility to construct schools and build hospitals, so that the local communities can feel that there is a link between them and the management of KWS. That is lacking. We need to address serious amendments in that particular area.

I have looked at the provision relating to compensation. I think there is a legal flaw here; when you say that compensation for a life lost is Kshs10 million. As far as damages are concerned, people are not equal. We should say: "Not less than Kshs10 million." I do not think that our lives are just equal to Kshs10 million.

Mr. Deputy Speaker, Sir, when courts assess damages, one of the things they take into account is your own income, whatever your status in life might be. They will be guided by the income you earn, your age, that is how long you would have lived had you not suffered this premature death. Issues of pain and suffering are all taken into account. To put a uniform standard, that is the bottom and top together, is not fair. This provision is likely to suffer some legal challenges. I would propose that when it comes to amendments, we should actually say "not less than Kshs10 million." That means that, if you are able to argue your case depending on your circumstances in life you will be able to get much more than Kshs10 million. It is not fair to limit it to Kshs10 million.

We have amended a very important provision of the district compensation committees. In their place we have brought in an advisory council. An advisory council cannot discharge an adjudicative role. It cannot discuss how much you are to be paid. If you look at Clause 62, which is being amended and replaced with advisory council, you will find that you are supposed to report death and the damage done to your property within seven days. That is too ambitious. In seven days, people will still be mourning and the burial preparations are still going on. Who will make this report within seven days and file a report for compensation? I think we should have a reasonable period of about 30 days within which this should be done.

More importantly, let us not leave the function of deciding how much should be paid to an advisory council. An advisory council must confine itself to its role which is basically to advise. When we give them adjudicative functions to decide how much should be paid to a farmer whose crop was destroyed, we will be extending the function of an advisory committee too far because it now behaves like a court. I would be quite comfortable to have a restructured district compensation committee in the 1989 amendment so that the issue of how much should be paid as far as the crops are concerned can be decided at that point. It will be a quasi-judicial tribunal which will have to address various factors to come at a proper verdict as to how much should be paid. It is quite wrong to vest this role on an advisory council.

I have seen that there is an attempt to expand the board of trustees to take care of the private sector interests. I think we should focus more on the quality of the functions rather than the number. I have a problem with Clause 3 of the Bill which says:-
"Five of whom shall be elected by the community". Which community is this? We have not defined the community here.

If you look at the earlier amendment proposed in Clause 2, it states: "We are bringing this advisory council to the constituency." If it is an advisory council for the constituency then we should be quite clear that we are talking of the constituency and not just a local community because a local community could mean the whole district. I think we need to look at this and possibly seek an appropriate amendment to say:-
"The five people shall be elected".

One can see the difficulties we will have here because this is a board of trustees for the whole country and we are talking of five people elected by the community. The question is who will

constitute the community to elect the five people to the board of trustees? There is some ambiguity here which requires to be addressed. If we say that all the constituencies that have national parks will form an association, it will be quite proper then to say that an association of those constituencies will be entitled to elect five people to the board of trustees. I think that requires to be addressed.

Mr. Deputy Speaker, Sir, I would also like to make some observations on Clause 6, because it talks about a local community; that is, after we have already introduced "constituency". "Local community" is not defined and yet this could be a very ambiguous term. I would propose that we look forward to an amendment where we can say "constituency" and not "local community" because these are the people who will serve in the advisory council.

I welcome the provisions relating to the environmental audit. You will realise that in 1989, when the last amendment was made, we did not have the Environmental Management Act which came into force in 1999. I think it is quite appropriate that this audit report should be filed well before. There are some tricky provisions in the Bill. If you look at the proposed amendment to Clause 62, it says that a farmer will be required to take "reasonable" measures to fence or take care of his farm. The word "reasonable" can be quite tricky. I think we need to use a word with a more precise meaning. We are talking about making substantial fences to the farm. Again, one is left wondering what a "substantial fencing" to the farm is. I am talking about Clause 62(b) which is being introduced as a new Clause, that is Clause 62(b)(4). The words used here are "did not take reasonable measures to protect the crops, livestock or property". The word "reasonable" can be quite a tricky term in law.

Clause 62(b)(3) provides one week to make a report. Clause 62(b)(5) talks about substantial physical barrier. That means you are supposed to fence your farm to ensure that wildlife does not enter there. The word "substantial" is a vague term that the authority dealing with compensation can get away with. They will say that there was no substantial barrier to your land and, therefore, you allowed animals to come and destroy your crops. I think these are areas we need to seriously address.

Mr. Deputy Speaker, Sir, if those amendments are introduced, we will be able to make a proper law that may be able to serve this country for quite some time. I am particularly concerned about the partnership between the local community and the KWS. I am also concerned about the definition of park and game reserve. We should do away with those and get to address the issues of the welfare of the local people.

On that note, I beg to support.

Mr. Khamisi: Asante sana, Bw. Naibu Spika. Ningependa kumshukuru mhe. G.G. Kariuki kwa kuyaleta mabadiliko haya kwa Mswada huu wa kuhifadhi na kumiliki wanyama wa pori. Hata hivyo, ningependa kutaja maneno matatu ambayo ni muhimu, hata kwa watu wa Pwani ambao wanaathiriwa sana na wanyama wa pori kutoka Tsavo National Park.

Mara nyingi, tumeambiwa kwamba kuna farakano kati ya binadamu na wanyama wa pori. Hiyo ni kweli. Jambo hili linapotokea, uzito zaidi unawekewa wanyama wa pori kuliko binadamu ambao wanaishi karibu na pori. Jambo kubwa ambalo limeleta ubishi ni kuhusu fidia ambayo imekuwa ikitolewa na Serikali. Ninafurahi kwamba katika mabadiliko hayo katika Mswada huu, hatua mwafaka zimechukuliwa kuhakikisha kwamba fidia ya kutosha kama vile Kshs10 milioni itakolewa watu wakiuawa na pesa zaidi kidogo kwa wale ambao wanajeruhiwa.

Bw. Naibu Spika, wasiwasi wangu ni kwamba katika Kifungu cha 62(a), imesemekana tu kwamba fidia itatolewa lakini haijasemwa itatolewa baada ya muda gani. Ingekuwa jambo zuri kama madai ya wananchi hayachukui miaka mingi. Muda ungewekwa kusema kwamba baada ya miezi sita au mitatu, fidia hii itakuwa imetolewa kwa wananchi ambao wameadhiwa na wanyama

wa pori. Kwa hivyo, ningependa kuona kwamba mabadiliko hayo yamefanywa ilihali hii iwe sawa kabisa na ijulikane na kila mwananchi; kwamba iwapo mtu atauawa na wanyama wa pori, fidia yake itakuwa ni kiasi fulani na kiasi kile kitalipwa katika muda unaofaa. Katika Kifungu cha 62(b)(iii), watu ambao wamejeruhiwa wanatakikana kutoa taarifa kwamba wamejeruhiwa kwa Serikali katika muda wa wiki moja ili wapate fidia. Muda huu ni mdogo sana. Ningependa wananchi wapewa muda zaidi kwa sababu, baada ya madhara kama haya, kawaida wananchi huwa katika hali ya majonzi na wiki moja haitoshi kuwawezesha wao kupeleka taarifa kwa Serikali kwamba wameathiriwa. Ningependa wapewe muda wa mwezi mmoja ili waweze kutoa taarifa kwa Serikali.

Bw. Naibu Spika, katika Kifungu cha 4, inasemekana kwamba wananchi wawe wakichukua hatua fulani ili waweze kupata fidia hii. Imetajwa katika kifungu hiki kwamba ni lazima waweke seng'enge kuzunga mashamba yao na wahakikishe kwamba mifugo yao haingii katika sehemu fulani. Hii ni kutia vikwazo zaidi kwa wananchi. Hii sehemu ambayo inaongea kuhusu hatua nzuri ambazo wananchi wanatakikana kuchukua ili waweze kupata fidia kutoka kwa Serikali, ingeelezwa kwa urefu ili kusiwe na mchanganyiko wa fikira hapa na kusababisha wananchi kukosa fidia zao.

Ninapinga kabisa Mswada huu ikiwa una lengo la kurudisha uwindaji wa wanyama. Jambo hili lilifanywa wakati fulani na ikaonekana kwamba uwindaji wa wanyama ulikuwa ukidhuru mazingira yetu na wanyama wetu. Si jambo la busara kwa Serikali kurudisha uwindaji wa wanyama wa pori. Ikiwa ni katika mazoezi ya kupunguza wanyama wa pori, hiyo si baya, lakini ni lazima kuwe na masharti ya kutosha jinsi hao wanyama watapunguzwa. Ningependekeza kwamba wakati huu ambao kuna njaa katika nchi hii, wakati Serikali inapunguza wanyama, ingetoa nafasi kwa wananchi ili wafaidike na nyama ya wanyama wa pori badala ya kutoa leseni kwa watu kupunguza wanyama na pori ambao wanauza hao wanyama katika hoteli za hali ya juu ambapo wananchi hawawezi kufika huko. Hili ni jambo muhimu sana ambalo linafaa kutiliwa maanani ili tuweze kupata faida kutoka kwa wanyama wa pori.

Bw. Naibu Spika, nimeona kwamba kuna pendekezo la kutoa mamlaka katika ofisi ya Waziri na kuyapeleka katika shirika la Kenya Wildlife Service (KWS). Jambo hili linaweza kuleta utatanishi fulani kwa sababu historia ya KWS imekuwa ya mafarakano kwa miaka mingi. Kama tunavyojua, wakurugenzi wa KWS wamekuwa wakibadilishwa mara kwa mara kwa sababu hali ya pale si ya kuweza kutosheleza mahitaji ya wananchi kwa upande wa wanyama. Ikiwa tunafikiria kutoa mamlaka katika ofisi ya Waziri, ni vizuri tusitoe mamlaka yote. Inafaa tubakishe mamlaka fulani. Kwa mfano, imependekezwa kwamba KWS iwe na uwezo wa kusimamia utumiaji wa makombora na silaha katika upande wa uwindaji wa wanyama. Pia, kuna pendekezo kwamba kuwe na vikwazo fulani au uwezo ambao KWS inaweza kuwa nao katika kusimamia zile ndege ambazo zinapitia katika sehemu za pori. Vile vile, KWS ipewe uwezo zaidi wa kuajiri walinzi. Baadhi ya mamlaka haya, yangebakishwa katika ofisi ya Waziri ili aweze kuhimiza usimamizi mwema badala ya usimamizi kuwekwa mikononi mwa watu ambao wamepewa kazi kwa muda wa miaka miwili au mitatu. Hiyo itakuwa hatari zaidi.

Jambo lingine ambalo ningependa kusema ni kwamba ingefaa wananchi wapewe nafasi zaidi za kuweza kumiliki mahitaji ya wanyama wa pori katika sehemu zao. Hivi sasa, inaonekana kwamba vile vita ambavyo viko kati ya wanyama wa pori na binadamu ni kwa sababu binadamu wanafinywa. Wanaondolewa katika maeneo yao na wanahamishwa. Jambo hili linaleta farakano ambalo halitatusaidia sisi. Tunapojaribu kufikiria umiliki na usimamizi wa wanyama wa pori, ni muhimu tuangalie maisha ya binadamu zaidi kuliko vile tunaangalia maisha ya wanyama wa pori. Hata ingawa tunakubali na kuamini kwamba wanyama wa pori wanatuletea faida kubwa, sio tu kutokana na utalii lakini pia na mazingira, ni muhimu wananchi wajue kwamba Serikali inawaweka mbele. Zaidi ya hivyo, katika maeneo mengi wananchi hawajapewa elimu ya kutosha kuweza

kusimamia na kujua umuhimu wa wanyama wa pori katika maisha yao.

Ingekuwa bora zaidi kama mikazo ingetolewa ili wananchi waweze kujua kwamba kwa kuhifadhi wanyama wa pori, pia wao wanajisaidia katika mazingira yao na pia wanasaidia nchi hii kupata fedha za kigeni na kukuza uchumi wa nchi hii.

Kwa hayo machache, ningependa kuunga mkono Mswada huu.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to contribute to this Bill. I am very pleased that my neighbour, Mr. G.G. Kariuki, has done a lot of work on this Bill. This Bill deserves to be supported by the whole House.

I have two major issues that I would like to comment on. First of all, it is important that human/wildlife conflict is recognised as a bother in this country. I want to agree with those who have said that if you have domesticated an animal and that animal escapes, then you are liable for compensation. The document was laid on the Table by Mr. Kiunjuri. It is entitled the principle of Raylands versus Fletcher, where it is stated that if you domesticate a dangerous animal and then it escapes, the responsibility to compensate lies with you. Therefore, compensation must be paid. The existing law, which provides for a compensation of Kshs30,000 is very inadequate. The figures being suggested in Clause 62(a) are quite adequate. The only issue that I would like to raise is that whereas these figures could be certain, it is important that those that are not satisfied with the figures must be given a chance to appeal against them. The so-called competent authority is being asked to have an insurance cover. There must be a simpler way of paying the compensation without undue delay from the competent authorities that have taken the insurance cover.

Mr. Deputy Speaker, Sir, one thing that is of concern is the issue of the compensation for crops and livestock. I come from a constituency that borders Laikipia West. Only yesterday, in Mahianyu area, which borders Rumuruti, the local people were crying because all their maize has been destroyed by elephants from Rumuruti Forest. There is no existing law that allows for compensation for destroyed crops. I think this Bill is very timely because it seeks to do exactly so.

Mr. Deputy Speaker, Sir, the issue of the owner of the land having taken reasonable measures is a bit hazy. This is because it is important that the Government is able to fence off animals to their respective areas. Therefore, I think the mere fencing by farmers cannot really keep these animals away. So, it is the onus of the Government again to keep them out of the settlement areas.

We know that the wildlife earns this country a lot of foreign exchange. Therefore, it is really a question of us coming up with ways and means of co-existing with our national heritage. We need them as well as our food and people. So, the issue that the community needs to be involved in wildlife management is very timely. The fact that this Bill is proposing that the communities living around the wildlife areas are involved in the appointment of the directors is also very important. I think it is important that the communities be part and parcel of the management of the wildlife. Over the weekend, I travelled to Kajiado South Constituency. I was able to see how the Maasai people have been able to take up the advantage of the wildlife heritage in that area. They have set up lodges that are being run by communities and, in turn, they get a lot of money. So, I think it is important that even for those of us living along the Aberdares and Mt. Kenya, benefit from the animals that exist in those areas. I say this because when, for instance, the Kenya Wildlife Service (KWS) was recruiting game rangers, I think areas that have wildlife heritage should have been given a bigger quota. Some areas got many slots which they did not actually deserve. I thought, if it was possible for such recruitment to be divided amongst the constituencies that harbour wildlife, that could be fair.

Mr. Deputy Speaker, Sir, I also learnt in Maasailand that solar fencing is doing a lot of good to keep off animals. I wonder why we cannot do that in the Aberdares and Ndaragwa forests, for

example. We are having the forests also being dangerous to our people. As much as some of these forests harbour the wild animals, they are also dens of gangs. It is only yesterday that the OCS of Ndaragwa Police Station was gunned down by gangsters who were from a forest near Ndaragwa Town. It is sad that we are having a lot of dangerous animals and people also in the forests. I think it is high time that the Government tried to isolate the people from such dangerous things. So, I am trying to suggest that the Government, through the KWS, do solar fencing. Solar fencing is quite feasible where electricity has not been supplied to those areas.

The management of KWS must be seen as the most important institution when we are talking about wildlife management. The Bill is proposing that the Board of Trustees of the KWS be involved in the appointment of the director. A person appointed to head the KWS must be a relevant person. I am not convinced that an accountant really is the best person to run the KWS. I think that position must be competitively filled if we will move forward in the management of wildlife.

Mr. Deputy Speaker, Sir, I think it is also important for us to agree that the infrastructure in the game reserves and national parks, including those roads leading to the game reserves and national parks, are properly done. This is the only way we can encourage eco-tourism and local tourism at the same time and benefit from the wildlife. I have in mind lakes which have a lot of tourism potential, but the KWS is not doing anything much to look after the hippos found in such lakes.

I think the Mover of this Bill has done a very good job and he deserves a lot of our support. I think it is not fair for a lot of private interests to be brought in. It is really for this House to see to it that it goes through with the relevant amendments. We are in one accord in support of this Bill.

With those few remarks, I beg to support.

Mr. Deputy Speaker: Yes, "Chief" Sasura!

Mr. Sasura: Mr. Deputy Speaker, "PC", Sir, I am your obedient servant!

(Laughter)

Being a Member of the Committee that had critiqued this particular Bill, I have had the opportunity to have discussions with many stakeholders. We, as a Committee, took a lot of our time to deal with this Bill.

Briefly, I want to comment on a few areas because our work is yet to come in the form of amendments to this Bill at the last stage. From the outset, I want to say that there is need for the hon. Members to go through this Bill and understand it properly. This is because, unless the Members understand it, I believe they will have no one else to blame. First of all, this Bill appears to remove the Government from the management of wildlife. Wildlife being a resource, this might not be the best way forward. It might be difficult to trust individuals when there is no regulatory framework as they may not serve the national interest at times.

Secondly, it is also important to understand that compensation is not by Government. The Government is not going to pay this purported compensation. We realised that after going through the Bill thoroughly, compensation might bounce back to what is referred to as the wildlife community; defined as the people who live within a five-kilometre radius of the protected areas. So, it is not necessarily that always the Government or KWS will pay compensation. The people who live around the protected areas might be required to pay compensation when an animal moves from an area which is not protected into a private ranch and causes damage to crops or even causes death. So, compensation is two-way and that is why I am saying the Bill could be rather tricky and hon. Members should not just take it for granted.

Mr. Deputy Speaker, Sir, on the issue of the figures for compensation, I think there is need

to have a logical and practical figure even if we really wish our people to be compensated and rewarded for injuries, because it is not the Government that is paying the Kshs10 million or the Kshs1 million, for that matter, for injury. It should not be forgotten that there is a need for insurance cover, and the land owner is required to insure for compensation. That means there will be very high premiums to be paid. Will they afford? That is the big question that everyone should ask.

When it comes to compensation for injuries, this Bill talks about compensation for limbs, eyes, fingers and toes. However, it forgets that we have other parts of the body. Of course, we have the head, nose and many other parts of the body. But this Bill is restricting compensation for specific parts of the body. It is talking about the eyes, fingers and toes. There is a lot of polishing that needs to be done on this Bill.

Mr. Deputy Speaker, Sir, in the early days, there was compensation for injuries and crops destroyed by wild animals. However, that was done away with because it was abused. There were a lot of fraudulent practices and false compensation claims. Another weak part of this Bill is that it has no deterrent measures against those who will present false compensation claims. The Bill does not specify what should be done with somebody who falsifies claims. That is what brought us to the compensation of Kshs30,000 for deaths. We should not forget that, that amount is not even in the Bill itself. There is no part of the principal Bill that says that, deaths should be compensated for payment of Kshs30,000. I think that was just a goodwill measure from the Minister in charge at that particular time.

Mr. Deputy Speaker, Sir, this Bill just mentions about wildlife communities. It does not define whether they are district, provincial, national or constituency based. It just talks about Kenya's wildlife community! So, there is a lot of ambiguity in Clause 2 of the Bill.

[Mr. Deputy Speaker left the Chair]

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

The main object of this Bill is to have the participation of Kenyans in the overall management of the Kenya Wildlife Service (KWS). It is rather interesting because it proposes an additional nine members to the current 14 members of the KWS Board. That give us a total of 23 members. That is not realistic because, even the current Board is a bit too large. We cannot say that 23 Board members will perform better than 19 members. I think the more we have, the less they will perform.

Mr. Temporary Deputy Speaker, Sir, we made another observation about the census. In Clause 10, the Bill says that a census will be carried out. But it does not say who will bear the cost of the census. That is a very expensive exercise. It could be the constituents of Mr. Wamwere. There is a lot of ambiguity in that clause and we need to check on it.

There are various issues which this Bill has not adequately addressed. One of them concerns the insurance. As Mr. Muchiri has said, it is important to know whether the land owners have an insurable interest, that can be insured as per the insurance law. As it were now, there is no insurance company that covers compensation. Assuming that there is, the risks are going to be very high and un-affordable.

Mr. Temporary Deputy Speaker, Sir, coming to the issue of compensation figures, I am sure that most hon. Members will be carried away by the figures that have been spelt out in the amendment Bill. I think there is need to reduce the figures, because they are very attractive but tricky. They are tricky in the sense that when we had a discussion with most stakeholders, private ranch owners argued that they should not be the ones to pay compensation. The Bill does not say

that the Government will pay compensation. That means that, the said wildlife community, that is the people who live around the private ranches and protected areas, will also be involved in the payment of the compensation. That means that, if there was an elephant in my constituency, which is outside a protected area, and it damages crops in a nearby private ranch, the people of that area, who are called the "wildlife community", will be asked to compensate the private land owner.

Mr. Wamwere: No! No!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wamwere!

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, Mr. Wamwere should know that I did not need any assistance to read this Bill! I understood it very well.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Sasura! Just proceed!

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, that is one aspect of the compensation. There is need, despite the attractiveness, to reduce the figures far much below what has been proposed by the Mover of the Bill. The list of injuries must be exhaustive, very specific and clear. The human anatomy is not covered by the Bill. We have injuries on the ribs and soft tissue which have not been spelt out in this Bill. So, while the spirit of the Bill is good--- I remember one stakeholder told us that the word "wildlife" is well defined in the principal Act. A snake is not necessarily a wildlife. So, if a snake killed a native of Saku, that person has to be compensated even if snakes do not fall under the definition of wildlife. This amendment Bill does not address that.

Mr. Temporary Deputy Speaker, Sir, I think there is need for an all-embracing Natural Resources Act, because the Bill does not address the overlaps that exist in the current law. There are overlaps in most of our laws concerning fisheries, wildlife, agriculture, environmental management and coordination. That is why there is need for a legal framework that embraces all those aspects.

Mr. Temporary Deputy Speaker, Sir, we should also not forget that there have been a lot of challenges facing wildlife management and conservation. They begin with range land degradation. Most lands where pastoralist communities live have been degraded. We have lost a lot of animal and plant species. We are trying to protect and conserve them because they are endangered. We have no national land policy. That is a crucial problem that has been addressed by most hon. Members. There is a lot of institutional instability in KWS, as has been said by many hon. Members. There are changes of administration and directorship. One very important significance of this Bill is that it intervenes as far as the appointment of the Director of KWS is concerned. Instead of the President appointing, it is the Board. That rules out the issue of high handedness by the Government that is in power, by removing or appointing the directors depending on who leans on what side of the political boat. With all that, there is a lot of praise for this Bill as far as wildlife is concerned in this country. There is a lot of singing about it. But what we are reaping is not commensurate with what we are hearing. Needless to say, it should not be forgotten that tourism is shifting from the conventional tourist resorts to private conservancies in this country. There are many conservancies where tourist fly in and out without the knowledge of the Government. The Government is losing a lot of revenue through these private conservancies. The same private conservancies are minting millions of shillings from tourists and yet they do not ensure that the money trickles to the local communities. That is why there is need to study this Bill.

We have 27 national parks and 34 game reserves yet we are not reaping the fruits from them. We should know that these resources are bound to die out gradually. It is unfortunate that in the next 10 to 15 years, the Maasai Mara Game Reserve that we know today will be different in the future because most people who used to visit the park now go to visit private sanctuaries. We visited one of the private conservancies and to our amazement, in the visitors book, we realised that members of the royal family in UK had visited the place and, in fact, poured a lot of money into the conservancy. How sure are we that they pay their due tax to the Government when they are flown in

directly from their country? They do not necessarily pass through our tourist organisations.

Mr. Temporary Deputy Speaker, Sir, while we want our people to benefit, we should not rule out the fact that there is a lot of interest from private ranch owners. As a committee, we are going to peruse the Bill and bring a lot of amendments in this House. That will ensure that this Bill passes with a lot of sincerity and honesty without any interference from individuals' interests. We must have the interests of Kenyans at heart.

Lastly, one very significant issue that this Bill has addressed is that of the advisory council. That is very much welcome because currently the communities, at the district level, do not know who decides matters regarding compensation. The establishment of the advisory council at the district level is appropriate not necessarily for the purpose of setting figures for compensation, but at least to verify compensation claims in order to rule out any fraudulent claims. The membership of the advisory council has been spelt out in the Bill, but I am sure we shall need to amend it further so that it includes area Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, since I will definitely have an opportunity at the Committee Stage to move my amendments, I wish to stop at this point.

Mr. M'Mukindia: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill.

First and foremost, I wish to join my colleagues in thanking hon. G. G. Kariuki for bringing this Bill to this House. I, personally, would have expected the Ministry of Tourism and Wildlife to have found it fit to bring a Bill such as this one within the last two years of the NARC Government in power. Unfortunately, a number of areas that clearly require a new way of management are being ignored up to today. The areas of wildlife and natural resources need a deeper analysis and, possibly, Bills should be brought to this House for consideration to change the laws regarding them that have been in existence for almost more than half a century. The Mining Act, for example, is totally obsolete and we are waiting for the Government to bring an amendment Bill to this House for debate so that the whole Act is modernised to reflect the current management style and the future as it is. I, therefore, wish to thank hon. G. G. Kariuki for bringing this Bill to the House.

Mr. Temporary Deputy Speaker, Sir, the primary reason for this Bill, as I understand it, is to modernise the way we manage our wildlife in this country. As you know, traditionally, our people were able to live side by side with wild animals because they had traditions that protected wildlife and other natural resources such as forests, water and so on. Unfortunately, the kind of statutes that were put in place during the colonial time protected certain areas. The colonial government could not understand how wildlife could live side by side with, for example, the Maasai, Somali or Meru communities. So, the laws that were written in our books then had no reflection on how our people coexisted peaceably with the wildlife and other natural resources in this country. They, therefore, introduced something totally foreign into our systems.

The other thing colonialists introduced in this country and, indeed, in the whole of Africa, is the system of hunting for sport. This was never heard of in our continent. Africans never hunted for pleasure. Africans do not kill animals for pleasure. It is not a tradition to us and that is why, so far, Africa has had a lot of success in conserving wildlife as well as other natural resources.

Mr. Temporary Deputy Speaker, Sir, however, unfortunately, like everything else, life has changed. The world, our own countries and communities have also changed. One of the major changes that have occurred in our country, is the very rapid increase in human population. Because of this major increase, wildlife and livestock resources management is no longer sustainable like it was in the past. I believe it is in recognition of this major fact that hon. G. G. Kariuki has brought this Bill to this House. Unless we change the way we manage our wildlife, natural resources and livestock resources, we are in danger of losing all of them.

Mr. Temporary Deputy Speaker, Sir, I believe that the so-called pastoral communities in this country will probably be the first ones to support this Bill strongly. As you drive around in this country and look at the levels of poverty in the so-called marginal areas, you will realise that poverty is on a very rapid increase. At the same time, population is increasing very rapidly. Therefore, the number of healthy livestock per square kilometre is decreasing so rapidly that it cannot sustain the families that live within that area.

It is a good thing that the Government has introduced free primary education. However, we should not forget that we have to pay for secondary education, medical services and many other things. The people who live in marginal areas are increasingly unable to make ends meet. Indeed, these people are saved by the NGOs and, sometimes, the Government. For a country such as ours, it is not something to be proud of for half of our country to be given yellow maize on a continuous basis as food from donors. What has happened is that for the last 25 years, we have been unable to foresee the tragedies occurring in the pastoral areas of this country, let alone taking relevant action to stem the tragedies. Unless the Government moves very quickly, and unless this House adopts this Bill strongly, we shall be condemning three-quarters of the population of this country to utter poverty. Also, we shall be condemning our wildlife to extinction.

Mr. Temporary Deputy Speaker, Sir, it is worth noting that 75 per cent of wildlife in this country is estimated to be living outside the so-called "protected areas". They actually live in people's land, ranches and Government land which has not been developed. Therefore, how do we protect that 75 per cent of the wildlife that lives outside the so called "protected areas"? I believe the way forward has already been shown and, as hon. Muchiri mentioned a few minutes ago, it is clear that people in Maasai land, for example, in Kajiado, have group ranches and are forward looking. These people are already benefitting tremendously by using the land in the best way possible.

We have to recognize that wildlife exists better than, for example, cattle in places such as Kajiado. Therefore, putting aside a quarter of the land for normal human use while 75 per cent or three-quarters of the land is left to wildlife, the communities in Maasailand today are, actually, earning more money than they would have earned through keeping livestock. If you look at the livestock in Kajiado today, it is pathetic, and you feel sad for families who are herding cattle which might collapse tomorrow. You see a family having about 50 head of cattle and none of them can stand due to the drought situation because there is no water. If all the animals die tomorrow, that family becomes completely destitute.

Mr. Temporary Deputy Speaker, Sir, it will be criminal for this House to condemn those pastoral communities to such a life in the future. How can we then reverse this situation? The only way we can do this is to ensure that we use the available land to the best possible economic benefit to the communities. The future for this country, whether we like it or not, lies in tourism and not livestock herding. The population cannot be supported adequately by livestock. It is not by subdividing the available lands into five-acre plots, as they have done in the so-called "high potential areas", which are no longer high potential areas. This is because people are now living in a quarter of an acre or an eighth of an acre of land, which is not sustainable any more. The fact is, some of the policies that we have followed for years in this country have condemned people in this country to utter poverty. If we continue managing our wildlife resources and our other natural resources in the same way we are doing today, we can be sure that in the next 20 years, there will be no elephants outside Amboseli National Park; there will be no lions outside Meru National Park or Maasai Mara National Park. What will happen to the communities surrounding that area? They will subdivide the land into two-acre plots and as a result, they will be poorer than they are today, and their population will have increased.

How do we stop this trend? How do we stem this from happening? I think that wildlife must

be recognized as a major economic resource for those communities where these wildlife lives. Wildlife must be recognized as belonging to those communities in the same way that people own goats, cattle and stones on their land. If I had a piece of land where natural trees grow, or if I had a form of quarry stone on my land, you cannot come to my land and say: "This stone is a natural resource belonging to Kenya, therefore, I can take it, or kill it or that I have no mandate to manage it". I have a mandate to manage it because it belongs to me. Why is it intellectually or philosophically stated that the wildlife that live in Maasailand, Turkana or in Pokot does not belong to the people of Maasai, Turkana or Pokot? What rationale has been used there? Who protects or keeps the wildlife, if not the people living in those areas? Once you recognize the principle of ownership and economic benefit arising therefrom then, obviously, the other things follow, such as, if your cow hurts me along a public road, then obviously, you are liable because it is your cow and it is a public road. So, again, the principle of compensation which is reflected in this Bill is quite correct. The people benefitting from the wildlife and the people who now own the wildlife have a responsibility to protect those people who are not directly involved with the wildlife from the effects of that wildlife because they are getting economic benefits.

On the other hand, I quite agree with the Bill that, if for whatever reason, the people refuse to protect themselves or their property from wildlife, that again is like my cow crossing a public road. I should not be compensated because I did not take adequate care of it to ensure that it does not enter into a public road. There again, the people who are likely to be living adjacent to wildlife conservation areas and being aware that they are Government or privately owned, have a responsibility to protect themselves from the wildlife, just like today, I have to protect my plot of maize from your cattle by fencing my plot of maize. It is exactly the same way; if the principle of ownership and responsibility for it is recognized, then the rest follows automatically, because you will already have such practices in place. Therefore, I do agree with the proposals in this Bill that, that is the way it ought to be.

Mr. Temporary Deputy Speaker, Sir, I was not able to join my colleagues who made a trip to Southern Africa, but I have studied or looked at the management of wildlife in Southern Africa for quite some time. I do not know whether simply because something is practised in Southern Africa, it is necessarily bad for Kenya. I know that historically, since 1994 when South Africa became independent, some form of "quiet" competition between Kenya and South Africa ensued. We know that our relationship with South Africa has not always been very good. Unfortunately, this "quiet" competition between us and South Africa has messed up some of our policies, which---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I wish to commend you, but I also wish that my colleagues will listen to me.

(Laughter)

The fact that there is an undercurrent of political competition between South Africa and Kenya for whatever reason, however it arose, it does not mean that whatever is practised in South Africa is necessarily wrong for us. South African wildlife conservationists have made huge sums of money out of wildlife. They have developed wildlife ranches, they have created major research institutions into wildlife breeding and conservation; marketing processing and so on and so forth. What have we done ourselves? We are in the stone age because the Government cannot create the necessary research institutions; the Government does not finance even fencing of the National Parks and

Reserves; the Government is not even in a position to revive the Kenya Meat Commission (KMC). Therefore, even the question of processing of game meat or game products in general, including skins, hides, hooves and horns has not even been considered in this country!

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

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

Therefore, as usual, we are condemning ourselves to poverty and backwardness. Why? Merely because we cannot follow South Africa's example. That, because we do not like them, we do not like their policies. It is ridiculous. It is not very clever of us. I think time has come for us to move very quickly to adopt policies that can lead to the positive development of wildlife conservation and wildlife products processing in this country, and keeping it as an economic activity that pays for itself and does not look to Government for funding.

Mr. Temporary Deputy Speaker, Sir, this has happened not only in South Africa, but also in Botswana, Namibia and other countries. The question of hunting is a thing that I am not personally happy about. But that is me and my moral stand. It has nothing to do with economics. Perhaps, I can survive without hunting. But the Maasai people in Kajiado today cannot survive without hunting. Therefore, it would not be right for me, purely on moral grounds, to say that the people of Maasai, Samburu or Pokot, should not take advantage of the wildlife in their areas. In any case, I know it is a contradiction. Whereas I am very happy eating cow meat which is also slaughtered, I am not happy with the killing of game. It is a contradiction, and I understand and accept it.

Therefore, in terms of principle, it is the same. What is the worry then? To me, it seems that if we allow sport hunting and cropping of wild animals, this will get out of hand. This is an unjustified fear. If a community such as the one I visited over the weekend takes ownership of the wildlife, they will protect it with their lives, the same way they protect their livestock, their families and crops, because it is a source of economic livelihood that they recognise.

Therefore, this fear about elephants being extinct is unjustified. As long as we have the right policies in place and the right regulatory authorities in place--- If we cannot trust ourselves to manage wildlife properly in this country, if we cannot trust ourselves as Kenyans to ensure that we can manage this fantastic wild heritage, then what else can we trust ourselves to do? It reminds me of a famous statement by one former very powerful Minister who said that he would rather not travel by East African Airways for the simple reason that he did not trust African pilots. He is an African himself and we all know him. He said he could not trust African pilots.

Today, we are saying we cannot trust ourselves to manage wildlife. How is that possible, when no other continent in this world has such a tremendous refuge of wildlife? Who has conserved wildlife? Is it Europeans, Asians or Americans who have conserved wildlife? It is Africans who have conserved wildlife in this country and in this continent. Therefore, we are actually better placed to conserve wildlife like anybody else. We must, therefore, come up with home-grown solutions to conserve wildlife in the best way we know. We may not be very good pilots, but we certainly are better at taking care of our wildlife. For that reason, we should not worry about the fact that elephants or lions will become extinct.

Mr. Temporary Deputy Speaker, Sir, it is obvious that if the people living adjacent to the Nairobi National Park were given a stake in the money that comes from that park and other areas, they would obviously give up their land, build proper houses in a designated area and allow wildlife

to go through their land because they are gaining from it. However, today, the policies that we have in place are such that they deny people economic benefits from wildlife that lives on their land, that passes as it migrates through their land, there is no reason why they should allow animals to pass through their land. It is no wonder that the Maasai community in Kajiado District kills lions that pass through their land. Who would not do that? If the cows of any hon. Member here or those of the Minister for Wildlife and Tourism were killed everyday by lions, he would be the first one who will say that lions in his or her area be killed. That is obvious! Therefore, it means that we have to come up with policies that benefit people economically because wild animals live on their land.

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

The Assistant Minister for Health (Mr. Konchella): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill. As I speak, 20 years ago, we used to have plenty of wildlife in this country; they even used to move near the precincts of Nairobi City. However, what has happened is that about 60 per cent of the wildlife population has gone down over the last few years.

In the last one year, the Kenya Wildlife Service (KWS) officials collected 45,000 shells from Tsavo National Park. This means 45,000 animals or more were killed. In the Maasai Mara Game Reserve, an average of 100 shells are collected every month. This is the level at which degradation is going on and at which wildlife is being destroyed in our country. So, when we talk of sport hunting and cropping, we have to be very serious and careful on what we are talking about because we do not have the wildlife that we used to talk about. Wildlife have been destroyed through poaching and so on. As a result of the poverty level in the country, killing of wildlife for food which is not basically for making money is so high such that an additional legalisation of cropping and sport hunting of wildlife would be a danger to the existing wildlife population in this country.

Mr. Temporary Deputy Speaker, Sir, tourists come to Kenya and East Africa because of wildlife. They destroyed their wildlife by allowing sport hunting and poaching in their countries. As a result, now they have no more wildlife other than those in the zoos. Even those animals in their zoos are from Africa. So, I would like to ask hon. Members to ensure that we make amendments to this Bill. Although I agree with the principles of the Bill generally, but it is dangerous for us to allow it to go through the way it is. I would even ask the Government to actually come up with some amendments to this Bill. If this Bill does not meet the desired requests of the pastoralists, or those people living around game reserves and national parks, then the Government should even shelf it for six months to allow more consultations and more interaction so that we come up with a Bill that will assist in the wildlife management for the next 20 years. This is an inheritance to the people of Kenya, particularly to those communities which live near game reserves. It is only fair that these communities are consulted before we allow this Bill to become law.

Mr. Temporary Deputy Speaker, Sir, migration of animals, as we know, is a phenomenon which is natural. Wild animals migrate from Serengeti Game Reserve to the Maasai Mara Game Reserve. In the Tanzanian Serengeti Game Reserve side, we have allowed sport-hunting to take place. The animals in that game reserve do not belong to either Tanzania or Kenya. They migrate to either side depending on rain patterns and availability of pasture. Reduction of our wildlife could be attributed to hunting which is going on in the Tanzanian side. Migration of animals from the Amboseli Game Reserve to Nairobi National Park has not been taking place because people have bought land in between the immigration routes. The animals in those parks cannot migrate when there is a dry spell at the Amboseli Game Reserve to graze at the Nairobi National Park.

As you drive along the Amboseli Game Reserve, you will see animals moving away from it. Lions which migrate from this reserve end up feeding on all the animals at the Nairobi National

Park. As a result, lions are left with no food and end up destroying cattle that belongs to the neighbouring communities.

The issue of compensation is crucial. We should look at it considering the interests of the communities which live near game reserves. In an area like Laikipia, most residents have done away with their cattle and are now conservationists. These conservationists should not be allowed to trade in wildlife or do cropping. The communities are already benefiting from tourism in those areas. They have encouraged tourism in the area and are even using their own farms to build lodges. They have the exclusive rights to collect revenue for themselves.

Wild animals do not belong to ranchers. The animals migrate to and from the Aberdares, Mount Kenya and Samburu National Parks. As they move on, they are trapped using electric fences and are not allowed to continue moving. Those who trap the animals say that they are conserving them. They claim to be cropping the wild animals owing to their large numbers. These people should not be allowed to crop animals. Instead, they should be careful not to allow excessive numbers of animals into their ranches. Wild animals should be allowed to leave and go back to the wilderness, so that they can continue with their migration pattern.

Countries like Mauritius have introduced taxes on of tourism. Tourism is now going up---

Capt. Nakitare: On a point of order,, Mr. Temporary Deputy Speaker. Is the Assistant Minister in order to mislead this House that ranches in the northern corridor have confined wildlife and that animals do not have the right to move freely, yet in the southern corridor, where he comes from, there are private ranches also?

The Temporary Deputy Speaker (Mr. Moi): Mr. Assistant Minister, please proceed.

The Assistant Minister for Health (Mr. Konchella): Thank you, Mr. Temporary Deputy Speaker Sir, for allowing me to continue.

I was saying that people are confining wild animals and benefitting from them without considering the local communities. If we allow cropping, let it be carried out in protected areas. Protected areas should be national parks, game reserves and ranches where animals are confined. Those should be classified as protected areas for the safety of animals. However, we should not allow cropping of animals. Those practising cropping should be told to release animals to go to the wilderness. If the law, at any one time, allows cropping, let it be in the protected areas only.

In countries like Namibia and Botswana shooting of an elephant attracts a fine of Kshs15 million. There should be a fine for shooting wildlife. One should be asked to pay a fee of Kshs15 million for shooting one elephant.

It should not happen. In fact, 75 per cent of that revenue should go to the community because, as you are aware, we have a problem that the issue of trying to create an insurance is not viable. Who can afford to pay an insurance premium sum of Kshs10 million? Which local person who wallows in poverty can be able to pay that kind of money? It is not possible. It is not likely to happen. So, what we must then introduce is what other countries call green tax. That green tax should be levied for every tourist coming to this country. Each of them should pay US\$5 when they come to Kenya whether by sea, road or air. The business community should also pay this green tax. For example, those businesses that are destroying our environment like the saw millers, those who are emitting fumes into our environment and loggers should also pay this tax. Part of the proceeds of that taxation should go into this fund which should compensate people who are killed by wildlife as opposed to trying to create an insurance fund because it is not workable. The National Environmental Management Authority (NEMA) can classify all these things.

Mr. Temporary Deputy Speaker, Sir, I would also like to discuss the issue of hotels. For example, in the Maasai Mara Game Reserve, the Ministry of Tourism and Wildlife should come up with a law in conjunction with this particular one to control the mushrooming of hotels and

particularly the number of rooms per hotel. Many of these businessmen are licensed to build a 30 to 80 roomed hotel but, surely, through corruption, they build a 200 roomed hotel in the game reserve. I think it is a pity that the only resource that the whole world knows - one of the seven wonders of the world - the Masaai Mara Game Reserve, you can get accommodation for up to US\$40 a night and yet it is the most known game reserve in the world. The Ministry should come up with laws to ensure that tourists coming to this country should not pay less than US\$200 per night. That way, we can get rid of quacks and people who just come to destroy our environment and we will have quality tourism in our national parks. We should not allow lodges to be built with more than 50 rooms so that we have quality tourism, something which the rest of the world is trying to do. We have the best tourism products that no country has and yet we are allowing businessmen to destroy it by building hotels and lodges with 200 beds. It is a shame that our laws are not protecting this resource that we have.

Mr. Temporary Deputy Speaker, Sir, there is the issue of the board of trustees which the Bill envisages to create. Now, KWS is already a bloated organisation. They have 800 employees at the headquarters here doing nothing but trying to find ways of making money. All the corruption is going on there and we saw what happened the other day on the issue of game wardens recruitment. I think something has to be done. This Bill should come into force at the same time as we restructure the KWS. The KWS's role should be for the management and security of our national parks. Nothing more. It is now doing a lot of things like fund raising and running all over the world doing things that the former directors used to do. I think it is high time we had a lean organisation at KWS. I do not know how, but the Government should set up a board or commission to investigate and create an establishment that is sustainable for the management of wildlife. Let us have more security personnel sitting at the national parks and protecting our wildlife as opposed to 800 people sitting here doing nothing and simply spending 80 per cent of the revenue they collect to pay themselves salaries. We should not have more than 100 employees at the KWS headquarters. I think the Government should move in very fast to restructure KWS and have employees who know what they are doing and not those who have no interest in wildlife. We should employ people who live with wildlife in order to protect and manage it.

Mr. Temporary Deputy Speaker, Sir, I would like to request that when we pass this Bill, it should be a Government Bill so that we know the Government's policy. The Government can then enact these other two Bills plus this one into one law for the management of our wildlife. As a country, we have learnt that our people, particularly the pastoralists die because of destruction of their crops and lives by wildlife. We have not less than one or two deaths every month in my constituency because of elephants. This is why we are talking of cropping or reducing their numbers. The issue of compensation is also very crucial because people are dying and leaving children who cannot take care of themselves. This is an issue that we need to discuss. This particular Bill should take care of compensation worth Kshs10 million. While I am agreeable, this money should be levied from proper management of our natural resources and parks. Mr.

Temporary Deputy Speaker, Sir, there is also the issue of the board of trustees, which this Bill seeks to establish. There should be a difference between protected and the non-protected areas, because 80 per cent of wildlife lives in non-protected areas as that is the dispersal area. The board should have more people from these areas as they are the people who live with wildlife. We would like to see a board that is lean, not as bloated as is the case now. This will ensure that power is devolved to committees at the local level as envisaged in this Bill. There should be an advisory board or council, for example in the Maasai Mara Game Reserve, that will advise the Government and take care of the interests of people in terms of compensation and management of wildlife.

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

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

This Bill should also look into how far people should go near parks. What is happening now is that because of trying to exploit these resources, a lot of people are moving from their lands and going close to the parks. Therefore, the Government should have a law that defines how far people can go to game reserves. The parks are now surrounded by people and this is encouraging the killing of wildlife, poaching and trade in bush meat. This happens simply because people have moved into parks because they do not own land. I am, therefore, suggesting that this Bill should say how far people should live from parks.

I know that there are a lot of ranches and mushrooming towns. People are trying to take advantage of tourism. However, this should be discouraged to avoid poaching just as much as a census needs to be carried out to show how many hotels or people can enter parks at one particular time. Sometimes, it is deplorable for the world to see a lion trying to eat its kill and there are 50 minibuses around it. This should not be allowed! There should be control on the viewing of game by controlling the number of people entering parks or hotels in the parks.

There are investors who are prepared to put up quality lodges, and instead of charging US\$45, they are prepared to charge between US\$2000 and US\$3000 per night. This is what we want and these people are not few in the whole world. They are many! The more we, therefore, reduce the number of poor lodges and increase quality ones, the more tourists will come here and bring revenue that will benefit our people.

Lastly, I would like to see benefits to the community, because this is where the problem is. For many years, the pastoralist communities have lived with animals and do not eat them. They live with them and eat their own domesticated animals and allow the wildlife to live. However, what is happening now is that we are allowing people who have destroyed their wildlife to come and manage wildlife resources in other people's areas. We want all benefits arising from wildlife to go to the people who live with them, namely, the pastoral communities. The level of poverty in pastoral areas is worrying. There is the problem of degradation of the environment.

Mr. Temporary Deputy Speaker, Sir, I will now talk about destruction of forests, particularly Mau Narok Forest, which is the biggest water catchment area in this country. It is the source of the waters of the Mara and Nile Rivers. If you overfly that area, you will see that people have moved right into the centre of the forest. They have put up structures and are logging. I do not understand why the Government, which is supposed to protect this country's resources for posterity, can allow people to settle in the middle of Mau Narok Forest, which is the only source of water in the whole of western Kenya and Egypt. That forest is the biggest water source for Lake Victoria, but we allow its destruction to continue. This Bill should not only provide for penalties against anybody who will destroy the environment, but should also ensure that nobody moves into and lives in a protected area.

Lastly, I will speak on the issue of fencing. I know that many people have problems of compensation for property destroyed by wild animals, because the existing law does not provide for adequate compensation and money is not available. So, people continue getting killed by wildlife and losing their crops. Therefore, this Bill should provide for the fencing off of areas inhabited by wildlife to avoid human-wildlife conflict. Such a provision will solve the problem of wildlife killing of human beings.

I would like to thank the hon. Member who brought this Bill to the House, but I request that it be deferred for six months to allow for input from stakeholders.

Thank you.

Prof. Olweny: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this Bill.

Wildlife has been part of our life. We have lived with wild animals. Many communities in this country co-exist with wild animals. They are part of our environment. We are also part of their environment. They destroy our crops, and we also eat them. That has been a very good pattern of life. We have been living with wild animals. However, when we have conflicts with wild animals, the Government is usually more friendly to them than to us. The Government always treats wild animals better. When wild animals interfere with our peaceful life, and we attack them, we are called poachers. That has been very unfortunate on the part of the Government.

Unlike us, countries in the Western world have decided to control their few remaining wild animals effectively by confining them in zoos. They have wiped out the majority of their wild animals and left a few, just as examples, to be seen in zoos. In our country, we have left wild animals to roam over large tracts of land, which we call national parks and game reserves, while we lack land. Communities like the Maasai, who co-exist with them, are exposed to the danger of attacks. This has been a very unfortunate way of managing our wildlife in this country. The human-wildlife conflict that we have had has cost Kenyans very dearly.

Earlier this year, there was a serious conflict between the Maasai community and lions, where the Maasai killed a few lions and the lions killed a few of the Maasai's livestock. Every time such incidents occur, we blame the human beings and not the animals. I do not know who is living on whose land. Is it the wildlife that is living on our land or us living on the wildlife's land? I thought land was meant for us and we are supposed to give the wildlife a little. We have left too much for wildlife. They have caused us loss of lives, property and many other things that are dear to us. Unfortunately, there has been very little compensation to the people who have lost lives, part of their bodies, livestock and many other things.

I am pleased with this Bill in that, there are proposals to adequately compensate - if at all it is adequate - the people who will lose lives or parts of the bodies from attacks by wildlife. I am a little uncomfortable with the way it is framed. This proposed compensation should be subject to periodical review as it becomes necessary. With time, you will find that a finger costs more than the Kshs300,000 that has been proposed here. A person may be maimed in such a way that Kshs1 million may not be enough to take him or her to one of the best hospitals to be treated when he or she is attacked by a lion. So, this should be subject to periodical review when it becomes necessary.

Mr. Temporary Deputy Speaker, Sir, I have said that we have left too much land to the animals. This is one of the things that causes us famine and, therefore, poverty in this country. If you look at the large tracts of land in this country which have been given to wildlife in terms of the national parks, I sympathise with Mr. Ndile who always complains about land. Most of the land in Eastern Province is under national parks. I think we should confine our animals to less land. We should avail more land to our people. If that land is irrigated, we shall get more food. If anything, which communities are benefiting from wildlife? It is the Government, and yet very little goes to the people who live with the wildlife. Very little of what comes from tourism goes to the Maasai, Kamba, Taita and other communities that live with wildlife.

In western Kenya, we have the hippopotami which keeps on destroying our crops. Monkeys and baboons are all over the country. When tourists visit the country, they pay so much money to the hotels and at the gates of the national parks, but I do not know what is paid to the communities that co-exist with these wild animals. It is proposed here that there will be private ranches where

people will be keeping the wildlife. What about those animals which will be left out; who will be managing them? They will keep interfering with our peaceful existence in this country. As I have suggested, we should reduce the amount of land set aside for the animals.

Mr. Temporary Deputy Speaker, Sir, as of now, there is a problem with the proposed TARDA project for sugar cane cultivation. We should clear some of the land where animals have been left roaming up and down and give it to TARDA. The climatic conditions in lower Tana are favourable. Let us produce the sugar-cane that people are making noise about. There are some people who want it and others do not. There have been a few incidences of wildlife sale. We have been selling our animals abroad. We have been exporting wildlife to other countries for research and zoos. We know that, that has been done by research institutions, the Government and individuals. Some of the animals that are exported are captured in Maasailand, Kambaland, Taita and other places. Do they ever benefit when those animals are sold expensively abroad. That is an issue which needs to be addressed. We should not allow illegal sale of our wildlife, even though they damage our property and sometimes kill us. They are sold at exorbitant prices by people who do not give anything back to the communities that live with those animals.

Mr. Temporary Deputy Speaker, Sir, my last comment is about the Kenya Wildlife Service (KWS). It was started with a very good intention of managing issues related to wildlife in this country. But I think there is a problem. Recently, we had a problem with the recruitment of game rangers. The most recent issue is the proposal to privatise KWS. There is this gentleman called Dr. Leakey in this country, who always dreams that he can own KWS and, for that matter, have a right to own our wild animals. I have seen his receipt proposal. I think it is very unfortunate because, according to his dreams, the people he has proposed to work with when KWS is privatised, are foreigners. I do not know whether they are Kenyans but, according to me, they are not Kenyans. I mean the African Kenyans! The animals and KWS are ours. Why should someone dream of taking them away from Kenyans? Let the organisation remain a Government organisation.

Mr. Temporary Deputy Speaker, Sir, I have said that those animals form part of our food. Recently, people have complained about wildlife meat being sold in butcheries. Let it be sold! I am thinking of a situation where we would allow communities that co-exist with wildlife to hunt them for food when it becomes necessary. They should not be referred to as poachers. It is unfortunate to call them poachers. From time immemorial, wildlife meat

has been part of our food. It should not be illegal to eat wildlife meat in this country. I have seen it as a sensitive issue. I know it is sold in some hotels in this country. But if someone wants to buy wildlife meat from a butchery, let him or her be given the go-ahead to do it.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Mr. Poghisio): I want to give this chance to Capt. Nakitare.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this Bill. First of all, I would like to thank the Mover, the indomitable Mr. G.G. Kariuki, for bringing this important Bill.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Angwenyi! Did you hear what name was called out? Did you hear your name?

Mr. Angwenyi: Were you cheating?

The Temporary Deputy Speaker (Mr. Poghisio): Order! It is Capt. Nakitare!

Mr. Angwenyi: I am sorry, Mr. Temporary Deputy Speaker, Sir!

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to contribute to this Bill---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Capt. Nakitare. You will have all the time when we resume.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until Wednesday, 1st December, 2004, at 9.00 a.m.

The House rose at 6.30 p.m.