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OFFICIAL REPORT

Tuesday, 9th December, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.616

ALLOWANCES FOR APS ON
ATTACHMENT IN WEST POKOT

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

- (a) whether he is aware that Administration Policemen in West Pokot District do not get their allowances after completion of attachment; and,
- (b) what he is doing to ensure that the officers get their dues.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, may I kindly seek the indulgence of the House to answer this Question tomorrow afternoon so that I can get more facts on it?

Mr. Speaker: Mr. Moroto, what is your reaction?

Mr. Moroto: Mr. Speaker, Sir, in fact, up to now, I have not received a copy of the written answer although this Question ought to be answered immediately. I am saying this because the officers should be paid their dues. I accept the Assistant Minister's request that he answers this Question tomorrow afternoon.

Mr. Speaker: Very well. I will defer this Question until tomorrow afternoon.

(Question deferred)

Question No.577

DUTY WAIVER ON FISHING NETS

Dr. Oburu, on behalf of **Mr. Sungu**, asked the Minister for Finance whether he could consider waiving duty on fishing nets to encourage growth in the fishing industry.

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

The issue of waiver of import duty on fishing nets has been considered in the past by the Ministers of Finance, and more recently during the preparation of the Budget for the 2003/2004 fiscal year. There are two opposing views which have been presented on this matter. One is that import duty on imported fishing nets should be increased in order to protect local manufacturers of the same. Two, import duty on imported fishing nets should be removed to encourage growth in the fishing

industry.

After evaluating the proposals and considering the benefits associated with each, a decision was made to provide support to the local manufacturers of fishing nets since they generate employment for the local community in addition to producing nets for both local and export markets. A review of the duty rate will require further consultations between the Ministry of Livestock and Fisheries Development, the fishing industry and my Ministry of Finance before the next Budget when the matter will be reviewed.

Dr. Oburu: Mr. Speaker, Sir, the Assistant Minister has said that the second option has been taken to encourage local manufacturers of fishing nets. Could he tell us the concrete measures which have been put in place to encourage local manufacturers to make cheaper fishing nets for the fishermen since this decision has been taken? Fishing nets are the most important gear for fishermen. Where I come from, fish is our gold and coffee. Could the Assistant Minister give us the concrete measures he has taken in this respect?

Mr. Katuku: Mr. Speaker, Sir, I agree that the fishing industry is very important in the hon. Member's area and other fishing areas. The measures we have taken now include the many measures which were considered in the Budget. An example is the lowering of Value Added Tax (VAT) on all imports associated with the fishing industry. We have also ensured that fishing equipment imported into this country is duty-free in order to enable local manufacturers to make many fishing nets at a low cost.

Mr. Twaha: Thank you, Mr. Speaker, Sir. From time to time, our fishermen's fishing nets have been confiscated allegedly because their holes are too small. Could the Assistant Minister inform this House why the Government insists on making itself a nuisance in this way?

Mr. Katuku: Mr. Speaker, Sir, that is a quality requirement because fishing nets are manufactured as per the laid down procedures. As far as the relevant Ministry is concerned, measures have been put in place to ensure that fishing nets used by fishermen are of the right size. This is because the small fish should not be caught because they are important for the future of the fishing industry.

Dr. Oburu: Mr. Speaker, Sir, in the Assistant Minister's answer, he has said that a review of the duty rate will require consultations between the Ministry of Finance and other Ministries, including the Ministry of Livestock and Fisheries Development. Could he tell us when he will hold these consultations? I am asking this question because it is the responsibility of the Ministry of Finance to give guidelines on duty. Whoever the Ministry consults is not our business. Could he give direction on the intended consultations? Could he also make a decision on the waiver or the duty rate to be applied to this particular industry?

Mr. Katuku: Mr. Speaker, Sir, as I have indicated, the issue of consultation must take place before any proposals are made in the Budget. Normally, consultation is between the relevant Ministry and the stakeholders. In this case, the relevant Ministry is the Ministry of Livestock and Fisheries Development while the stakeholders are those in the fishing industry. Once we are through with the consultations, we will fix the relevant waivers in the next Budget which is coming in June, if it is necessary to review the same. If anything has to come, it will be in the next Budget.

Question No.808

COMPLETION OF KIZINGITINI SEA WALL

Mr. A.C. Mohammed asked the Minister for Roads, Public Works and Housing:-

(a) whether he is aware that the construction works for the sea wall at Kizingitini

stalled in 1998 and that the contractor has not been on site since then;

(b) if he is further aware that the wall poses grave danger to the visitors and area residents; and,

(c) what urgent measures he is taking to have the works completed and further penalize the contractor for abandoning the site.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the construction of the sea wall at Kizingitini stalled in 1998. What I am aware of, however, is that the contractor successfully completed the Kizingitini and Dau Sea Wall Projects as per the contract specifications on 5th March, 1999 at a total cost of Kshs42,600,346. The contractor also carried out maintenance of the works for the one year during the defect liability period and finally handed over the works to the Ministry on 24th November, 2000.

(b) I am aware that the wall poses danger to the area residents because the people of Kizingitini have refused to heed the advise given to them by the Ministry officials on how to protect the gabions. They have been advised not to moor their boats on gabions, and also not to off-load their goods from the boats on the sea wall and, instead, to do so at the jetty. The residents have not heeded this advise and hence it has caused the break or wear of the polyvinyl chloride (PVC) coating of the gabions leading to corrosion.

Furthermore, residents have deliberately damaged the gabion wires in order to access the gabion's in-fill material which they use for their private construction.

Mr. A.C. Mohammed: Mr. Speaker, Sir, I am absolutely unhappy with the answer given by the Minister. I believe that he has been misled by his officers in the Ministry, because the contractor left the site early 1998. Could the Minister undertake to visit the project with experts to evaluate whether it has been completed or not?

Mr. Raila: Mr. Speaker, Sir, I do not mind visiting the project. However, the facts are available here. This project, as I have said, started in 1996, the contractor was M/s Universal F&B Contractors and the tender sum was Kshs42,799,280. The commencement date was 27th May, 1996. The original completion date was supposed to be 16th February, 1998. However---

Mr. Sasura: On a point of order, Mr. Speaker, Sir. I would like to seek your guidance. The hon. Member of Parliament has alleged that this work is not complete, but the Minister is reading the facts as it was in the contract. Is it not in order for him to undertake to visit the site as the hon. Member has requested? The hon. Member is saying that the work is not even complete.

Mr. Speaker: Order Mr. Sasura! In any case, the Minister has not refused to visit the site. He is still answering the question. Proceed, Mr. Raila!

Mr. Raila: Mr. Speaker, Sir, I have said that I do not mind visiting the project, but I think it is important that the House should be aware of the facts which the Ministry has. This project stalled due to the *El Nino* rains when the contractor was forced to abandon the site and stop work for a period of two years, necessitating giving him an extension of time. But eventually, the contractor finished the work at a sum lower than the original contract sum. Then there was the guarantee period of one year which the contractor successfully completed and then handed the project over to the client Ministry. As I have said, I do not mind going to visit the project. However, as far as we are concerned, the project was completed.

Mr. Abdirahman: Mr. Speaker, Sir, it is very clear in this country that a number of projects which were not even undertaken have been cleared by the Ministry as having been completed. The Minister is on record saying that there are cowboy contractors in this country who will be kept away. The question that has been raised this afternoon is of utmost concern. Could the Minister, therefore, tell us if he has undertaken an inventory of all major road works which were carried out in this country? The NARC Government claims to have come to power to clean the mess which was there.

Could he tell us whether he has taken an all-round inventory?

Mr. Raila: Mr. Speaker, Sir, of course, the hon. Member is aware that the NARC Government is carrying out a cleaning exercise of the mess created by his party. We have carried out an inventory and are continuing to unveil very many other things.

Mr. A.C. Mohammed: Mr. Speaker, Sir, I want to ask the Minister whether the hand-over of this project has been done on site or in his office. Again, is he aware that the District Engineer at that time, Eng. Guya, was discharged of his duties and taken to court as a result of misappropriating the funds for this project?

(Loud consultations)

Mr. Speaker: Order, hon. Members! I am sure the hon. Minister is finding it extremely hard to follow the question. I am also sure that Mr. A.C. Mohammed is experiencing the same; he cannot follow the answer. So, could we please consult quietly? Mr. Raila, did you follow?

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I did not follow.

Mr. A.C. Mohammed: Mr. Speaker, Sir, is the Minister aware that the District Engineer at that time, Eng. Guya, was discharged of his duties and taken to court for misappropriating funds? I also want to ask the Minister whether the hand-over was done in his office or on site.

Mr. Raila: Mr. Speaker, Sir, the handing over is usually done according to procedures laid down by the Ministry. It does not have to be at the site. Secondly, for the hon. Member's information, this project was completed at Kshs42,600,346. The tender sum was Kshs42,799,280, therefore, it was completed at a sum below the tender sum.

Mr. Speaker: Very well! Next Question!

Question No.752

COMPLETION OF IFAC-FUNDED PROJECT

Mr. Speaker: Mr. Mbau is not here? Nevertheless, the Minister, wanted the Question deferred. So, I will defer it!

(Question deferred)

Question No.414

STATUS OF KENYA'S FOOD NUTRITION POLICY

Prof. Oniang'o asked the Minister for Agriculture:-

- (a) whether he could inform the House the status of Kenya's food nutrition policy;
- (b) if he could state the Government position on food security for Kenyans; and,
- (c) if he could state what constitutes Kenya's food strategic reserve, in view of the above.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) Kenya's Food Nutrition Policy is embedded in the Sessional Paper No.2 of 1994 on National Food Policy and the National Development Plan (2002-2008). Its main objective is to overcome the problem of food shortage and malnutrition among vulnerable groups, especially

pre-school age children.

(b) The Government policy on food security is to ensure adequate supply of nutritionally balanced foods in all parts of the country at all times.

(c) Kenya's strategic grain reserve consists of three million bags of maize of 90 kilogrammes each in physical stocks and a cash amount equivalent to three million bags of maize purchase in hard currency worth approximately US\$60 million.

Prof. Oniang'o: Mr. Speaker, Sir, I have a short written response with some supplementary information. I want to thank the Assistant Minister for providing this information although it does not answer the Question. The fact is that there is no food and nutrition policy in this country. Are there plans to put in place a food and nutrition policy that will ensure our people get the right quality and quantity? Secondly, silos across the country are empty. So, what strategic reserve do we have in place to feed the Kenyans when silos, including the ones in Butere District, are completely empty? Why should this Government continue to pay workers to take care of empty silos?

Mr. J. Nyagah: Mr. Speaker, Sir, I confirm that there is a national food policy which was started in 1981 and revised in 1994. Currently, we are in the process of reviewing it. We have 1.4 million bags in strategic reserve. Recently, the Government raised the price of maize in order to encourage further purchases into our stores. In addition, we have an inter-Ministerial committee. This committee consists of officers from the Ministry of Planning and National Development, Treasury and our Ministry. We are working together in an effort to ensure we co-ordinate national food policy and strategy.

Mr. Sambu: Mr. Speaker, Sir, could the Assistant Minister confirm or deny that millers in Eldoret who buy a 90 kilogramme bag of maize at Kshs1,200 have not been instructed to buy at Kshs1,100, the same price as the National Cereals and Produce Board (NCPB)? Could he confirm that they will pay farmers Kshs1,500 per 90 kilogramme bag of white maize as they promised during the election campaigns last year?

Mr. J. Nyagah: Mr. Speaker, Sir, basically, it is our policy to facilitate the best possible prices for our farmers. One of the reasons why we have raised the price of maize upwards is in an effort to also force other buyers to purchase at a higher price. Had we set a price of Kshs900, as we used to do before, millers would buy a 90 kilogramme bag of maize at Kshs1,000. By raising it to Kshs1,100, we are helping farmers, at least, to get a better price for their maize. We will continue to review this situation. I am, therefore, not aware that we have instructed the millers to pay the same price as NCPB.

Capt. Nakitare: Mr. Speaker, Sir, I wonder why the Assistant Minister is trying to evade to answer questions. He is giving the House irrelevant information with regard to food security in this country. One thing we have noted is that the Government releases good prices when maize has already been bought by middlemen. So, there is no maize to be bought at this new price. That is why silos are empty. Could he tell us why our silos are empty?

Mr. J. Nyagah: Mr. Speaker, Sir, we are aware of the problems involved and the fact that maize is a very important and strategic crop. That is why the Ministry increased the prices of maize. However, the signal we are trying to send to farmers this time is that we want them to get better prices for their maize. Whatever stocks they have, we will ensure that they get the best possible price.

Mr. Speaker, Sir, in terms of strategic reserve, the three million bags of maize is the figure that we generally require before we allow importation of maize, if necessary. At the moment, we have 1.4 million bags of maize. We are confident that the 1.4 million bags of maize will increase in the next few months as we buy more from the market. We will also be buying from other areas that sell small quantities. So, we are not necessarily focusing on the north rift region.

Mr. C. Kilonzo: Mr. Speaker, Sir, why is the Assistant Minister talking about food security

while there is no action the Government is taking to provide seeds in the dry areas of this country? Yatta Constituency, for example, has not been provided with any seeds.

Mr. J. Nyagah: Mr. Speaker, Sir, we are doing very many things, particularly in Eastern Province. The Eastern Kenya Horticultural and Traditional Food Crops Project which is funded by IFAD is specifically geared for Eastern Province. It will assist Mbeere and Machakos districts. We have dry areas in Central Province.

Mr. Speaker, Sir, the Small Holder Community Services Development Project assists farmers in Central Province. This is also an externally funded project. So, we are doing many things. The problem with our Ministry is that we do not necessary explain what we are doing. From now onwards, we will be informing members of the public what we are doing in the Ministry.

Prof. Oniang'o: Mr. Speaker, Sir, the Assistant Minister does not understand what food and nutrition policy is all about. If he did, he would not be talking about maize only. Could he tell us when he will ensure that Kenyans have a balanced diet that does not consist of only maize? Does that policy, in fact, exist?

Mr. J. Nyagah: Mr. Speaker, Sir, my Ministry is fully aware of the situation. That is why in the new strategic grain reserve programme, after we buy enough maize, we will also buy wheat, rice, milk powder, fat and oil because we recognise the need for a balanced diet. Please, give us time.

Mr. Billow: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that maize, rice and wheat constitute a balanced diet?

Mr. J. Nyagah: Mr. Speaker, Sir, there are two things here. First, we are talking about people in real problems. These are people who the Government has a moral responsibility to assist. We assume the hon. Member is able to look after himself on a day to day basis. However, this applies to people who are vulnerable. We provide food to some primary schools in the rural areas. In the list I read, I included fat and oil. Therefore, in the new policy, we will include fat and oil. We have held many workshops around the country to review this policy. I am surprised that Prof. Oniang'o has not attended any of these workshops. In fact, we invited many people to discuss the national food policy.

Mr. Speaker: I think the Assistant Minister has done very well, except that he may never have heard of the word "protein".

(Laughter)

Next Question, Mr. M'Mukindia.

Question No.365

EXPLORATION FOR PETROLEUM
LIQUIDS AND GASSES

Mr. Speaker: Is Mr. M'Mukindia not here? Question dropped!

(Question dropped)

Mr. Speaker: Next Question, Mr. J.K. Kilonzo!

Question No.882

COMPLETION OF KYULULU
WATER PROJECT

Mr. J.K. Kilonzo asked the Minister for Water Resources Management and

Development:-

(a) why Kyululu Water Project in Mwitika Division, which was sponsored by the Ministry and Kitui Catholic Church, has stalled; and,

(b) whether she could allocate funds to complete the project.

The Assistant Minister for Water Resources Management and Development (Mr. Munyes): Mr. Speaker, Sir, I beg to reply.

Hon. Members: Wapi mama?

The Assistant Minister for Water Resources Management and Development (Mr. Munyes): Atakuja.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members!

(Mr. Mganga stood up in his place)

Mr. Speaker: Order! Order, Mr. Mganga! Relax, Mr. Mganga! Relax completely.

Proceed, Mr. Assistant Minister.

The Assistant Minister for Water Resources Management and Development (Mr. Munyes): Mr. Speaker, Sir, I beg to reply.

(a) Kyululu Water Project in Mwitika Division was started in 1987, completed in 1989 and handed over to the community by the Catholic Diocese of Kitui. The Church implemented and financed the project while my Ministry gave technical support, but it stalled in 1995. The project started deteriorating in 1990/1991 as a result of prolonged drought, which reduced the well yield to the extent that it could not meet the community's water demand. Therefore, the well dried up and the pump broke down, forcing the community to abandon it in 1985.

(b) The project has been prioritised for funding in the financial year 2004/2005. Approximately Kshs130,000 will be required to rehabilitate the project for the residents to benefit.

Mr. J.K. Kilonzo: Mr. Speaker, Sir, while I sympathise with the Minister for the unfortunate incident which befell her---

Mr. Speaker: Order! Order! Mr. J.K. Kilonzo, could you stick to the Question?

(Laughter)

Mr. J.K. Kilonzo: Mr. Speaker, Sir, this answer reflects a lot of lack of seriousness on the part of the Assistant Minister. He says that the project started in the year 1987 and was completed in the year 1989. He goes further to say that the community abandoned the project in 1985. How could the community have abandoned the project before it even started? Is the Assistant Minister serious? That is why I am saying that if Madam Minister was here, she would have given a better answer.

Mr. Munyes: Mr. Speaker, Sir, the project was started in 1987 and completed two years later through the initiative of the Catholic Church and my Ministry. As a result of a prolonged drought, and due to the fact that the pump broke down, it was abandoned five years later.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. I hope you are not going to order me out of this Chamber for asking for a better answer.

Mr. Speaker: Order! Order! Mr. Angwenyi, you are inviting just that. You do not ever seem to respect the Chair. You should relax, and do so completely.

Mr. Angwenyi: Mr. Speaker, Sir, is the Assistant Minister in order to say that the project was abandoned five years later when in his written reply he says that it was abandoned by the community in 1985? He says that the project was started in 1987 but abandoned in 1985! Is he in order?

Mr. Munyes: Mr. Speaker, Sir, the written reply contains some typing errors. I have just

confirmed from my records that the project was abandoned in 1995.

Mr. Speaker: Very well. Last question, Mr. J.K. Kilonzo!

Mr. J.K. Kilonzo: Mr. Speaker, Sir, the pump for the project cost more than the Kshs130,000, the Assistant Minister says he is going to allocate to the project in the next financial year. The amount is not even enough for sinking a well. Could he review this figure and provide the project with sufficient funds to revive it, so that our people at Kyululu can have water to drink?

Mr. Munyes: Mr. Speaker, Sir, according to my Ministry, Kshs130,000 will be enough to revive the project. Deepening and construction of the well shaft will cost Kshs36,000; purchase and installation of the hand pump will cost Kshs65,000, while capacity building for the community will take Kshs18,000. The estimated total cost is Kshs130,000, and it will be enough to revive the project.

Mr. Speaker: Very well. Next Question, Mr. Karaba!

Question No.392

OPERATION OF NDIA WATER SCHEME

Mr. Karaba asked the Minister for Water Resources Management and Development:-

- (a) whether she is aware that the major Ndia Water Development Scheme is not operational;
- (b) what the total amount of money used in the initial project is; and,
- (c) what immediate measures she has put in place to ensure that the area residents benefit from the project.

The Assistant Minister for Water Resources Management and Development (Mr. Munyes): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the major Ndia Water Development Scheme is operating below capacity, causing a shortfall of 5,000 cubic metres of water per day. This has forced the National Water Conservation and Pipeline Corporation (NWCPC) to put in place a water rationing programme.

(b) The project was implemented at the cost of Kshs198,780,307.70.

(c) My Ministry, through the NWCPC, has already put in place the following measures to ensure that the residents continue benefiting from the project.

(1) The Corporation intends to construct an additional line to increase the supply by 5,000 cubic metres of water per day during the current financial years.

(2) A water rationing programme has been put in place for the time being.

(3) We will educate members of the public on the need to conserve water catchment areas and proper use of the available water.

Mr. Karaba: Mr. Speaker, Sir, I am sad to hear that the project, which was completed in 1980, is still operating below capacity. Indeed, it has been operating below capacity since then. What has the Government done 20 years later to ensure that it operates at full capacity?

Mr. Munyes: Mr. Speaker, Sir, the water demand for this area is 18,000 cubic metres of water per day, while water production stands at 13,000 cubic metres of water per day. As I have said, there is a shortfall of 5,000 cubic metres of water. In order to improve the scheme's capacity, we will invest another Kshs10 million in construction works and purchase of equipment.

Mr. Ndambuki: Mr. Speaker, Sir, when we were discussing the Vote of the Ministry of Water Resources Management and Development, the Minister assured us that all the stalled projects would be completed before the Ministry starts new projects.

Mr. Speaker, Sir, could the Assistant Minister tell us how far they have gone in that direction? We still continue to have shortage of water when so many water projects remain incomplete.

Mr. Munyes: Mr. Speaker, Sir, the Ministry's policy is rehabilitation of existing projects. We are not undertaking any new works. That is why we have allocated every district some funds with which to rehabilitate some of its water projects.

Mr. Speaker, Sir, I know that a lot of money has been allocated to water works in the hon. Member's home district.

Mr. Speaker: Last question, Mr. Karaba!

Mr. Karaba: Mr. Speaker, Sir, the Assistant Minister has said that Kshs10 million will be spend for the construction works and purchase of equipment. Which particular areas does he intend to spend this money on? Could the Ministry consider waiving the accumulated bills from the National Water Conservation and Pipeline Corporation (NWPC) which have been charged on consumers even when there is no water?

Mr. Munyes: We will not waive the bills, but the Kshs10 million will be provided in the next Budget.

Mr. Speaker: Next Question, Prof. Olweny!

Question No.925

SETTLEMENT OF TONDE SQUATTERS

Prof. Olweny asked the Minister for Lands and Settlement:-

- (a) whether he could table the list of the people who were recently allocated land at Tonde, God-Nyithindo Location in Muhoroni Division and how much each of them got;
- (b) whether he could indicate the number of former Tonde squatters and the non-Tonde squatters who benefitted from the allocation; and,
- (c) what effort he is making to settle the Tonde squatters who failed to get land in the recent allocation.

The Assistant Minister for Lands and Settlement (Mr. Ojode): Mr. Speaker, Sir, I would want to plead with the Chair to defer this Question until tomorrow because the answer I have is unsatisfactory.

Mr. Speaker: What is your reaction, Prof. Olweny?

Prof. Olweny: Mr. Speaker, Sir, it is acceptable to me.

Mr. Speaker: The Question is deferred to Thursday afternoon.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

RELEASE OF MR. NDUNGU'S BODY
FROM MOI HOSPITAL

Mr. Sirma: Mr. Speaker, Sir, I have not received a written answer. However, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that the body of the late Edward Ndungu, who died on 9th November, 2003, is lying at Moi Teaching and Referral Hospital, Eldoret?

(b) Is she further aware that the Hospital cannot release the body for burial until the family pays Kshs55,000?

(c) Could the Minister order the release of the body to the family for burial?

Mr. Speaker: Anyone here from the Ministry of Health? I am sorry, Mr. Sirma, the Minister is not in. Can I put it for tomorrow afternoon?

Mr. Sirma: Mr. Speaker, Sir, the body has been lying in the mortuary for the last three weeks. This Question came up last week and they begged to be given up to today. They have not given us an answer. This is a very serious issue. We could have it tomorrow.

(Question deferred)

Mr. Salat: On a point of order, Mr. Speaker, Sir. The Question by Mr. Sirma is God-sent for me. The body of the late William arap Langat from Chebilit is lying at the Kenyatta National Hospital Mortuary for lack of Kshs10,000.

Mr. Speaker: Mr. Salat, wait for the Question tomorrow.

(Loud consultations)

Mr. Salat: Mr. Speaker, Sir, I need your protection.

Mr. Speaker: Order! Order! Mr. Salat is entitled to be heard.
Proceed!

(Applause)

Mr. Salat: Mr. Speaker, Sir, thank you for protecting me. I am rising on a point of order because Mr. Langat had retired from the police force. I have tried to make phone calls to have the body released, but they did not bare any fruits. Now that Mr. Tarus is here, could he order for the release of the body of the late arap Langat?

Mr. Speaker: Well, you have taken a short-cut. Mr. Salat, you may have a genuine complaint, but you are using the wrong forum.

Mr. Twaha: On a point of order, Mr. Speaker, Sir, the reason why Mr. Sirma filed this Question under Private Notice is because it was urgent. I would like to offer some guidance. A few years ago, a similar case was filed in the High Court in Mombasa. The family of a deceased person sued Coast General Hospital, Mombasa, for detaining his body and Justice Andrew Hayanga ruled that under no circumstances should any hospital purport to have a lien on a human body and it is illegal to hold it.

Mr. Speaker, Sir, could the Government just obey this ruling and circulate it to all the hospitals?

(Applause)

Mr. Speaker: Order, Members! That Question will be in the Order Paper tomorrow and I hope the Minister will be there to answer it. A very bad habit is growing around the country where hospitals detain dead bodies. What do they want do with them?

Anyway, we will hear what the Minister has to say tomorrow.

Next Question, Mr. Cheboi!

REMITTANCE OF FREE PRIMARY
EDUCATION FUNDS TO
KORABARIET SCHOOL

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

(a) Is the Minister aware that two classroom roofs at Korabariet Primary School, Kuresoi Division of Nakuru District, were blown off by wind and that the pupils are now accommodated in unhygienic grass thatched rooms while others study in the open?

(b) Is he further aware that both phase one and two of Free Primary Education Fund of Kshs28,861 and Kshs60,000 respectively, have not been remitted to the school?

(c) What immediate action is he taking to rectify the situation?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that two classrooms at Korabariet Primary School, Kuresoi Division of Nakuru District, were blown off by wind and that pupils are accommodated in unhygienic grass thatched rooms.

(b) I am aware that both the initial and phase one of Free Primary Education Fund of Kshs28,871 and Kshs60,252 have not been received by the school as the school did not have a current account until September, 2003.

(c) The school has opened A/C No.301-094-500 with the National Bank of Kenya, Nakuru Branch, and the Ministry has now remitted a total of Kshs105,000.

Mr. Cheboi: Mr. Speaker, Sir, I will specifically thank the Assistant Minister for the answer to (c). Immediately I asked the Question, she paid the money. The answer to (a) is based on lack of information. It is a fact that the school was blown off by wind in October, 2003, and since---

Mr. Speaker: Mr. Cheboi, it is Question Time and not debating time!

Mr. Cheboi: Mr. Speaker, Sir, since it is my word against hers, could the Assistant Minister visit the constituency, and specifically that school, to confirm that wind blew off the roofs of the two classrooms? She will have to arrange for an helicopter because there are no roads leading to that area. When is she going to visit the school?

Mrs. Mugo: Thanks to the KANU Government, we do not have roads there, but we will construct one.

Mr. Speaker, Sir, the information I have is that this school was previously located in a forest. The people together with the school were relocated. The parents and the community put up the school and placed iron sheets on top of the classrooms. I got this information from the District Education Officer only last week and we had asked him to visit the location. It is not his word against mine because he lives in the constituency.

I will undertake to check again.

Mr. Sasura: Mr. Speaker, Sir, since this year started, we have had several such calamities across the country where roofs have been blown by wind or burnt down. The Assistant Minister told us here earlier that the money sent for Free Primary Education Programme is not meant for such calamities. Now, that there are no Harambees, could she tell us where they expect the parents to get the money for repairs from?

(Applause)

Mrs. Mugo: Mr. Speaker, Sir, first of all, I did not say that there are no Harambees. Communities and parents are allowed to consult, inform the Ministry and then conduct Harambees for such work. Two, we have also given money for repair work. If a school receives a certain amount of money and parents feel that it is not adequate, they are free to consult and hold a Harambee.

Mr. Cheboi: Mr. Speaker, Sir, I asked a specific question for which I want an answer. When is the Assistant Minister going to visit the school to confirm what I am telling her?

Mrs. Mugo: Mr. Speaker, Sir, the hon. Member has talked of a helicopter. You cannot blame that on us, but on those people who were there before us.

Hon. Members: Hire a helicopter!

Mrs. Mugo: Mr. Speaker, Sir, he said that I will have to use a helicopter.

Mr. Cheboi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to blame me and yet I was not there before? I was not in Parliament!

Mrs. Mugo: Mr. Speaker, Sir, I am sorry. I did not know you were not in KANU before. It is just that side which is mainly KANU but I do not blame you. It was the previous system which I blame. [Mrs. Mugo]

The hon. Member says that the pupils are now accommodated in unhygienic grass thatched rooms while others study in the open. The information I have is that the roof is not grass thatched, but has iron sheets. We will, therefore, check that again.

Mr. Speaker, Sir, we are also---

Mr. Speaker: Order! You must now sit down!

Hon. Members: She is scared!

Mr. Speaker: Order! Madam Assistant Minister, are you scared of going to the hon. Member and consulting with him?

Mrs. Mugo: Mr. Speaker, Sir, I am not scared at all but I have staff on the ground who will check and if need be, I will come back with that information. However, there is no money to hire a helicopter.

Mr. Speaker: Very well. Next Question by Private Notice by Eng. Muriuki!

MISAPPROPRIATION OF OL KALOU
FARMERS SOCIETY FUNDS

Eng. Muriuki: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that Ol Kalou Farmers Sacco Society has suffered serious cash-flow problems primarily due to misappropriation of members' funds?

(b) Is he further aware that despite the matter having been taken up by the Anti-Corruption Police Unit nine months ago, no tangible action has been taken to recover the funds or to bring the culprits to book?

(c) What measures has the Minister put in place to avoid total collapse of the society?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Thank you, Mr. Speaker, Sir. I beg to reply.

(a) I am aware.

(b) It is true that the matter was handed over to the Anti-Corruption Police Unit for further investigations with a view of bringing the culprits to book. However, I was informed last week that the investigations are still incomplete and the final findings are still being awaited.

(c) Following the findings of the inquiry report, the Ministry has seconded an officer to the society for purposes of implementing the recommendation of the inquiry report and putting in place measures that will ensure control of operations within the standards set on what is left of the co-operative society. In this regard, an overall plan has been formulated to help the society redeem itself.

Eng. Muriuki: Mr. Speaker, Sir, first let me take the opportunity to thank the Assistant Minister for seconding an able officer to handle Ol' Kalou Farmers Sacco Society. There are two points I would wish the Assistant Minister to clarify. One, the report which was done by the Ministry

clearly indicated who stole the money. There is no need of any investigation because it was direct theft. Secondly, people who do not belong to the co-operative society were given money. There was nothing to hide. The officers just said: "We have given Kshs1 million to so-and-so". Therefore, what investigations are being carried out for ten months since February when somebody has even signed for the stolen money?

Mr. Kenneth: Mr. Speaker, Sir, the Ministry conducted an inquiry which came up with glaring fraud. After that, we handed over the report to the Anti-Corruption Police Unit so that they could initiate criminal proceedings. They are yet to finalize that. Secondly, we seconded our own officer so that he could try and recover or manage what was left of the co-operative society. At best, what we can do is to push the Anti-Corruption Police Unit to take the necessary action against those officers and also recover what was stolen. In fact, we are doing it.

Mr. Wambora: Mr. Speaker, Sir, I have listened with keen interest to what the Assistant Minister has done for this collapsing co-operative society. Could the Assistant Minister confirm that, indeed, they have changed the policy and they will withdraw the official receivers who are fleecing the co-operative societies in other areas as they have done in Ol' Kalou?

Mr. Kenneth: Mr. Speaker, Sir, I think I was talking about seconding an officer to try and help the co-operative society recover. I was not talking about receivers.

Eng. Muriuki: Mr. Speaker, Sir, may I request for your indulgence so that the Assistant Minister can address my specific question? You cannot take 10 months to investigate whether somebody took money which he has even signed for, accepted and it is in writing unless the Government is telling us that the Anti-Corruption Police Unit is completely useless, in which case, it should be disbanded and we follow our own jungle law in Ol' Kalou to recover the money.

Mr. Kenneth: Mr. Speaker, Sir, I think it is fair to give the police time. The Minister actually went up to Ol' Kalou and held a meeting with the owners of the Farmers' Society and we agreed that we were going to give that report to the Anti-Corruption Police Unit. We have been pursuing the outcome and the police are at the end of concluding their investigations. I want to plead with the hon. Member to give us and the police wing a little bit of time to take legitimate action which will not be contested thereafter.

Mr. Speaker: Next Question by Private Notice by Mr. Muiruri!

ACTION AGAINST MALICIOUS NEWSPAPERS

Mr. Muiruri: Mr. Speaker, Sir, although the Attorney-General has showed me the answer, I do not have a copy for myself.

I beg to ask the Attorney-General the following Question by Private Notice.

(a) What action is the Attorney-General intending to take against the owners, publishers, editors and writers of the following newspapers notably; *Citizen*, *Independent*, *Kenya Confidential*, *The Patriot*, *The Monitor* and *The Dispatch*, which have maliciously damaged people's names and reputations?

(b) Could he table the names of the publishers, editors and registered offices of the said Press for the purpose of litigation and civil remedy?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I signed the answer this morning and I do not know why the hon. Member has not received it. It must be somewhere around here. However, I have shown the hon. Member the answer which he has read, perused and studied and I think he understands it. However, I beg to reply.

(a) It is up to the person who alleges that the newspaper has maliciously damaged his or her name and reputation to institute appropriate legal action for libel, seeking amongst other prayers, damages.

(b) (i) *Weekly Citizen*: Place of printing, Muthithi House, Westlands; Publisher, Headline Publishers; Printer, Fotoform, P.O. Box 14681, Nairobi; Registered Office, Railway Commercial Offices. This information is as per the last return filed in 2000.

(ii) *Kenya Confidential* as per application dated 5th October, 1998, Place of printing, Westlands, Nairobi; Publisher, Oscar Publicity; Printer, Fotoform.

(iii) *The Patriot*: No application and, therefore, I am unable to supply the information required.

(d) *Dispatch*: I do not have the requisite information.

(e) *Independent*: No application and, therefore, I am unable to supply the information required.

(f) *Citizen*: The publisher is shown as Henlison Kenya Limited, P.O. Box 3059, Nakuru. He is not only the publisher, but also the printer.

(g) *The Monitor*: There is no record of its application and, therefore, I am unable to supply the requisite information.

Mr. Muiruri: Mr. Speaker, Sir, you remember that this Question was asked last week and the Attorney-General gave the named publishers a warning that they should comply with the law. I am surprised that his answer is now contrary to the promises he made before this House.

Mr. Speaker, Sir, this is a very serious matter. We are talking about newspapers out in the streets of Nairobi and other major towns of this country. For example, one of the newspapers, which I have with me, reported that his Excellency the President had undergone a neurological surgery. The other one reported that---

Mr. Speaker: Order, Mr. Muiruri! I am asking of you---

Mr. Muiruri: Mr. Speaker, Sir---

Mr. Speaker: Mr. Muiruri, will you, please, sit down? You are saying that the named newspapers are part of the so-called gutter Press. What cause are you advancing by using the Floor of this House to actually perpetuate what they have been reporting?

Mr. Muiruri: Mr. Speaker, Sir, probably, it is because of the anger inside me.

Mr. Speaker: Relax! Relax, Mr. Muiruri!

Mr. Muiruri: Mr. Speaker, Sir, let me relax then. In view of the Attorney-General's answer that: Some of the publishers of these magazines have no known addresses and, therefore, impossible to sue, what action is he taking to protect genuine leaders who are castigated by the named newspapers. Have they really complied with the law? Have they deposited the Kshs1 million required for litigation purposes?

Mr. Wako: Mr. Speaker, Sir, I believe that leaders will take action as I mentioned in part (a) of my answer. However, of course, the Attorney-General has the responsibility to ensure that the law is complied with. Indeed, in as much as some of them have not even bothered to apply or sign for the exquisite bonds, they have already breached the law. This is serious according to the Books and Newspapers Act.

It is true that I warned publishers to comply with the law as of now, that is, when I answer this Question. It is patently obvious that they have not complied with that law. Now, I want to take this opportunity to warn the vendors that action is already being taken against them. Although ignorance of the law is no defence, let the vendors know that the law is very clear on this issue. It is a law that was passed by this House and it reads as follows: "Any person who sells or distributes any book or newspaper, whose publisher has not complied with the requirement of Sections 6, 7 and 8 shall be guilty of an offence and liable to a fine not exceeding Kshs20,000." Most of these newspapers have not so complied.

So, let me take this opportunity to warn the vendors that the papers so-named: *Citizen*, *Independent*, *Kenya Confidential*, *The Patriot*, *The Monitor* and *The Dispatch* have not complied

with the law. Any vendor found selling or distributing them, is committing an offence and the Registrar-General in conjunction with the Minister of Information and Tourism, who have the responsibility on policy matters regarding this issue are co-ordinating to take appropriate action together with the law enforcing agencies.

Mr. Mwenje: Mr. Speaker, Sir, the Attorney-General is taking this House for a ride. He promised to take action the last time he was here. Up to now, he has not taken any action against the publishers of the named newspapers. In fact, those newspapers are still being sold in the streets today. You can see the irony of it all. He is telling us that vendors of newspapers shall be taken to court yet he cannot tell us who the owners of those newspapers are! How do you take to Court somebody you do not know. He has just mentioned before this House that he does not know some of the publishers of the newspapers. I think, the Attorney-General is not serious and he should tell us who all these people are. He should also tell us whether they are registered and, if not, why he has not taken them to Court up to now. Why has he allowed them to continue operating illegally?

(Applause)

Why has the Attorney-General not taken action against these publishers when they continue to malign the names of leaders including His Excellency the President?

Mr. Wako: Mr. Speaker, Sir, I believe that hon. Mwenje was here last time. If truly he was here, then, his memory is obviously faulty.

(Applause)

I was very careful with my words. I said that the publishers have up to the time I am answering the Question to comply with the law. I did not say that I was going to take action immediately. Indeed, I have confirmed this afternoon, that they have not complied with the law and so action will be taken against them as I have already indicated.

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. I am sure you know that my memory is not faulty at all. If any thing, it is the best. However, the Attorney-General continues to mislead this House for his own failure to perform his duties.

Mr. Speaker, Sir, even after he issued his warning in this House, the following day, the mentioned newspapers continued writing the same stories. The Attorney-General must now admit his failure because he has allowed these newspapers to continue maligning people's names in this country. If he is not able to stop them, then, he should not tell people to go to Court when he cannot even tell this House who the owners of those newspapers are. I think we need your direction on this matter.

Mr. Speaker: Mr. Mwenje, I can understand your anger and that of other hon. Members. However, that will not waive the rules anyway.

Mr. Wako, could you please respond to the hon. Member? The concern of this House and Kenyans at large is about the character assassination going on with impunity!

Mr. Wako: Mr. Speaker, Sir, the HANSARD will bear me out on what I said last time. I gave the publishers of the mentioned newspapers until today to comply with the law. They have not so complied.

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

Mr. Speaker: Will you let him finish before you interrupt?

Mr. Wako: Mr. Speaker, Sir, let me take this opportunity to state, in no uncertain terms, that even the freedom of the Press has special duties and responsibilities that go with it. This is recognised even under International Law and in particular Article 19 of the International Covenant on Civil and Political Rights. The newspapers, publishers and printers are their own worst enemies in not

recognising their special duties and responsibilities. Because they have not complied with the law, we are going to implement the law without fear or favour. As I said earlier---

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

Mr. Speaker: Mr. Wanjala, will you, please, sit down?

Mr. Wako: Mr. Speaker, Sir, in conjunction with the Ministry of Information and Tourism and the law enforcement agencies in this country, we are going to implement the law.

Mr. Angwenyi: Mr. Speaker, Sir, this Paparazzi Press does provide some very juicy reading, indeed. It is just like hawkers who sell some cheap foodstuffs in the streets.

Mr. Speaker, Sir, could the Attorney-General undertake to review the amount of bond for this type of business so that they can be brought under the legal system of this country and they continue giving us the juicy reading we normally get?

(Loud consultations)

Mr. Wako: Mr. Speaker, Sir, I am sorry, but I do not know why Mr. Angwenyi is saying that the gutter Press offers juicy reading materials. It is not for the Attorney-General to fix the bond. It is this House which enacted that legislation after the Ministry of Information and Tourism which is responsible for the policy issues, said that it must be so. They, then, asked the Attorney General to draft the Bill, which came to this House and was passed. So, for the amount of bond to be reviewed, those are the channels that must be followed. But the question of fixing the amount of the bond is not an excuse for newspapers to publish juicy stories which are false and are damaging people's reputation. That is wrong both under criminal and civil laws.

Mr. Speaker, Sir, that is why the people so defamed should also take action. The Government will also take action in accordance with its responsibility.

Mr. Speaker: Ask your last question, Mr. Muiruri!

Mr. Muiruri: Mr. Speaker, Sir, the Attorney General is trying his best to answer the Question, but in part (b) of my Question, I am asking for the names of the owners of the newspapers. The answer he is giving mentions publishers, but not owners at all. Truly, for heavens sake, would the Attorney-General take the matter much more seriously?

(Mr. Muiruri waved a newspaper cutting in the air)

Mr. Speaker, Sir, this newspaper says that 20 Ministers are HIV positive!

Mr. Speaker: Order!

Mr. Muiruri: Are there 20 hon. Members who are HIV positive? So, they are talking about tarnishing people's names! Is the whole Government made up of people who are HIV positive? This is a serious matter!

By the way, Mr. Speaker, Sir, I am not HIV positive. Allow me to produce a medical report showing that I am not HIV positive. The medical report was issued by Dr. Gikonyo!

(Mr. Muiruri displayed a document)

(Laughter)

Mr. Speaker: Order! Order! Order! I have already asked hon. Muiruri not to be an agent of the gutter Press. He is actually advertising on the Floor of the House, and that is wrong!

I will not allow the Floor of this House to be the place where the gutter Press is displayed and advertised. So, please, leave it alone, relax---

(Laughter)

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

Mr. Speaker: Order! Order! There will be no further debate on that issue! Will you sit down!

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

Mr. Speaker: Order! Refused. That is the end of Question Time.

COMMUNICATION FROM THE CHAIR

DELEGATION OF TANZANIAN OFFICIALS IN SPEAKER'S ROW

Mr. Speaker: Hon. Members, it is my pleasure to welcome the hon. J.P. Magufuli, MP and Minister for Public Works of the United Republic of Tanzania who is on an official visit to Kenya. The [Mr. Speaker]

hon. Magufuli is leading a delegation of officials from Tanzania, at the invitation of our Government to share experiences in the spirit of the East African Corporation.

Tomorrow, he will launch the construction works on the Meru-Maua Road. Please, stand, hon. Minister.

*(The Minister stood up in the
Speaker's Row)*

(Applause)

The hon. Minister is accompanied by His Excellency, the High Commissioner of Tanzania to Kenya, hon. Maj-Gen. Sarakikia. He is also accompanied by senior officials from his Ministry, including:-

- | | | | | |
|-------------------------|----------------------------|--|--------------------|----------|
| (1) Eng. L. Mujjungi - | Director of Trunk Roads | | | |
| (2) Eng. P. Mfugale - | Director of Regional Roads | | and Bridges | |
| (3) Eng. B. Muhegi - | Registrar, Contractors | | Registration Board | |
| (4) Eng. M.T. Kimwari - | Chief Executive | | Officer, Tanzania | Building |
| | Agency | | | |
| (5) Eng. N. Temo - | Head of Information and | | Communication | |
| (6) Mr. B. Ruhaza - | Assistant to the Minister | | | |

So, on my own behalf and on your behalf, I wish the hon. Minister and his delegation a very fruitful stay and tour of Kenya, and a safe passage when they decide to return back home. Thank you.

MINISTERIAL STATEMENTS

STATUS OF KENYA MEAT COMMISSION

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, being aware that the re-opening of Kenya Meat Commission (KMC) is a matter of great concern to

livestock producers especially the pastoralist communities in this country, not to mention other interested parties and stakeholders who are eagerly awaiting the revival of the KMC at Athi River, I wish to make a Ministerial Statement regarding its current status. KMC was established in 1950 to promote the country's meat industry through the purchase and slaughter of livestock, including the marketing of livestock products. At the same time, it was to act as a strategic drought management tool of last resort. It performed poorly due to:-

- (1) Corruption and mismanagement
- (2) Increased local competition
- (3) Loss of European Union (EU) export market for fresh meat; and,
- (4) Technical defects due to aged machinery. The factory was finally closed for renovation in 1992.

My Ministry has reviewed the position of the KMC and has considered re-opening it as a going concern in preparation for subsequent privatization, as this would readily attract the private sector, in line with the Government Poverty Reduction Strategy Policy.

Secondly---

(Loud consultations)

Mr. Speaker: Order! Order! The Minister for Livestock and Fisheries Development is giving a Ministerial Statement! Can we please give him audience?

Proceed!

The Minister for Livestock and Fisheries Development (Mr. Munyao): Secondly, it is one of the strategies to produce quality livestock products for the export market so as to enhance the incomes of communities in Arid and Semi-Arid Lands (ASALs); thereby, helping to integrate them into the mainstream national economy. It is the only medium-term facility which provides a viable market for a large number of

[The Minister for Livestock and Fisheries Development]

livestock from ASAL regions, disease control problems in relation to the export markets can only be resolved through effecting some of the Government quarantine measures which come hand in hand with the revival of KMC, and finally, the re-opening of KMC, whereby there will be a high-level savings during severe droughts because pastoralists will be able to sell off surplus stock.

Mr. Speaker, Sir, it is the stated goal of the Government to eventually diversify KMC. It is, therefore, necessary for the Government to prepare KMC for divestiture, and this is why on 8th September, 2003, the Government appointed joint receiver-managers to oversee the mandate of developing a feasible action plan. They were also mandated to establish the economic and financial viability of the revival of KMC. So far, the business plan and the necessary budget for the revival process have been prepared.

Mr. Speaker, Sir, the receiver managers are expected to complete their work within six months from the date of their appointment, after which I will appoint an interim Board of Management to continue with the restructuring of the KMC. The Government has, on various occasions, stated its desire to establish regional slaughterhouses near areas of production. This position has not changed and it is expected that those facilities will complement the operations of the KMC.

Finally, the Ministry has already received from the Treasury, a total of Kshs114 million out of the voted provision of Kshs200 million for the current financial year, part of which will be used to pay unsecured creditors and ex-employees. We also intend to request the Japanese Government for a no-objection right counterpart funds amounting to approximately Kshs670 million. These funds, if made available, will be lent on concessionary terms through an appropriate intermediate credit institution to develop the livestock industry including the KMC. I am confident that the steps I intend to take will steer the KMC to greater heights.

Thank you.

Mr. Speaker: Maj. Gen. Nkaisserry, you want to ask for a clarification? I want to give an opportunity to one or two hon. Members. I have a lot of other Statements. So, I will give opportunity to only two hon. Members.

Mr. Billow: Mr. Speaker, Sir---

Mr. Speaker: Mr. Billow, will you relax?

Maj-Gen. Nkaissery: Thank you, Mr. Speaker, Sir.

Mr. Speaker: By the way, Mr. Billow, why do you think it is only you who has something important? What do you think about your colleagues? You have very low respect for them!

Maj-Gen. Nkaissery: Mr. Speaker, Sir, indeed, this is a very important issue as far as pastoralists are concerned. You have heard the Minister say how he intends to re-open the KMC, but he has not come out specifically. The livestock farmers, and the pastoralists in particular, are eager to know the date of the re-opening of the KMC, and precisely the amount of money the Government intends to put in place to support them.

Dr. Galgallo: Mr. Speaker, Sir, while I thank the Minister for that Statement, I just want him to tell us exactly what plans he has to open abattoirs in the livestock-producing areas, so that they compliment the KMC when it becomes operational here. We know there is a problem [**Dr. Galgallo**]

with the KMC because most of its holding grounds have been grabbed by private individuals. We know that even, with all the equipment now, without a proper holding ground, KMC will not be able to handle a lot of livestock. So, what plans does the Minister have to open abattoirs in the livestock-producing areas such as North Eastern Province and the north western part of the country? These should go hand in hand.

Mr. Ndambuki: Mr. Speaker, Sir, the Minister has said that he is still looking for over Kshs700 million which he expects to use to re-open the KMC. Could he tell us where he intends to get this money from? How much is he paying the receiver managers? If the Minister is planning to re-open the KMC, why can he not use officers from his Ministry instead of using some people who are getting the money from his Ministry?

Mr. Speaker: Mr. Minister, would you like to respond? Or you want to have Mr. Billow's input? Mr. Billow, it looks like he wants to have your input.

Mr. Billow: Mr. Speaker, Sir, he shares with me that passion about livestock. I also want to congratulate the Minister for being very bold, in the face of the pressure from the donors, to ensure that the plan to revive the KMC goes ahead. We know that the reasons for the closure of the KMC were huge debts owed to a bank. What action is the Government taking to write off the debts owed to bank, so that the issue of the receiver manager does not arise and the KMC will be re-opened?

Could the Government consider this as an affirmative action for the pastoralists, who constitute 25 per cent of the population of this country, but produce 50 per cent of the livestock in this country? We should not be talking about the Kshs14 million, but the billions of shillings that go into the agricultural sector.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, I want to thank Maj. Gen. Nkaissery, Dr. Galgallo, Mr. Ndambuki and Mr. Billow for their inquest and interest.

At the moment, we are finalising the renovations at the KMC; such as water connections, power connections and clearing the bush around. If your constituency is adjacent to the KMC, it is good to visit and see what we are doing. So, *dalili ya mvua ni mawingu*. As you see these kinds of renovations, you do not need to ask when the KMC will be re-opened. You can see that it will be re-opened any time. We have had so many Christmas holidays, and I can assure you that it is now nearer than then.

Mr. Speaker, Sir, the amount required is not much. The KMC is a butchery like any other where you slaughter an animal in the morning and then you can pay its owner in the evening. So, with

that policy and principle, we will not need to stock a lot of money elsewhere. Dr. Galgallo is worried about the Government's policy on regional abattoirs. If Dr. Galgallo listened to Mr. Nyachae last week, being interviewed by *the Citizen* Television, he is a former Minister for Agriculture and Livestock - he confirmed that the Government policy is to support the industry and go where the raw materials are. At the moment, we are committed to setting up mobile slaughterhouses in Wajir. Already, there is one being set up in Lokichoggio, which I will lay a foundation stone for any time. They will be all over the country because we want to take the services where the people are. It is a better concept in development. We believe that the people there need that service.

Mr. Ndambuki has asked where I intend to get the Kshs700 million from. He has been a Minister for Planning in this country and planned for the Japanese assistance. We will use the same concept which was created by Mr. Ndambuki. I thank him for negotiating at that time because, right now, we do not have any problem. We do not need Kshs700 million. Actually, we need money to support the livestock farmers, so that they can produce better animals. We will lend that money to livestock farmers through institutions like the Agricultural Finance Corporation (AFC). We do not need money to stock in our accounts. We can even operate without an account.

Mr. Speaker, Sir, Mr. Billow is suspicious of the debts owed by the KMC to some banks, and he should be, being the "Shadow Minister for Finance". The Controller and Auditor-General can tell him that the amount of money owed by the KMC is very little, if any. The figures are not what Mr. Billow has in mind. Relax. *Poa!* Take it easy!

(Loud consultations)

Mr. Speaker: Order, Members! We have a lot of business to transact. I would like many of the hon. Ministers to give their Ministerial Statements as quickly as possible.

ISSUANCE OF VISAS TO ISLAMIC
REPUBLIC OF IRAN DELEGATES

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, early last week, Mr. Sasura demanded a Ministerial Statement from my Ministry about an alleged mistreatment of Iranians and a denial of visas to them.

The information I have received from the Embassy of the Islamic Republic of Iran and the Kenyan Department of Immigration shows that no Iranian national was subjected to harassment last week as reported, or at any one time.

According to the Department of Immigration, there was a group of Iranian sportsmen who were on transit, two months ago, from Durban, South Africa, but were denied transit visas at Jomo Kenyatta International Airport (JKIA) because of their visa status. The requirement is that Iranians should give six weeks visa notice prior to their date of travel as the country is on the Referred Visa Category (RVC). The Iranian Government has requested the Kenyan Government to change this status. Negotiations are under way and we will see how it ends.

The relations between Kenya and Iran are cordial and we have concluded several agreements, including a cultural, education, trade and scientific co-operation which we have signed and are in force.

In view of the warm bilateral relations between the two countries, the Government of Kenya will continue to do its best to facilitate the issuance of visas to Iranian nationals who want to visit the country.

Ms. Abdalla: Mr. Speaker, Sir, could the Assistant Minister confirm that the Ministry of Foreign Affairs is no longer responsible for the organization and facilitation of visitors and trade delegations from Islamic countries?

Mr. Speaker, Sir, could he also confirm that, that responsibility has been delegated to a

senior NARC [Ms. Abdalla]

election official who has been appointed a Special Envoy responsible for Islamic countries, and has just returned from Libya?

Mr. Sasura: Mr. Speaker, Sir, the Assistant Minister has said that he is not aware of the reported harassment of Iranians last week. The HANSARD will bear me out. While requesting a Ministerial Statement, I did not mention that there was any harassment reported last week. That notwithstanding, a 60-man delegation that had come from the private and public sectors from Iran was denied visas. The Assistant Minister verbally confirmed this to me before he released his Ministerial Statement. Could he clarify why some countries were put under the RVC status? He says that this status will be reviewed. Could he be kind enough to tell us when the Committee will sit to review the visa status for these countries? Usually, Iranians have easy access to America and Europe. We fail to understand why a trade delegation was denied visas to come to this country.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, the role and duty of the Ministry of Foreign Affairs is to deal with the issues as raised by the gracious lady. Therefore, these duties have not been taken over by any individual, including the NARC official that she is talking about. The Ministry of Foreign Affairs will continue to discharge its duties as defined by the Government.

The RVC simply means that when applicants from such a country make applications, they should be subjected to certain investigations and intelligence vetting before visas are granted. The Government of Kenya has been requested by the Government of the Islamic Republic of Iran, and we are talking to see if we can waive the RVC rules and applications.

Mr. Speaker: Very well. It is now 4.00 p.m. I will give Ms. Abdalla the last opportunity to request a Ministerial Statement. Other hon. Members will do so tomorrow morning.

POINT OF ORDER

DEFILEMENT OF A FOUR-YEAR-OLD CHILD

Ms. Abdalla: Thank you, Mr. Speaker, Sir. It is with great sadness and anger that I stand to seek a Ministerial Statement from the Ministry of Justice and Constitutional Affairs regarding the rape of a four-year-old child on 1st December, 2003, by a now convicted paedophile. This four-year-old child underwent one of the most beastly acts that any society should tolerate. What happened to this little girl is murder of the first degree. It was violent robbery of not only the child's innocence, but her trust in humanity. This type of crime makes us regret the amendment in our Penal Code of removing the death penalty.

(Applause)

As a Muslim, I prefer the stoning to death of this culprit. This issue is very serious because the numbers of such cases are increasing. The Hon. Member for Gatundu South Constituency, Mr. Muiruri, has just informed us that this morning another four-year-old girl was certified as raped. The culprit in custody is her own father.

The other problem with this issue is that it poses extreme danger to the only segment of our society, children between the ages of zero to 12 years, who are now less affected by the HIV/AIDS scourge. One of the reasons why these cases are increasing is that our society is extremely tolerant of perverts among us. As I was growing up, I knew of a suspected paedophile, who every parent would tell their little daughters to keep away from. Over 20 years later, last year, I saw the same man arrested for sodomising a ten-year-old child. It is sad to think of the number of children he had attacked in the 20 years that he was free. The society and the legal system have been in a conspiracy of silence that

waits for these paedophiles to make another statistic of yet another victim.

In this regard, I would like the Minister for Justice and Constitutional Affairs, not to sit down holding his hands while waiting for another statistic, but to provide us with his plan on what he will do to include preventive punishment against paedophiles.

Mr. Speaker, Sir, secondly, a high percentage of paedophile cases do not get reported. As for those that get reported, the families of the victims are terribly traumatised by the insensitiveness of the police force. The public servants in Kenya have some of the poorest public relations skills in the world. The police force has the worst. The second problem with the police force is the corruption involved in the signing of P3 Forms for victims, hence rendering it difficult for parents of victims to access justice.

Thirdly, we found out last week that there is only a single police doctor for the three million residents of Nairobi, Kiambu and Thika districts. This police doctor is required to sign a P3 Form before it is recognised. It is with this regard that I would like the Minister to include the measures he is taking towards curbing this corruption, insensitiveness and the need for a police doctor to sign the P3 Forms.

Finally, I would like that Ministerial Statement to include the possibilities of including castration as one of the penalties that should be meted on such offenders.

Thank you.

(Applause)

Mr. Speaker: Order Members! The House is fully united behind the sentiments expressed by Ms. Abdalla. I believe I speak for you if I say that this House totally abhors that beastly conduct. We hope that the law enforcement agencies will take speedy action to stop any further molestation of any child or adult by these people who, I believe, are mentally sick.

I think other hon. Members will seek Ministerial Statements tomorrow morning. It is past 4.00 p.m. We have quite a bit of business to transact.

Mr. Mwiraria, could you come in the morning to deliver your Ministerial Statement?

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I do not want to make a Ministerial Statement. I just want to tell Ms. Abdalla that we have heard her sentiments. We will communicate with the Minister for Justice and Constitutional Affairs, so that she gets the Statement she wants.

Mr. Speaker: Very well. I hope the Minister, or even more [Mr. Speaker] appropriately, the Attorney-General, will come here tomorrow and make a clear Statement on what action they are taking against these beastly people, who are endangering the lives of our children on a day-to-day basis.

I hope the Attorney-General will issue a comprehensive Statement tomorrow.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, in order for the Attorney-General to give a good response to this important request and, according to what you are saying, could we ask your office to send a copy of the HANSARD to the Attorney-General's Office?

Mr. Speaker: I think that someone in the Government should do that. We do not intend to run Ministries. Therefore, somebody in the Government should go and apply for the HANSARD and deliver it to the Attorney-General. We intend to keep away from the Executive Branch of the Government.

**COMMITTEE OF THE
WHOLE HOUSE**

[Order for Committee read]

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE NATIONAL COMMISSION ON GENDER AND DEVELOPMENT BILL

Clause 2

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT , Clause 2 be amended by inserting the following definitions in appropriate alphabetical sequence-

"development issues" includes issues relating to development in socio-cultural, political and economic sectors;

"gender" means the differences between women, men, boys and girls-

(a) within the same household; or

(b) within and between cultures and institutions,

which are socially and culturally constructed and change overtime;

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, it is good to explain the terms of the amendment to Members so that they understand why you are amending the Bill.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I think that there were proposals here on what we mean by "gender." We said it is the differences between men, women, boys and girls, and not being discriminative against boys and girls. It is intended to stop being discriminative in the household, and culture should not be a reason to discriminate against any person.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3(2)(b) be amended by deleting the word "taking" and the comma which follows it.

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 be amended-

(a) by deleting the word "chairman" wherever it occurs and substituting therefor the word "chairperson";

(b) by deleting paragraphs (f) and (g) and substituting therefor the following paragraphs-

(f) the Permanent Secretary in the Ministry for the time being responsible for matters relating to planning and national development;

(g) the Permanent Secretary in the Ministry for the time being responsible for matters relating to labour;

(h) the Permanent Secretary in the Ministry for the time being responsible for matters relating to agriculture;

(i) the

Attorney-General or a representative of the Attorney-General:

(j) nine other persons appointed by the Minister, of who-

(i) three shall be women nominated by the National Council of Women of

[The Minister for Gender, Sports, Culture and Social Services]

Kenya who shall be representative of the various sectors, professions and provinces;

(ii) two shall be women nominated by the National Council of Non-Governmental Organisations;

(iv) one shall be nominated from the disability movement in such manner as the Minister may prescribe by notice published in the *Gazette*;

(v) one shall be nominated from the private sector in such manner as the Minister may prescribe by notice published in the *Gazette*;

(vi) one shall be nominated by the Kenya Pastoralist Forum and shall be conversant with pastoralist concerns.

(c) by renumeraling Subclauses (2), (3) and (4) as Subclauses (3), (4) and (5) respectively and inserting immediately before them the following subclause-

(2) It shall be the duty of the Minister to ensure that persons appointed under Subsection (1)(j) include a gender specialist, an economist, a social scientist, a member of the Law Society of Kenya and a person from the pastoralist community.

(Question of the amendment proposed)

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I wish to add my voice to the amendments that have been proposed by the Minister. I particularly support the amendment to include the Permanent Secretary from the Ministry of Labour and Human Resource Development.

As you are aware, sexual harassment at places of work is quite an issue. Therefore, the

inclusion of the Ministry of Labour and Human Resource Development will assist in the efforts to make up this

Commission and assist in the objectives that the Minister has in mind.

Mr. Sasura: Mr. Temporary Deputy Chairman, Sir, I rise to seek a clarification from the Minister. On the category of nomination, under Clause (5)(j)(vi), "one shall be nominated by the Kenya Pastoralist Forum and shall be conversant with the pastoralist concerns."

I wish the Minister could elaborate why he has included the Kenya Pastoralist Forum which is a Non-Governmental Organisation (NGO) and not necessarily representing the whole of pastoralists in the country?

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, we thought that the Kenya Pastoralists Forum was an all-inclusive forum for all pastoralists. You will bear me witness that, last week, there was a cultural festival which was well attended. We thought that it was appropriate to involve the marginalised people, particularly the pastoralists. However, what is the proposal from the hon. Member?

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, this was one of my proposals when I said that the women in Kenya can be identified in three distinct groups; that is, the urban woman the rural woman and the pastoralist woman from pastoral areas. I, therefore, propose that this particular proposal by the Minister be sustained, unless the Member has a different opinion. I believe that we can strengthen the Kenya Pastoralist Forum (KPF) to be representative of all the pastoralist groups. At the moment, I believe it is the only viable group that the Minister found and it is proper that it has been included.

Mr. Sasura: Mr. Temporary Deputy Chairman, Sir, I want to be very honest with the Minister that, until I saw this KPF, I did not have a specific organisation in mind. My argument was that the KPF might not necessarily be representative of the larger pastoralist community. It might even be lesser representative than the Pastoralist Parliamentary Group, although I am not sure whether we will be able to include such a group in this Act.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I want to propose an amendment and say that one shall be nominated from the pastoralist community and we will call upon all of them to discuss and give us one nominee.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, you have the right to amend an amendment, but you need to tell us which words you are deleting and which words you are adding.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, one shall be nominated by the pastoralist community and not the Kenya Pastoralist Forum and shall be conversant with pastoralist concerns.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, we want to believe that you have suggested an amendment that the word "forum" be deleted and substituted with the word "community".

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

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

(Clause 5 as amended agreed to)

Clause 6

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to propose an amendment to Clause 6 on the functions of the Commission, particularly to initiate law before an advocate for legal reforms on issues and the rest be adopted as on the Order Paper.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, what you are proposing is not clear!

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 6 be amended to---

(a) in Subclause (1) by inserting a comma and the word "implement" after the word "co-ordinate".

(b) in Subclause (2)(b) by inserting the words "in liaison with the Ministry for the time being responsible for matters relating to gender" and a comma before the word "exercise";

(c) By deleting paragraphs (c), (d) and (e) of Subclause (2) and substituting therefor the following paragraphs-

(c) initiate, lobby for and advocate for legal reforms on issues affecting women and to formulate laws, practices policies that eliminate all forms of discrimination against women and all institutions, practices and customs that are detrimental to their dignity;

(d) institute proposals and advise on the establishment and strengthening of the institutional mechanisms which promote gender equity and equality in all spheres of life and in particular, access to and benefits in education, health care, nutrition, shelter, employment and control of economic and

[The Minister for Gender, Sports, Culture and Social Services]

national resources;

(e) determining strategic priorities in all the socio-economic, political and development policies of the Government and advise on their implementation;

(d) by deleting paragraphs (i) and (j) of Subclause (2) and substituting therefor the following paragraphs-

(i) carry out investigation on gender-based rights and violations and forward recommendations to the relevant authorities; and,

(j) receive and evaluate annual reports on progress made by Government Ministries and other sectors on gender main-streaming and women's empowerment.

Mr. Temporary Deputy Chairman, Sir, in particular, I wanted to highlight "to initiate, lobby for and advocate for legal reforms on issues affecting women". As indicated earlier in the Bill, the advocacy part was not included. Otherwise, I propose the amendments to Clause 6 on the Order Paper.

(Question of the amendment proposed)

Mr. M. Kilonzo: Thank you, Mr. Temporary Deputy Chairman, Sir. I wish to join my voice

to the Minister's proposals for these amendments. The original drafting of the Bill left the Commission without sufficient teeth to facilitate the advocacy for amendment of laws.

You will notice that he has now used the words "dignity of our women". As you may have heard this afternoon, this is a critical issue in our country. Therefore, I join his voice and I thank him for listening to some of the proposals that I made to him in his amendments.

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I also wish to add my voice to these amendments by the Minister.

Mr. Temporary Deputy Chairman, I would have preferred that they were strengthened. There were several areas which we had proposed during the discussions, but the Minister has not included them in this particular area. For example, in matters relating to---

The Assistant Minister for Lands and Settlement (Mr. Ojode): On a point of order, Mr. Temporary Deputy Chairman, Sir. Mr. Odoyo should be aware of the issue of collective responsibility. Once the Minister proposes an amendment, the only thing he can do is to support what the Minister is saying. He cannot come up and say that he is not happy with the amendments.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Ojode, it is not our responsibility to advise the Executive on how to behave, but you are right. Members of the Government side should support each other. He had not actually made his proposal, so I cannot rule on that.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I want to assure this House that we held very extensive consultations with hon. Members who wrote to our Ministry. For example, we held discussions with Mr. M. Kilonzo, Ms. Abdalla and anybody who contributed to the Bill. We took copies of the HANSARD, thoroughly went through them and sat down together with the Office of the Attorney-General to re-write these proposals. I doubt if there is any good proposal which was brought forward here that was left out.

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I want to assure this House that collective responsibility is alive and kicking. The only point which I wanted to make on investigation is that they should have been given the right to proceed. What happens after investigation? The rest of the Bill did not give enough teeth to this Commission; that after investigation they should have powers to go beyond just investigating as shown under (i). Beyond that, I wish to add my voice to the good work that has been done by the Minister.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I want to assure the hon. Member that the Commission will never have the teeth to enforce. It is only the relevant authorities that have been delegated with that responsibility who will enforce it. It is very clear on this item (i) that it will forward the recommendation to the relevant authorities.

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

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

(Clause 6 as amended agreed to)

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

Clause 11

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move that:-

THAT, Clause 11 be amended-

(a) by deleting from Subclause (1) all words after the words "appointed by the Minister";

(b) in Subclause (4) by inserting the words "a gender specialist" before the word "appointed";

(c) by renumbering Subclause (5) as Subclause (6) and inserting before it the following Subclause-

[The Minister for Gender, Sports, Culture and Social Services]

(5) The Director and Deputy Director shall be of opposite sex"

(Question of the amendment proposed)

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I wish to add my voice. Many a time, people view gender to simply imply the stronger sex, that is the ladies of the world.

Ms. Abdalla: On a point of order, Mr. Temporary Deputy Chairman, Sir.

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

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, she is on a point of order.

The Temporary Deputy Chairman (Mr. Ethuro): I am the one to grant the chance, and I have not granted her. If you have finished, then you can sit down.

Order, hon. Members! Let us hear him. If you have nothing to say---

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I wish to add my voice to a positive addition. That is because many a time, people think that gender only relates to one sex. Therefore, by ensuring that they come from the opposite sex, it means that we shall guarantee gender sensitivity in this nation, especially for those husbands who are molested all the time!

Ms. Abdalla: Mr. Temporary Deputy Chairman, Sir, I wish to invoke Standing Order No. 87 and state that this hon. Member is trying to waste our time by keeping on adding his voice!

Mr. Temporary Deputy Chairman, if he wants to hear his own voice, he can go out and talk to himself!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Ms. Abdalla, an hon. Member never wastes time. Let us all get that clear.

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Odoyo, you should read the mood of the House.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, with due respect to Mr. Odoyo, this is not time for debate. We are in the Committee Stage. If you have anything to contribute to the amendments, please do so but do not debate. The Chair should guide the House.

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): He never comes to Parliament!

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

Mr. Muchiri: Mr. Temporary Deputy Chairman, Sir, I wish to seek clarification from the Minister. He is proposing to have a gender specialist. Could he explain to this House who that person is. What are his or her qualifications? Who is a gender specialist?

I have never heard of a profession like that.

Ms. Mbarire: There is!

The Temporary Deputy Chairman (Mr. Ethuro): Order! The hon. Member is entitled to seek clarification from the Minister.

(Loud consultations)

Let us have some order in the House! Let us maintain the dignity of the House.

The Minister for Gender, Sports, Culture, and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, first of all, it is important for us to understand the meaning of gender. Then, we should understand that it is only when the NARC Government came in that gender balancing and gender sensitivity was appreciated. That is why we have three Assistant Ministers. But gender specialists are being taught in our universities. There is even a Masters Degree Programme for that. So, gender specialists have degrees from various universities.

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

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

(Clause 11 as amended agreed to)

Clause 12

The Minister for Gender, Sports, Culture, and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12 be amended by renumbering the clause as Clause 12(1) and inserting at the end of it the following subclauses-

(2) The gender balance principle shall guide all staff appointments.

(3) At no time shall more than two-thirds of the staff of the Commission be of the same sex.

The proposals on Clause 12 are based on the principle of gender balance. I would like to request the House to adopt that amendment.

An hon. Member: Read it.

The Temporary Deputy Chairman (Mr. Ethuro): You do not have to read it, Mr. Minister. It is on the Order Paper. Let us save time.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, I agree with that position, but why did he do the reverse in Clause 11 by reading the whole of it? He is shifting goal posts. So, I am suggesting that we proceed with your new proposal that he moves a clause without reading it.

The Temporary Deputy Chairman (Mr. Ethuro): Actually, Mr. Obwocha, it is not new. He

read Clause 11 but did not read the other clauses. It is all a matter of emphasis.

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

(Clauses 13 and 14 agreed to)

Clause 15

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 be amended by deleting the words "agent or any [The Minister for Gender, Sports, Culture and Social Services] person acting by his directions personally" and substituting therefor the words "agent, or any person acting under the directions of the Commission or any such member, officer, employee, personally."

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be amended by deleting the words "injury to him" his property or any of his interests caused by" and substituting therefor the words "personal or proprietary interest sustained by the person as a result of."

Mr. Temporary Deputy Chairman, Sir, Clauses 16 and 20 are just being gender-sensitive. Instead of "his" it becomes plural for both, that is male and female.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, you should take directions from the Chair. You do not create your own. We are dealing with Clause 16.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

(Clauses 17, 18 and 19 agreed to)

Clause 20

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 20(3) be amended by deleting the word "his" in the fifth line.

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

Clause 21

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 21 be amended by deleting Subclauses (2) and (3) and substituting therefor the following new subclause:

(2) The annual accounts of the

[The Minister for Gender, Sports, Culture and Social Services]

Commission shall be prepared, audited and reported upon in accordance with the Exchequer and Audit Act.

(Question of the amendment proposed)

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

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

(Clause 21 as amended agreed to)

(Clause 22 agreed to)

(Clause 23 agreed to)

Schedule

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Schedule be amended-

- (a) by deleting the word "Chairman" wherever it occurs and substituting therefor the word "Chairperson";
- (b) in paragraph 3, by deleting the word "eight" and substituting therefor the word "nine";
- (c) in paragraph 5, by deleting the word "eight" and substituting therefor the word "thirteen";
- (d) in paragraph 6, by inserting the words "or she" after the word "he".

(Question of the amendment proposed)

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

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

(Schedule as amended agreed to)

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): What is it, Mr. Odoyo?

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, before you read the title, I rise to bring to the attention of the House the fact that we are passing such an important Bill; yet, we do not have proper gender balance in the House today.

We have got three Members who are only Nominated Lady MPs and yet, they are supposed to have been here to support such an important Bill. I only stood to---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Odoyo! That is not a point of order! Let us proceed!

(Title agreed to)

(Clause 1 agreed to)

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the National Commission on Gender and Development Bill and its approval thereof, with amendments.

(Question proposed)

(Question put and agreed to)

THE PRESIDENTIAL RETIREMENT
BENEFITS BILL

(Clause 2 agreed to)

Clause 3

Mr. M. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 3 be amended by inserting the words "or surviving spouses" after the words "surviving spouse" wherever they occur in Clause 3(b) and (c).

The purpose of this amendment is to accommodate our culture in this country, because our culture recognises that a man can have more than one wife and, therefore, I am proposing that "surviving spouse" be changed to "surviving spouses".

(Question of the amendment proposed)

Mr. www.britak.co.ke: Mr. Temporary Deputy Chairman, Sir, if we are going to agree with hon. M. Kilonzo, then Clause 2 should have been amended because Clause 2, in its definition of spouse, means the wife or husband of a retired President but it does not talk of spouses. I believe it should be talking about spouses; husband or wife. I do not know whether that is--

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, is it not understood that if you have a spouse, you can have plural? We need to define that in legal terms. I am asking my colleagues who are legal experts on the other side of the House.

Mr. M. Kilonzo: Mr. Temporary Deputy Chairman, Sir, "spouse" unless it is specifically provided, does not mean "spouses". But, otherwise, that is why I have proposed the amendment to Clause 3. As far as I am concerned, Clause 2 need not be amended because it will be affected by Clause 3, which is where the entitlements are described.

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, I do not know at what point I was going to move my amendment to the amendment; that despite the fact that an African man, according to hon. M. Kilonzo, is polygamous by nature, unless the Minister for Finance states here categorically that the plurality of the spouses does not burden the Treasury, then in this case, I wish to propose an amendment within the amendment that Clause 3 be amended by inserting the words "or spouses subject to a maximum of two" after the words "surviving spouses" where they occur in Clause 3(b) and (c).

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! I want to respond to Mr. Omingo's further amendment. There is a procedure to be followed in order for an amendment to appear on the Order Paper. So, you cannot ambush the House with your further amendment!

Mr. Omingo: On a point of order, Mr. Temporary Deputy Chairman, Sir. Indeed, I have moved a further amendment to the amendment which has been moved by Mr. M. Kilonzo. I think I have a right to move this further amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Omingo, you should appreciate the fact that you proposed a further amendment and the Speaker, in his wisdom, did not consider it to be appropriate.

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

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

Yes, Mr. Odoyo!

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, I very much support the amendment moved by Mr. M. Kilonzo, bearing in mind that our Muslim brothers are allowed to marry up to four wives. Therefore, the respected Chairman of the Public Accounts Committee (PAC) is not right to move a further amendment to Mr. M. Kilonzo's amendment.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Chairman, Sir. When I consulted with the Speaker, just a while ago, he told me that I did not breach the procedures. I have a right to move a further amendment to the proposed amendment to Clause 3.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Omingo, the Chair has made a ruling, and you are ordered to abide by it!

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, just as hon. Members have said, if you insert the word "spouses" into the clause then in future you might have a female President and two men might claim to be her spouses. That is one problem we should deal with. Another problem is that we do not know whether the benefits will be divided equally amongst the spouses. Otherwise, we are going to pay too many people. If this amendment is passed, we might end up paying 80 per cent benefits of a former deceased President to four widows. I think it is safer to stick to the spouse the President will name to be the beneficiary.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. M. Kilonzo, you moved the amendment. Could you clarify what the hon. Member has said?

Mr. M. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I think the concerns of Mr. Kajwang are not warranted. It is not the intention of this amendment that if a former deceased President had four wives and he was a Muslim, then 80 per cent benefits will be paid to each of them. The benefits will be distributed equally amongst the surviving spouses.

[**Mr. M. Kilonzo**]

Mr. Temporary Deputy Chairman, Sir, I think it is fair to acknowledge that this country has got a culture that allows Africans and Muslims to marry more than one wife.

The purpose of moving this amendment is not to overburden the Exchequer. I had a discussion with the Minister for Finance on this amendment and he understands my position.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Temporary Deputy Chairman, Sir, although I support Mr. M. Kilonzo's amendment, we should not leave it ambiguous. It should not be up to the Treasury to say that the benefits should be distributed equally amongst the spouses. To avoid the 80 per cent benefits being paid to each spouse, then the amendment should state that they will be shared equally amongst the surviving spouses.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, what is your understanding of this amendment?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, my understanding is fairly straightforward. If an ordinary Kenyan dies and leaves behind four spouses, then succession laws allow them to share what he has left behind. Why should we try to legislate, again, on matters for which laws already exist? The Law of Succession takes care of this situation.

(Applause)

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, the Minister may have ignored one thing. There is a provision for a house, security detail and servants in this Bill. You cannot divide these things four times. How will you do it? Instead of having two security officers, each of the spouses will have half an officer, if they are four. What will you do? So, there are certain things which cannot be divided. This is about a First Lady, and we should know her. The idea of dividing the house, cars and servants cannot work.

Mr. Muchiri: Mr. Temporary Deputy Chairman, Sir, we have no quarrel with cash, but we have a quarrel with the wording of this clause. It will be a burden on the Exchequer. Once we pass a law like this one, the courts will interpret it the way it is worded. Therefore, I will not support this kind of an amendment.

Ms. Mbarire: Thank you, Mr. Temporary Deputy Chairman, Sir. First, we should understand who a spouse is. Is it the person you have lived with, the person Kenyans have known as the First Lady or other people? Could the Minister tell us who is a spouse according to this Bill?

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, the import of my further amendment is now coming out clearly. As I withdraw my proposed further amendment, I want--- **The Temporary Deputy Chairman** (Mr. Ethuro): Mr. Omingo, that further amendment is withdrawn! Just contribute to Mr. M. Kilonzo's amendment.

Mr. Omingo: Thank you, Mr. Temporary Deputy Chairman, Sir. My worry is the worry of hon. Members. The spouses will draw funds from the Treasury. Unless we define, as Mr. Kajwang has said, who a spouse is--- Let us not beat about the bush. My worry is the burden on the Exchequer.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, address, Ms. Mbarire's concern.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, while I appreciate the concerns raised by the Gracious Lady, I have already said that there are laws on succession. We cannot legislate on succession again. These people will have to go to their chiefs, sit together and decide who the administrator will be. After that, they will share amongst themselves whatever they will be paid. **Mr. M. Kilonzo:** Mr. Temporary Deputy Chairman, Sir, allow me again to say that Clause 2 clearly defines a spouse to mean a wife or husband of a retired President. The purpose of my amendment is to appreciate the fact that an African man can marry as many wives as he has cows. A Muslim is allowed to marry up to four wives. Therefore, the purpose of adding an "s" at the end of the word "spouse" in subclause (b) is to merely take care of such a situation. The Minister has pointed out that there will be no problem with the Treasury in determining who a spouse is. Mine is a reasonable request, and I beg to move that this subclause be amended.

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I do not want to belabour this point, but the fact is that we have had cases arising under the Succession Act, which clearly defines who are wife and a dependant are. But the High Court has found persons not defined as wives to be wives.

Mr. Temporary Deputy Chairman, Sir, I am saying that the Minister should not allow us to make the same mistake in this Bill. We need to define who a spouse is under a certain law, so that the people affected by it will not go to court for interpretation. That is all I am saying.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, could the gracious Lady, who is a lawyer, tell us how to amend the definition of a spouse, which is in this Bill?

Ms. Ndung'u: The Temporary Deputy Chairman, Sir, if the Minister gives me some time, I will draft an appropriate amendment. But the point I am making is that we should say that a spouse is that person who is married to another person within the context of formal laws as exist in Kenya. Therefore, it will not be a person who is not defined under the ordinary laws of marriage. I can define for the Minister who a spouse is.

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

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, Ms. Ndung'u is repeating what we have said. There are potential presidential candidates here who have many wives under customary law which is provided for in our laws. If one dies, those wives or spouses will share this loot according to the customary law, because they all belong to the retired President.

Mr. Kombe: Mr. Deputy Chairman, Sir, I think we ought to be realistic here. There are many

customary laws. Let us not shift from the binding marriage law. I do not think Christians get more than one marriage certificate. I am also a potential presidential candidate and, in our customary law, we can marry as many as 150 women the way Mr. Kabwere did. In this case, then, all the 150 women are going to benefit from that because they belong to a dead President.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kombe! This is not a debate!

Mr. Kombe: Mr. Temporary Deputy Chairman, Sir, I would, therefore, suggest that we spare that money for other people like---

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

Mr. Kombe: Mr. Temporary Deputy Chairman, Sir, I oppose the amendment.

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, I think the main issue should be how to sort out this issue. I agree with the Minister, and Mr. M. Kilonzo, that we should see how we can solve this problem. I was thinking that after the word "spouse", we should possibly insert the words, "as contained in the Succession Act" and we will have solved all the problems we are anticipating. The moment all that is covered, there will be no problem. All we want to understand is how the many wives of the President will be covered.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We cannot conclude this. Since it is an amendment, let us just vote on it.

Mr. Gachagua: Mr. Temporary Deputy Chairman, Sir, I think we agree with the spirit of this amendment. The only problem is to actualise it. What is coming out is that, it is very agitating for a former President to have cases coming up immediately after he has departed. The only way to do it is: Why can we not put a requirement that the President names who the spouse is for the purpose of this allocation?

It is not a very big deal to ask him to tell us who he wants to inherit this money and that will be the end of this problem.

*(Mr. Odoyo moved to the
Dispatch Box)*

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Odoyo, nobody has given you the chance!

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, we must not unnecessarily over-burden the taxpayer; to pay for so many spouses. Immorality is already encroaching on our shoulders. Even in the Cabinet, the other day a Minister was---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Sungu! For the benefit of hon. Members, it is the same benefits that are going to be shared. This is what the Minister has explained. Let us proceed because we have debated a lot on this.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, what I am saying is that we must not encourage immorality that is now going on in the country. Only the other day a Minister was "ninihiid" at night.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Sungu! You are completely out of order!

Ms. Mbarire: Mr. Temporary Deputy Chairman, Sir, I think what we are trying to avoid here is to have court battles of people claiming to be wives of former Presidents. From past experience, once a man dies, many women come up claiming to be his wives. Could we have something that actually commits the President to declare who his wife or wives are before he dies?

(Loud consultations)

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

The Assistant Minister for Labour and Human Resource Development (Mr. Odoyo): Mr. Temporary Deputy Chairman, Sir, recently, our President [**The Assistant Minister for Labour and Human Resource Development**]

declared his wealth and other details to Parliament. This is a requirement in the new law. Under this law, hon. Members are required to specify their dependants; wives and children included. Therefore, there is no need for us to complicate this issue by trying to define. Hon. Members are opening the debate.

The Temporary Deputy Chairman (Mr. Ethuro): I agree, but do not also sustain it!

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

(Loud consultations)

Hon. Members: No! Division! Division!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Since there are more than 20 hon. Members standing up in their places, we will have a Division. Ring the Division Bell.

The Temporary Deputy Chairman (Mr. Ethuro): Order! Order! The five minutes are over. So, I order that the Bar be drawn.

(The Bar was drawn)

Hon. Members, the tellers for the Ayes will be Messrs. Mwenje and Kipchumba, while those for the Noes will be Mrs. Nyiva Mwenda and Mr. Sirma. Those voting for Ayes will proceed to the Lobby to my right and those for Noes to the Lobby to my left. Those who do not wish to vote can register with the Clerk-at-the-Table.

I am going to put the Question again, after which you will have 15 minutes to vote.

Mr. M. Kilonzo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I did not expect the letter "s" that I proposed to be added to this clause to cause as much disquiet in the House as it has. Therefore, I wish to request the House to allow me to withdraw the amendment, so that we can make progress.

(Applause)

The Temporary Deputy Chairman (Mr. Ethuro): Order! Order! Hon. Members, I am afraid, there is not much the Chair can do at this stage. Division is provided for in the Standing Orders. In this case, Division was granted after the requisite number of hon. Members stood up when the Question was put. So, we have to proceed as per the Standing Orders.

DIVISION

(Question put and the House divided)

(Question negated by 34 votes to Seven)

AYES: Ms. Abdalla, Messrs. Bifwoli, Ethuro, Masanya, Obwocha, Olweny and Dr. Shaban.

Tellers of the Ayes: Messrs. Kipchumba and Mwenje.

NOES: Messrs. Arungah, Gachagua, Ivuti, Kajwang, Kamotho, Kariuki G.G, Kariuki, Katuku, Khamisi, Mrs. Kihara, Prof. Maathai, Mr. Marende, Ms. Mbarire, Messrs. Mbau, Midiwo, Muchiri, Munyao, Muriithi, Mutiso J.M., Ms. Mwau, Mrs. Mwendwa, Messrs. Mwiraria, Ndile, Nyagah N.G.K, Dr. Ojiambo, Messrs. Ojode, Omamba, Omingo, Onyancha, Prof. Saitoti, Messrs. Sirma, Sungu, Eng. Toro and Mr. Wetangula.

Tellers of the Noes: Mr. Sirma and Dr. Shaban.

(Clause 3 agreed to)

Mr. Ndambuki: On a point of order, Mr. Temporary Deputy Chairman, Sir. I just want to bring to the attention of the House the fact that, a few months ago, we were dealing with the Public Officer Ethics Bill and very important amendments were brought before this House. However, they were rejected for the simple reason that they had originated from the KANU side. I want to urge hon. Members to understand that what we are passing in this House does not belong to KANU or NARC. Rather, they are here for the interest of all Kenyans. We should--

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Ndambuki! Clause 3 was agreed to.

Order, hon. Members!

Clause 4

Mr. M. Kilonzo: Mr. Temporary Deputy Chairman, Sir, with your kind permission and that of the whole House, I beg to move:-

THAT, Clause 4 be amended by deleting subclauses (1) and (2).

Mr. Temporary Deputy Chairman, Sir, you will notice that I am proposing that subclauses 1 and 2 be deleted. The reason is that I am seeking to have this House depoliticize the retirement of a President. Clauses 4(1) and 4(2) make it possible, in the future, if this Bill becomes law, for somebody to move a Motion in this House, supported by not less than two-thirds of hon. Members, by which then, the retirement benefits of a retired President will be forfeited.

I dare say that this is a very dangerous clause because it politicizes retirement. It is only fair, that this House allows me to move this amendment so that when a person retires from the presidency he can go home and rest in peace.

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

(Question of the amendment proposed)

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, the most important Clause in the whole of this Bill is Clause 4. It clearly states that while a serving President is found guilty of having violated the Constitution, he will not enjoy his retirement benefits. If a retired President is found guilty of an offence, whereby he is sentenced for three years, he will not get the retirement benefits. I think that is a very important safeguard against misrule and abuse of authority by anyone.

To tamper with Clause 4 will be tantamount to totally diluting and rendering this Bill meaningless. I totally oppose the amendment proposed.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, you may ignore what Mr. Ndambuki said. We are doing this in the interest of the country. If you realise that a person ceases to hold office because of wilful violation of the Constitution, or, maybe, he is even impeached and he leaves office in disgrace, how then, do you, in those circumstances, call him a retired President? He will not be a

retired President; he will be a President who has been removed from office for violating the Constitution of the Republic of Kenya.

After a President ceases to be one in the normal way, we do not expect him to go and commit some offences for which he will be jailed [**Mr. Kajwang**] for three years without an option of a fine. We will expect him to be a restrained statesman. I even do not know where he will be meeting members of the public so as to cause any offence. So, these proposals are very good for us all, so that a person who leaves office in an honourable manner is honoured, and a person who leaves office in a dishonoured manner, is dishonoured! There are no two ways about it.

(Applause)

Mr. Omingo: Mr. Temporary Deputy Chairman, Sir, it is critical for a retired President or a serving President to have a safety valve, so that if during his retirement, he behaves like in a case we saw in Kiambu recently, where a four-year-old child was raped, he should not continue to enjoy the benefits of the taxpayers' money.

(Applause)

Therefore, for that reason, I oppose the amendment. We must send a signal that while one is serving as the President of the Republic of Kenya, one must be serving with sanity.

Mr. Temporary Deputy Chairman, Sir, I beg to oppose.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, this is a very important clause in this Bill. The provisions in it force the President to act according to the Constitution. If a retired President wilfully violates the Constitution, or he is removed from power, he should not be entitled to pension benefits.

(Applause)

Secondly, Mr. Temporary Deputy Chairman, Sir, I agree with hon. Kajwang's argument that we expect a retired President to carry himself with dignity after retirement because we do not expect him to go all over the country violating or committing offences and make him liable for imprisonment for more than three years. So, I believe that this clause is very important as it safeguards this country from the violation of the Constitution, and also makes sure that the President carries himself as a statesman and with dignity.

I beg to oppose this amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Finally, Proceed, Eng. Toro!

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Temporary Deputy Chairman, Sir, I stand to oppose the amendments. A retired President should be an example to all retirees in this country. If he cannot offer that example, this House should not be here to protect a President who cannot be an example to all retirees.

I beg to oppose the amendment.

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

(Clause 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Mr. Ethuro): Order, Members! Your attention is drawn to page 639 of the Order Paper for ease of reference.

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

(i) THAT Clause 5(d) be amended by inserting the words "of the retired President's

[Mr. M. Kilonzo]

choice" after the words "suitable dwelling".

(ii) THAT Clause 5(f) be amended by deleting the words "Mercedes Benz cars" and substituting therefor the words "new cars of the retired President's choice, replaceable every three years, each car".

(iii) THAT Clause 5(f) be amended by deleting the words "two thousand eight hundred" and substituting therefor the words "at least three thousand".

(iv) THAT Clause 5(g) be amended by inserting the words "of the retired President's choice, replaceable every three years, each vehicle" after the words "motor vehicles".

(v) THAT Clause 5 be renumbered as Clause 5(1) and the following Subclause be inserted as Clause 5(2):-

"An allowance payable, during the year 2004 or any subsequent year, under any of paragraphs (c), (d), (h) and (i) of subsection (1), shall be adjusted by a factor determined by the Minister responsible for matters relating to finance, who shall in doing so take into account the inflation rate and the cost of living index, as ascertained by the most recent publications of the Central Bank of Kenya and the Central Bureau of Statistics or such other authoritative publications as he may approve:

Provided that no adjustment shall be made under this subsection that would result in a reduction of the allowance".

The purposes of this amendment, Mr. Temporary Deputy Chairman, Sir, is quite straightforward. We would like to introduce the President's choice in the manner of dwelling house that would be provided for, and also the type of car that would be available to him, and I think the amendments are pretty straightforward. Perhaps, the most complicated is to Clause 5, proposal number (v), whereby, in order to protect retired Presidents against the problems of inflation and variations in the cost of living, we want to say that after the year 2004, the allowances appearing in the Bill in paragraphs (c), (d), (h) and (i) of subsection (1) would be adjusted, subject to proposals of the Minister for Finance, in consultation with the records and the reports published by the Central Bank of Kenya and the Central Bureau of Statistics, so that they do not have to come back here to seek revisions because of inflation and changes in the cost of living.

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

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! If you look at the Bill, you will find that it has Subclauses (a), (b), (c) and (d), and the amendments are reflected from Subclause (d) onwards. So, I suggest that we vote on each subclause. I am proposing that we vote for Subclauses 5(a), 5(b) and 5(c), so that where the amendment is reflected on Subclause 5(d) or (f), we will deal with that particular subclause rather than the whole clause. So, let us proceed to the relevant subclause.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, the Finance, Planning and Trade Committee, through Mr. Kagwe, had submitted amendments to these subclauses. I have given a copy of the amendments. We are wondering why the amendments are not included in the Order Paper. Mr. Kagwe or myself,

as the Vice-Chairman of the Finance, Planning and Trade Committee, will move the amendments. At

what stage are we moving the amendments? We would like to have some clarification on this.

An. hon. Member: They are not there!

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, even if they are not there, we had submitted them. So, it is their mistake not to put them on the Order Paper. I am asking the Chair: At what stage do you want me to move the amendments?

The Temporary Deputy Chairman (Mr. Ethuro): I am consulting.

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I want to seek your guidance. Usually, the procedure is that we vote clause by clause and not subclauses. I do not know whether it is right and proper to change that. We will move faster if we vote clause by clause.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, in the light of the fact that there are some amendments which have been mentioned by Mr. Obwocha, and also given the fact that the Minister for Finance has not seen these amendments, I would like to move that this Committee do report progress on where we are and, therefore, we deal with this particular issue tomorrow, by which time the Minister will have had the opportunity to go through the amendments.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, as the Chair would realise, the amendments were in three sections. The first one was on the retiring President; the second one on the retiring Vice-President, and the third one on the retiring Speaker. We dropped the amendments on the retiring Vice-President and the retiring Speaker. These amendments are with respect to a retiring President, which we are discussing now and they are fairly minor.

Mr. Temporary Deputy Chairman, Sir, if the Minister for Finance thinks that he has to look at them, then I have no objection.

(Question proposed)

(Question put and agreed to)

(The House resumed)

(The Temporary Deputy Speaker

(Mr. Khamasi) in the Chair)

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE NATIONAL COMMISSION ON GENDER AND DEVELOPMENT BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the National Commission on Gender and Development Bill and approved the same with amendments.

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Education, Science and Technology (Prof. Saitoti) seconded.

(Question proposed)

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, as I congratulate the House and the

Minister for passing this Bill, I hope that now that this Bill has been passed, the issue of gender balance will be properly addressed. I would also like to reiterate the fact that "gender" does not necessarily mean "female"; it means "all sexes". Thank you.

(Question put and agreed to)

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Temporary Deputy Speaker, Sir, I beg to move that the National Commission on Gender and Development Bill be now read the Third Time.

The Assistant for Labour and Human Resource Development (Mr. Odoyo) seconded.

(Question proposed)

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, now that we have passed this Bill, I hope, the Minister for Education, Science and Technology will address disparity in admission of students to colleges in this country. Currently, more female students join training colleges than male students. It is a pity that when we talk of gender, we only think of women being marginalised. However, male students are actually marginalised in the admission of students to training colleges in this country.

I would like to see a situation where both male and female students are equally treated, particularly in Nairobi.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I think it is important for me to state here that, as matter of fact, a girl child has been marginalised for a long time. The disparity between men and women, is fairly large at all levels of the educational system. Without in any way discriminating against men, we are, indeed, embarking on affirmative action.

Mr. Temporary Deputy Speaker, Sir, at the same time, the passage of this Bill will be a just way of assisting both a girl and a boy child. The passage of this Bill is a very historical landmark in our country.

Mr. Temporary Deputy Speaker, Sir, I do beg to support.

Ms. Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Mwenje to misinform this House that we have more female students in our colleges? We know that they are only more in teacher training and nursing colleges, and not at the university level. This is where we still need affirmative action.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Mwenje! We will not revisit debate on this matter. The matter is concluded.

(Question put and agreed to)

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

PROGRESS REPORTED

THE PRESIDENTIAL RETIREMENT
BENEFITS BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, the Committee of the whole House is considering The Presidential Retirement Benefits Bill and has instructed me to report progress and beg leave to sit tomorrow.

The Minister for Education, Science and Technology (Prof. Saitoti) seconded.

(Question put and agreed to)

BILL

Second Reading

THE PUBLIC AUDIT BILL

(The Minister for Finance on 2.12.2003)

*(Resumption of Debate interrupted
on 2.12.2003)*

The Temporary Deputy Speaker (Mr. Khamasi): According to our records, Mr. Kajwang was last on the Floor. He still has five minutes to finish his contribution.

Proceed, Mr. Kajwang.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, last time I talked about the Office of the Controller and Auditor-General, which has now been expanded to form the Kenya National Audit Office (KNO). This office absorb the staff of the Controller and Auditor-General.

Mr. Temporary Deputy Speaker, Sir, I also talked about the Kenya National Audit Commission (KNAC). I am of the view that the way this Bill is drafted does not add any value to its provisions as they stand in the Constitution. What we require is a new national audit dispensation a commission which is entrenched in the Constitution. We would like to see a commission which will employ its own staff, with the Controller and Auditor-General as its chief executive; a Controller and Auditor-General who will work for a term. He should not continue to serve until he is 65 years old. I said that merely calling this the NAO does not change the status of the staff in the Office of the Controller and Auditor-General.

There are still people serving in the Public Service Commission (PSC) who will still be controlled by the Directorate of Personnel Management (DPM); an ambiguous office which is not provided for by the law, but seems to have more power than the PSC. We want a Controller and Auditor-General who is not a civil servant because, as a civil servant, he is constrained. He cannot investigate the same Head of the Civil Service who employs him. It was an anomaly when this Constitution was drawn in 1963, that the Controller and Auditor-General be a holder of a constitutional office, and at the same time a civil servant. That anomaly must be corrected. However, it cannot be corrected by an Act of Parliament.

It can only be corrected by a fundamental amendment to the Constitution. To do a clean job, we need to start at the Bomas constitutional talks, not with this Act. This Act does not protect the staff. In fact, it states that the Government will make sure that the Controller and Auditor-General gets the staff whom he desires. However, he is not the Head of the Civil Service [**Mr. Kajwang**] and, therefore, he cannot determine whom to employ, promote, or whom to sack.

Secondly, he is allowed to employ external auditors. On one side, this is good because it will facilitate his work. However, on the other side, it is dangerous because he will pay the external auditors, sometimes a little more money than the auditors he has in his own office. Therefore, people will retire from his office and ask to be appointed to work for him as outsiders. This is a dangerous anomaly. Therefore, this Act is not helping us. If we really want to help this country, let us start at Bomas and do a proper job so that the Controller and Auditor-General will be a constitutional office holder. His employees will be the employees of the PSC, and the PSC will have proper terms of

service. Whatever they will be doing should be proper.

As I said last time, the PSC has no job. They look at the budget of the Controller and Auditor-General's Office, and after that they have no other job. Therefore, I need not emphasise more than I have said, that this Bill does not add value to the job at hand. We had better start with constitutional amendments which will give us a proper Controller and Auditor-General, a proper PSC and will make this a complete constitutional office, which will determine its own remunerations and terms of service. If we do not do that, any Head of the Civil Service will never allow the Controller and Auditor-General to do his work properly. For example, if I have an auditor who is too sharp, I will make sure I either demote him, transfer him, sack him, or make sure he will never be promoted because he is too good and is always following up on my vouchers. Therefore, this does not help us at all. I am sure that the Minister had good intentions. I am sure that he wanted the Controller and Auditor-General's Office to work properly, get better staff, and better remuneration. However, it is not served here.

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

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I wish to thank you for this opportunity to contribute to this very important Bill. From the outset, I would like to say that while I partly agree with Mr. Kajwang, that this Bill should come via Bomas talks, I continue wondering when Bomas talks will end because we need to streamline the work of the Office of the Controller and Auditor-General. We need these provisions enacted. Therefore, let us do what we can. If Bomas picks what we have, the better; if they do not, we will have done our job. Therefore, I do not think that we should wait for the Bomas talks because there are too many issues.

I would like to say first that under the current Constitution, the qualifications of the person appointed as Controller and Auditor-General have not been specified. We are only lucky in this country that we have had a Controller and Auditor-General who has done his job well. I know he is a qualified person, but I am not talking about him. I am talking about qualifications being in the Act; that, you would have a professional accountant, for example, with say, 15 years' of experience or some other experience. I do not see it here, but the qualifications of the Controller and Auditor-General should be specified in this Bill. Secondly, I would have expected that the audit functions that we are trying to enact between the Central Government, Local Government and State corporations should all be harmonised, so that we know how to proceed. We do not want a situation where we are told that accounts for local authorities are not ready because the Controller and Auditor-General does not have an arm to audit those accounts. Therefore, we would like harmonisation on the audit of Central Government, the Local Government and the State corporations.

Having made those comments, I would now like to go into the actual Bill, because we have considered this Bill. I have a few comments to make, clause by clause. Clause 2 of the Bill has defined Government. It has also defined State Corporations. If you look at this Bill, there are some important functions and offices which should be defined under Clause 2. Who is the appropriate Minister in this case? If you look at the Bill, it talks about the appropriate Minister laying the reports or giving certain information in this Bill. Who is the appropriate Minister? It should define who the appropriate Minister is. Although, generally, the Controller and Auditor-General, is known, the Controller and Auditor-General under the new Act should also be defined. This as we expect, will cover the three areas I had mentioned.

Mr. Temporary Deputy Speaker, Sir, I believe also, under Clause 2, local authority should also be defined, to say which local authorities we are talking about. In completing the preliminary, Section 110(3) of the Constitution of Kenya mandates Parliament to prescribe retirement age for the Controller and Auditor-General and other holders of constitutional offices. This Parliament has failed because we have not prescribed the retirement age of many of the constitutional officers like the Attorney-General. On this one, I do notice that a retirement age has now been set at 65 under Section

47 of the Bill. At 65 years of age, if somebody has not taken care of himself well, I think we are talking about an age which is rather too high.

The retirement age for judges can be set slightly higher. The nature of their work is that they come in the morning, listen to cases, write judgements and go home. They are not the kind of free people who go on social life. Social life does a lot of panel beating on human beings. So, I do not think that it would be appropriate to put the retirement age of the Controller and Auditor-General at 65 years. I believe the age of 60 would be most appropriate. I do not think we should compare the Controller and Auditor-General to judges. Judges behave rather uniquely.

I would also like to point out that the Controller and Auditor-General is generally responsible to Parliament under Section 7 of the Exchequer and Audit Act. If the Controller and Auditor-General will present his reports to Parliament rather than to the Minister, as provided for in Section 105(4) of the Constitution, then, definitely, the Minister needs to think about an amendment to the Constitution, because the Controller and Auditor-General cannot then forward these reports to Parliament, unless the Constitution as currently provided, is amended, so that he can forward his reports through the Minister for Finance. Under Part 2, Clause 3(3), it says that the accounts must be submitted within three months after the end of the financial year. I believe this is what the current provisions have and I think that period is too long. This is why we have to look into reports that are very old. I would propose that the Minister thinks about this and reduces that period to two months. Subsection 4 which says: "Notwithstanding Subsection 3, the summaries required under Subsection 2(b) need not be submitted until five months after the end of the financial year. That also prolongs the period of submission of these reports. I would propose that this is also reduced to four months.

Mr. Temporary Deputy Speaker, Sir, Clause 9(4) reads:-

"The Controller and Auditor-General shall submit the report to the Minister within eight months after the end of the financial year, or other period to which the accounts examined and audited relate."

That is almost a current provision. Eight months is almost one year. Even the Committee normally deals with very old reports. I think the Controller and Auditor-General should submit his report to the Minister within five months. Let him reduce that period from the proposed eight months to five months at the end of the year. That way, we can be dealing with cases that are not too old.

Also, Clause 12 Subsection (1) reads:-

"For each financial year, each State corporation shall prepare and submit accounts to the Controller and Auditor-General."

That particular clause has the following words: "Shall prepare." There is an omission there. If they prepare, then what happens? We need to amend that particular clause to "prepare and submit the audited accounts". That also applies to Clause 13(1).

Mr. Temporary Deputy Speaker, Sir, Clause 15(1) reads:-

"The Controller and Auditor-General shall prepare a report on the examination and audit and submit the report to the Minister responsible for finance."

Since on this particular clause, the definition is yet to be agreed upon, we need to put it in line with other provisions in this Act, where you have stated: "To the appropriate Minister."

Mr. Temporary Deputy Speaker, Sir, Clause 15(2) reads:-

"Without limiting what may be included in the report, the report shall indicate whether-
(a) the information and
explanations that were required to perform the examination and were received."

That needs to be reworded to include that proper books of accounts have been kept, and they are in agreement with the records. That is a professional requirement, that when you are making an opinion, you would say which books of accounts you looked at, and whether those books are in agreement with those accounts.

Therefore, I think we need an amendment on Clause 15(2)(b).

Mr. Temporary Deputy Speaker, Sir, regarding Clause 15(4), I have already talked about the "appropriate Minister." That also includes Clauses 16(1) and 17(1).

Clause 18 states:-

"When the Controller and Auditor-

General submits a report under clauses 15 or 17 to the Minister responsible for Finance, the Controller and Auditor-General shall also submit a copy of the report to the State corporation and the Minister responsible for the State corporation."

We also need to reword this Clause. When the Controller and Auditor-General submits a report under Clauses 15 and 17 as we have said above, to the appropriate Minister, the Controller and Auditor-General shall also submit a copy of the report to the State corporation. There is no need to over-burden the Minister himself or the Minister for Finance, to try and submit this report to the corporation. The Controller and Auditor-General should actually do that job.

Clause 21(1) is on audit of local authorities. It reads:-

"For each financial year, each local authority shall prepare and submit accounts to the Controller and Auditor-General".

For local authorities to be able to submit accounts for audit, they should submit them within three months and not six months as provided for here. This is because we believe, when these local authorities are fully computerised, the period for audit should be much shorter, because the problem we have been having is lack of audit in local authorities.

Clause 24(1) states:-

"The Controller and Auditor-General shall prepare a report on the examination and audit and submit the report to the Minister responsible for Finance".

In this clause, the Controller and Auditor-General should submit this report to the Minister for that Ministry because I do not think there will be a conflict if the Controller and Auditor-General is auditing the Ministry of Local Government, and instead of submitting that report to the Minister in charge, he jumps and takes it to the Minister for Finance. So, I think in this particular clause, he should submit the report to the Minister for Local Government, who will then forward this to the Minister for Finance or the appropriate Minister as agreed.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members. Consult quietly.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, Clause 34 provides that:-

The Controller and Auditor-General and his staff shall be called the Kenya National Audit Office.

I think we should state here, categorically, what this is going to be. May I also say something about Clause 35 which states:-

The Government of Kenya shall ensure that the Kenya National Audit Office has the staff the Controller and Auditor-General believes is necessary to properly carry out his functions.

We know that Government staff are recruited under the Public Service Commission. If the Controller and Auditor-General is going to have his own staff under Kenya National Audit Office, then we need an amendment to the Constitution, to provide that he has the authority to recruit staff under this Office.

Clause 39(2) states:-

"Only a person registered as an accountant under the Accountants Act may be

appointed under this Clause".

Now, we need to amend this clause to provide for a practising accountant and not just an accountant. There are so many accountants but some of them do not have practising certificates. So, we need to amend this clause to provide for a practising accountant. Some of them, as my colleague, the democrat has said, are quacks. So, we need a practising accountant who is registered.

Clause 47 states:-

"For the purposes of Section 110(3) of the Constitution, the age at which--

I have already covered this. It is about setting the retirement age of the Controller and Auditor-General. I think 65 years is too high, and I think we should have it at 60, so that we can provide upward mobility for staff in that office.

Clause 50(2) provides that:-

The Controller and Auditor-General shall be the Chairman of the Kenya National Audit Commission and the Kenya National Audit Commission shall appoint a Secretary.

However, we should add here: "On such terms as may be determined by the Commission" after the word "Secretary", so that this particular person who is going to be appointed is known under what terms he is going to be appointed.

Clause 55 is on transitional provisions. The period within which the successor to the incumbent Controller and Auditor-General is to be appointed requires to be set, say within 60 or 90 days. This is to avoid a situation where the incumbent remains in office for far too long, thus creating instability in this office, because in Clause 55, the provisions are very clear.

I went through those clauses because this is a very technical Bill and we have considered these clauses one by one. I will be able to give the Minister our proposals. If he agrees to them, the better for him to move them. But I want to say a few things generally about this Bill.

This Bill does not say who will audit the accounts of Parliament. Parliament is some kind of constitutional office, but this Bill does not say who will audit Parliament, and when it has been audited, who will receive the report and where it will pass. We need to make it clear how Parliament itself is going to be accountable when we are dealing with audit. So, I think the Minister needs to look at these constitutional offices that we have not provided for here.

In general, the creation of the Kenya National Audit Office is a bold move. But we need to make it fairly independent, so that the independence of the Controller and Auditor-General is safeguarded, so that it is not part of Government. It has to be completely independent.

I support this Bill because it will create a National Audit Office, but we need to look into this provision deeper, especially when the staff cannot be independent. I can see that my time is over. I do not know how many minutes--

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 10th November, 2003 at 9.00 a.m.

Hon. Members: Mr. Temporary Deputy Speaker, Sir, there is a Motion for the Adjournment.

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, I beg your pardon! I am sorry. I am told that there is a Motion for the Adjournment.

(Mr. Ndambuki stood up in his place)

Order, Mr. Ndambuki! You must sit down when the Chair is on his feet.

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.18

PAYMENT OF SOMALI DELEGATES'

HOTEL BILLS

The Temporary Deputy Speaker (Mr. Khamasi): Will a Minister, please, move that the House do now adjourn?

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House do now adjourn.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.18(1)(2), to raise a matter of unsatisfactory reply to Question No.4 by Private Notice, answered on Wednesday, 3rd December, 2003, concerning non-payment of hotel bills in Eldoret Town by the Inter-Governmental Authority on Development (IGAD).

On 3rd December, I asked a Question in this House regarding outstanding hotel bills in Eldoret Town. The answer I was given by the Assistant Minister for Foreign Affairs was quite unsatisfactory. The Government owes 13 hotels in Eldoret Town Kshs327,241,195 for bills lodged by suppliers, transporters and security. Many of the hotels in this town are almost being auctioned. In fact, one of them, Sirikwa Hotel, is under receivership as a result of non-payment of these bills by the Government. I have in my possession, letters written by the Government ordering the hotels to release the Somalis. The Government undertook to pay the said bills. I would like to quote from one of the letters. It says:-

"However, I wish to assure you that the Ministry hereby undertakes to pay all the outstanding bills in the very near future. Kindly, therefore, and on the strength of this letter, facilitate the smooth movement of the delegates out of the hotels. Once more, our commitment to offset all the bills by the Ministry is hereby given."

This letter was signed by the Permanent Secretary, Ministry of Foreign Affairs.

What else do you need as proof that the bills will be settled, when you receive this kind of letter from the Government of the Republic of Kenya? Our hotels released the Somalis on the strength of this letter, without which they would not have released the delegates. The Chair knows very well that when you stay in a hotel and fail to pay your bills, it will not release you. Those hoteliers released the Somali delegates on the strength of the undertaking that they were going to be paid by the Government of the Republic of Kenya. Therefore, when the Assistant Minister for Foreign Affairs tells us that it is IGAD which is responsible for the payment of these bills, this is not only misleading, but also an unfortunate statement. We would like the Government to honour its responsibility and pay the hoteliers because the more it delays, the more hotels will close down.

Mr. Temporary Deputy Speaker, Sir, the National Rainbow Coalition (NARC) Government promised to create jobs. If all the hotels close down, there will be no jobs. Most of the bills come from small-scale suppliers, who supplied vegetables to the hotels, and people who transported Somali delegates to that town. Of what benefit was the conference to the people of Eldoret if their bills are not paid? Currently, the Somalis are holding their conference in Mbagathi. We are made to understand that they pay their bills on a weekly basis. Why could they not pay their hotel bills in Eldoret? We feel that this is unjust. Or, is it because justice is not required in Eldoret? We want the Government to come clear on this issue and tell us whether it wants to rob or oppress its own citizens.

We cannot promote investment when the Government cheats its own citizens. The other day, an Assistant Minister for Foreign Affairs told this House that the letter that the Government wrote to hotel owners, assuring them that they would be paid, was a letter of comfort. We write letters of comfort to our girlfriends, and not to business people. We are talking about serious business. So, we cannot accept it.

(Applause)

In fact, I have been told by lawyers that a letter of comfort is almost equivalent to a letter of undertaking. Once the Government signs documents, it must honour them. Therefore, the Government should undertake to pay immediately. Our people have almost lost confidence in this Government. It should, therefore, redeem itself by ensuring that the people of Eldoret are paid their bills.

Mr. Temporary Deputy Speaker, Sir, the other day, Eldoret Airport was closed. Now, hotel bills have not been paid. We do not know what the Government will do next. Maybe, it will close down the road leading to Eldoret Town. Despite all this, we are expected to keep quiet.

We are, therefore, asking the Government to pay the bills. After that, it can go on its begging missions, get money and reimburse the Treasury the amount it will have used. We cannot wait forever to be told that we will be paid. What will happen if the Government does not get the money?

With those few remarks, I beg to second.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Kipchumba! My apologies once again for the oversight.

Hon. Members, we are discussing this matter under Standing Order No.18. Those of you who are familiar with the Standing Order know that an hon. Member shall not speak for more than ten minutes. However, if a Motion is popular, we normally make a resolution that each hon. Member speaks for only five minutes, with the Mover and the Responder taking ten minutes each. So, I would like to have your agreement that each hon. Member speaking does so for only five minutes, so that as many hon. Members as possible can have a chance to contribute to the Motion. I take it that, that is agreed.

(Question proposed)

Mr. Samoei: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to second this Motion. This Motion touches on the businesses of people in Eldoret, and being Kenyans---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Samoei! You are not seconding the Motion. The Deputy Leader of Government Business seconded the Motion and so you are contributing.

Mr. Samoei: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to contribute to this Motion and thank you for giving me this opportunity to do so. As has been said by hon. Kipchumba, the people of Eldoret are going through very difficult times as a result of this transaction in which the Government of Kenya took part.

Mr. Temporary Deputy Speaker, Sir, I remember very well when these contracts were being signed, hon. Mwangale, who was the special envoy of the President on this particular mission, was, indeed, in Eldoret. So, the hoteliers in Eldoret knew very well that the Government was part of these contracts. We are talking about colossal amounts of money amounting to Kshs327 million not being paid. Eldoret is not a big town. Indeed, we are talking about close to 13 hotels in Eldoret being affected. During this period, every hotel had to employ extra staff. They had to get new contracts of supplies to the hotels, to be able to accommodate the delegates to this conference. They had to go to the banks to borrow money so that they could facilitate the meetings that took place in Eldoret.

Mr. Temporary Deputy Speaker, Sir, already, Sirikwa Hotel is under receivership as a result of monies borrowed to facilitate this conference which have not been paid to date. The rest of the hotels are in very deep financial problems as a result of this action. We are talking about local Kenyans who supplied vegetables, onions, carrots, milk and all manner of things not getting their payments. These people are camping outside these hotels looking for this money. You know, as is normal of hotels, if you do not pay your bills on the day you are checking out, you are either made to peel potatoes or do some other duties until the hotels are paid in full. However, the hotels in Eldoret were, in my opinion,

hoodwinked by the Government to release these people on an undertaking that it was in writing by the Government of Kenya that those bills would be settled.

Mr. Temporary Deputy Speaker, Sir, these delegates were let scot-free, and the tragedy is that they are still in this country. They are still enjoying the hospitality of Kenyans, and their bills are still being paid by the Government. I do not know on what basis the Government still continues to pay these bills in Mbagathi or in other hotels where these people are staying, when Kshs327 million is still outstanding. There is a very big question the people of Eldoret are asking, which is: How can the Government be paying bills for these people in the hotels they are staying, when they checked out of hotels in Eldoret without paying their bills? We are talking about people who have been retrenched as a result of this exercise, because the hotels are doing poorly. They are in financial problems and, therefore, they cannot meet their overheads. People have been kicked out of employment because the Government has not lived up to its pledge. I do not want us to have a situation where this is one of the many pledges that we have heard. This is a pledge to very poor people. I want to urge the Government to take into consideration the plight of the hundreds of thousands of people in Eldoret who facilitated this conference to take place, yet their bills have not been paid.

Mr. Temporary Deputy Speaker, Sir, I want to request the Minister to make a clear statement on when these people will be paid. It is not that people did things unprocedurally. We are talking about a clear contract between the hotel and the Government of Kenya.

Because I want many people to contribute to this Motion, I beg to support.

Mr. Syongoh: Mr. Temporary Speaker, Sir, I stand to contribute to this Motion out of very serious concern for the credibility of the creditors who provided services in this respect, as well as concern for the credibility of our Government. We are talking about Kshs300 million worth of goods and services provided by Kenyan businessmen and farmers to support the Government of this country build and sustain its image as a credible player in conflict resolution and mediation. Out of recklessness, we are destroying all that has been built over time by such people as Gen. Sumbeiywo, who is taking care of the Sudan peace initiative, and Ambassador. Kiplagat, who is taking care of the Somali peace initiative. Without the logistical support of these creditors, the Government cannot play that very important role.

In America and Europe, any citizen who cannot do business with his government is not a good businessman, and any government which cannot do good business with its citizens is not a good government. The Government must encourage our people to do business, create wealth and employment for our people. Supplying goods and providing services to events such as the Somali peace initiative is an opportune moment for us to show that not only do we have the logistical support, but we are also a Government that cares, is concerned, is sensitive and committed to the growth of the economy of this country.

Mr. Temporary Deputy Speaker, Sir, not too long ago, we had a very embarrassing situation. We spent about Kshs2 million bringing in a farmer from Ethiopia. Now we are talking about bringing in Somali warlords and booking them in hotels in our country; where they eat, drink, enjoy and then walk out without paying for it, because the Government has undertaken to pay the hotel bills, then it pulls out of it. What image are we creating for our country and our Government? For the sake of the credibility of our Government, which we love dearly, it must pay these bills. I agree entirely that our Government should not bear the burden of all the problems around our region, but I believe there is a process under which it can claim this money from IGAD and all those who undertook to sponsor the peace initiative.

For us to negate the good image that we have created for this country as a credible venue for conflict resolution through conferences on peace and stability in the region, it will be most unfortunate. I want to appeal to the Government to pay those bills in order to regain its credibility.

With those few remarks, I beg to support.

Mr. Biwott: Mr. Temporary Deputy Speaker, Sir, this Motion of Adjournment has been necessitated by the failure of the Minister to give a date when the payments will be effected.

This is not a laughing matter. We are dealing with the credibility of the Government, and whether or not it was a contractual letter or a letter of comfort, it all means the same. It means that the credible Government has undertaken to pay for goods and services which have already been delivered. It is only a question of paying for those services. The IGAD is an inter-governmental body which was created by this Government among others. It is a regional body and there is a focal Ministry in this country, that is the Ministry of Foreign Affairs, which is responsible for it. Therefore, we cannot be misled as to who is responsible. I

Mr. Temporary Deputy Speaker, Sir, it is the Ministry of Foreign Affairs which undertook, on behalf of this country, to host these negotiations. It is not a hidden secret; it is an international matter and there are donors who are paying for it. Therefore, we cannot allow our people to suffer because there is nobody to take care of them.

The Ministry of Foreign Affairs takes care of Kenyan interests which arise out of external involvement. This is one of those cases which the Ministry of Foreign Affairs has no other choice, but to tell us today, when they will pay. This means that the Ministry of Foreign Affairs is inflicting poverty on our people. It is also creating unemployment as far as those people are concerned.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Foreign Affairs should assist us so that we do not see people going into destitution as a result of non-payment for the goods and services which have already been supplied to the people out of the goodwill and trust of the Government. It is not a laughing matter; it is a very serious matter because the people who are involved are really suffering. It needs a genuine thought and care by the Government which they trust so much. They believe in their own Government. They have nobody else except the Government which will help them.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Order! We had some confusion from the start and we lost about three minutes. I will, therefore, call upon the Government Responder.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to make my contribution.

I will, towards the end of my contribution, share a little of my time with Mr. Mwiraria, the Minister for Finance.

The Temporary Deputy Speaker (Mr. Khamasi): You should then allow him to start. You cannot share with him at the end.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): I will give him two minutes.

The Minister for Finance (Mr. Mwiraria): Thank you, Mr. Temporary Deputy Speaker, Sir. I really feel that this is a very regrettable matter, but in discussing it, we had better go back into history.

An hon. Member: You tell us!

The Minister for Finance (Mr. Mwiraria): Yes, I will tell you the reasons why I am saying so.

The Temporary Deputy Speaker (Mr. Khamasi): Could you address the Chair, Mr. Mwiraria?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, the decision to take the Somalis to Eldoret was made by the previous Government.

(Loud consultations)

That apart, they elected the person who was to be in charge. After that, and this is the unfortunate bit, there were promises of financial support from IGAD and the development partners.

Unfortunately, a lot of cheating crept into the whole exercise. Hotels which are third rate were raised to five-star level and people were over-charged. One of the reasons why the development partners refused to give their contribution was the fact that, they felt somebody somewhere was creaming off too much money out of the exercise.

Mr. Temporary Deputy Speaker, Sir, that was then. Today, we, in Government, do not want to see the Kenyan people suffer. Because I only have two more minutes and they are almost over, I want to say that we are doing our best to look for funds to clear those bills. They will have to be checked to verify the genuine ones, because there are a lot of fake ones. It should be noted that once Eldoret was abandoned, the talks had to continue elsewhere, and we are keeping abreast with what is happening, while we look for money to clear the genuine bills in Eldoret.

I thank the person who gave me the two minutes.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I want to make one thing very clear. Contrary to the assertions by my colleague, Mr. Kipchumba, we, in fact, owe bills at Mbagathi as well, as follows: Transport, Kshs6 million; salaries and allowances, Kshs5 million; accommodation, Kshs140 million; medical, Kshs7 million and others, Kshs1 million. I am saying this to demonstrate to the House that the Government and IGAD have not singled out Eldoret for strangulation by non-payment of the bills.

Mr. Temporary Deputy Speaker, Sir, the Somalia peace process is an IGAD process, and the Government of Kenya is a member of IGAD. The contributions that we make to IGAD cumulatively with other contributions from other states and partners that support us go towards payment of these bills. One of the problems why there has been a protracted wrangle on the payment of these bills is because there were monstrous frauds and improper accounting methods that went into the process. The management of the process, and Maj. Madoka can bear me out on this, engaged hotels that ordinarily charge Kshs200 a day and promised to pay them at the rate of US\$100 a day. When the partners saw this, they felt that there was some fraudulent scheme somewhere. Some withheld their support, while others asked a lot of questions.

Again, the Minister who was then in charge, Maj. Madoka, can bear me on this. The Government of the day is making every effort to make sure that money is not just available, but available to pay all the genuine bills for the hoteliers in Eldoret. As a matter of fact, this morning I hosted an ambassador from a friendly country with whom I discussed nothing else, except the pending bills on the IGAD process, on behalf of IGAD. He assured me that his Government is going to do something.

Mr. Temporary Deputy Speaker, Sir, last week, we had a meeting where the Italian Government extended a benevolent hand to IGAD with a contribution of US\$500,000. My colleague, the Minister for Foreign Affairs is travelling to Saudi Arabia over the weekend, to go and discuss what it can do to assist us towards this process. At the end of the day, while we struggle to pay the bills, we must equally bear in mind, and appreciate the fact, that as a country, we have a duty, responsibility and interest in what is going on in Somalia. A peaceful Somalia will reflect on the peace of Kenya, while an unstable Somalia will create instability in Kenya. I want to urge my colleagues from Eldoret not to mix issues of the closure of the Eldoret International Airport with the IGAD bills because they are not related. I do not know why the airport was closed and re-opened, but I know why the bills have not been paid and how we are going to pay those that we shall verify and find genuine. Mr. Temporary Deputy Speaker, Sir, my sympathies from my Ministry go to the hoteliers who genuinely incurred bills without the fraud that I have mentioned, and I promise this House that our partners are talking to our Minister for Finance, who, hand in hand with my Ministry, is looking for money to pay the bills.

With those few remarks, I beg to promise the House that whatever is genuine, IGAD will pay, and whatever is questionable will remain so.

Thank you.

The Temporary Deputy Speaker (Mr. Khamasi): We still have three minutes remaining before the interruption of today's business. Therefore, I will give a chance to Mr. Nyachae to make his comments.

Mr. Nyachae: Thank you, Mr. Temporary Deputy Speaker. You heard the Assistant Minister say "we owe" when he was talking about what is going on in Mbagathi. Therefore, in the case of Eldoret, he should also say "we owe." I think his words have been captured in the HANSARD.

Secondly, the law of contract says "your representative commits you." In this particular case, the letter which has been read here was written by a Permanent Secretary. Therefore, he is your representative. The Assistant Minister is a lawyer and he knows this very well. The Ministry should accept the responsibility.

Thirdly, the Minister for Finance says they are looking for money. The Assistant Minister for Foreign Affairs also said they are looking for money and that they will pay what is genuine. However, nobody [**Mr. Nyachae**] is telling us when they will pay. So, are we going to tell our people that this will be paid when the money will be available? This could take ages.

Let us not use IGAD as a defence. Kenya had been given the honour of chairing IGAD and we accepted that responsibility. Therefore, let us leave aside IGAD, which is a third party, and deal with the direct commitments to our people.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 10th December, at 9.00 a.m.

The House rose at 7.05 p.m.