

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th November, 2006

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of Departmental Committee on Health, Housing, Labour and Social Welfare on the Nutritionists and Dieticians Bill, 2006.

(By Mr. Ndolo)

NOTICE OF MOTION

INTRODUCTION OF ELECTRIC POWER (AMENDMENT) BILL

Prof. Olweny: Mr. Deputy Speaker, I wish to give notice of the following Motion:-

THAT, in view of the fact that sugar mills in this country have the capacity to co-generate electricity in excess of their requirements, and that the excess energy generated is currently going to waste, this House do grant leave to introduce a Bill to amend the Electric Power Act and the Electric Power Supply Lines Act to allow the mills to sell the excess electricity they generate to the national grid or directly to other consumers.

QUESTIONS BY PRIVATE NOTICE

Mr. Deputy Speaker: Hon. Members we will begin with Questions by Private Notice. The first Question is by the hon. Member for Juja, Mr. William Gitau.

SETTLEMENT OF DEBT OWED TO MICROHOUSE.NET BY NEMA

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

(a) Is the Minister aware that Microhouse Net Limited entered into a contract with the National Environment Management Authority (NEMA) for installation and commissioning of a financial management system in December, 2005 at a contractual sum of Kshs2.9 million, but up to date an amount of Kshs2.6 million has not been paid as per the contract?

(b) Is the Minister further aware that this has rendered the company financially unstable and that there is a pending proclamation of their equipment by auctioneers?

(c) If the answers to (a) and (b) above are in the affirmative, when will NEMA pay the outstanding amount?

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

(a) I am aware that Microhouse.Net Limited entered into a contract with the National Environment Management Authority for the installation and commissioning of a financial management system in December, 2005 at contractual sum of Kshs2,900,000, VAT inclusive. I wish to clarify that to date Microhouse.Net Limited has been paid a total of Kshs1,885,000 vide cheque No.00081 of payment Voucher No.0003 dated 17th January, 2006 and cheque No.00092 of payment Voucher No.0306 dated 11th May, 2006 of Kshs725,000 for the services already rendered. This amount represented 65 per cent of the contract value.

(b) I am not aware that the outstanding amount has rendered the company financially unstable, and that there is a pending proclamation of their equipment by auctioneers.

(c) I wish to confirm that the outstanding amount of Kshs1,015,000, representing 35 per cent of the contract value, will be paid once the service provider, Microhouse.Net Limited, completes its obligations, as specified in the contract.

Mr. Gitau: Mr. Deputy Speaker, Sir, this Question was here last week. I am surprised that the Assistant Minister did not take time to find out the issue of auctioneering.

Mr. Deputy Speaker: The issue of what?

Mr. Gitau: Mr. Deputy Speaker, Sir, she says that she does not know that there is a pending auction. I have the proclamation from the auctioneer here, which I would like to table.

Mr. Deputy Speaker: Mr. Gitau, we are not debt collectors! Could you ask a supplementary question? We do not want those documents from the auctioneers.

Mr. Gitau: Mr. Deputy Speaker, Sir, this Question is here by Private Notice because of urgency. A Kenyan is about to lose his property!

Mr. Deputy Speaker: Ask a supplementary question, Mr. Gitau.

Mr. Gitau: Mr. Deputy Speaker, Sir, I would like to know from the Assistant Minister if she is aware that the reason for this person not being paid is because he went to the Kenya Anti-Corruption Commission (KACC) and reported that somebody was asking for a bribe.

It is because of that threat that NEMA has frustrated him and made him not to finalise the contract. I have documents from the KACC here.

Mrs. Kihara: Mr. Deputy Speaker, Sir, I have already said that the balance of 35 per cent of the contract value has not been paid because the contractor has not completed his obligations, as specified in the contract. A copy of the contract is here with me, and I wish to lay it on the table.

(Mrs. Kihara laid the document on the Table)

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

Mr. Deputy Speaker: You can ask another question, if you wish.

Mr. Gitau: Mr. Deputy Speaker, Sir, I have a point of order. This Assistant Minister is misleading the House. The contract simply says that the money will be paid upon finalisation of training of staff.

(Mr. Kenyatta was applauded as he entered the Chamber)

Mr. Deputy Speaker, Sir, please protect me from loud consultations.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Could you allow Mr. Gitau to ask his question?

Mr. Gitau: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading this House. The reason for the non-completion of the contract is that the institution has continuously refused to finalise its training as per Clause 7(1) of the contract, which I want to Table plus other papers from the KACC.

(Mr. Gitau laid the documents on the Table)

Mr. Deputy Speaker: Mr. Gitau, how do we now proceed because I asked you to ask a question, but you are laying papers on the Table? Certainly, the Chair will not take time to arbitrate over this matter.

Mr. Gitau: It was a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Ask your last question.

Mr. Gitau: Mr. Deputy Speaker, Sir, could the Assistant Minister consider ordering the organisation to pay this man because the contract is over completely? It is the fault of the institution that the contract was not completed. Could the Assistant Minister order the organisation to pay this young man?

Mrs. Kihara: Mr. Deputy Speaker, Sir, the 35 per cent outstanding payment entails the project sign-off which is inspection and verification of the whole project by an ICT expert from my Ministry headquarters. This is ongoing with the contractor's team rolling out the system to ensure it is fully operational. After issuance of a certificate of completion, the contractor would have to give NEMA a certificate from Oracle, who is the dealer, licensing the use of the software.

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

Mr. Deputy Speaker: Order, Mr. Gitau! I think I need to stop you now. This is the Kenya National Assembly. This is a contract between someone and NEMA. If it is not honoured, the matter should go to court. Really, you want us to do what we are not supposed to do. You want us to say whether the contract is honoured or not. As the Assistant Minister claims, it is not the work of this House to determine that. Surely, if that person wants to follow up this matter, he should go to court and not bring it to the Kenya National Assembly. I think you should be advised.

The Assistant Minister for Health (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to seek for your guidance on who the Official Leader of Opposition is?

Hon. Members: Shame! Shame!

Mr. Deputy Speaker: Order! Next Question by the hon. Member for Laisamis!

ACCESS TO TELECOMMUNICATIONS
SERVICES IN LAISAMIS CONSTITUENCY

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

(a) Is the Minister aware that telephone landlines in Loyangalani and Mt. Kulal in Laisamis Constituency are malfunctioning, thereby disrupting communication within the constituency and its environs?

(b) Is the Minister further aware that during rainy seasons, there is total telecommunication breakdown?

(c) What is the Minister doing to help the residents of Laisamis Town and other upcoming urban centres with similar problems access telecommunication and other information services

without disruption?

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

(a) The Government is aware that telephone landlines at Loyangalani and Mt. Kulal in Laisamis are prone to frequent breakdowns. This is due to the fact that Loyangalani Township is served by a leased automatic subscriber trunk dialling over a single channel radio link from Marsabit Exchange. Like other towns within the district, the service is to cater for telephone needs of the public until appropriate solution is achieved. This was decided as a result of difficulties experienced by Telkom (K) to maintain the previous 30 lines that were supported by an old manual exchange that lacked spare parts and was permanently on an old diesel engine generator.

(b) The hon. Member is aware that any time a breakdown occurs, our staff attends to the problem immediately except during rainy season when roads are impassable.

(c) The Government is currently implementing countrywide rural telecommunication development project which employs the most modern Code Deviation Multiple Access (CDMA) wireless technology and is set to be completed soon. I wish to therefore, assure the hon. Member that this will provide Laisamis with reliable telecommunication services once completed. The technology carries other important functions like data and internet access that will be available to users.

Mr. Lekuton: Mr. Deputy Speaker, Sir, it is really embarrassing that 43 years after Independence, we still have areas without communication links. Some people in my constituency have never seen a telephone, forget about using it. How long do we have to wait? Right now, I cannot get through to my constituency even if I wanted to. How soon is soon that we will wait for these services?

Mr. Were: Mr. Deputy Speaker, Sir, the CDMA technology was rolled out recently in the month of September and it is already operating in Nairobi. During the beginning of the new year, we will be rolling out in the rural areas.

Capt. Nakitare: Bw. Naibu Spika, tunamwomba Waziri Msaidizi atuambie wazi jambo hili kwa sababu mawasiliano ya Kenya kupitia kwa kampuni ya Telkom yamekuwa magumu. Huko Mountain View tunaambiwa kuwa nyaya za simu zimeibiwa na exchange zimeharibika. Wizara hii itawapeleka kortini lini watu walioiba nyaya za simu na kurekebisha mambo haya ya mawasiliano?

Mr. Were: Mr. Deputy Speaker, Sir, I have indicated that we are changing the system to wireless and this system was rolled out in September. The case of theft of cables might be a thing of the past once this wireless system is in place. I think that will suffice.

Dr. Ali: Mr. Deputy Speaker, Sir, this Ministry is fond of saying imaginary things when they know they are not ready to implement anything. For the last five years, they have been talking of providing new equipment and technology. They always start with Nairobi. Why can they not start with the rural areas and then come back to Nairobi which has the facilities? In my constituency, those telephone lines are the same and they are always dead. Why do we have to use old generators which have no use when we can use the new technology?

Mr. Were: Mr. Deputy Speaker, Sir, I want the hon. Member to appreciate what this Government is doing. In the last four years, a lot of improvements have been done compared to the last 40 years. As I said, rolling out will begin in Nairobi. As you know, Telkom (K) must recoup some of the money that it puts in when it is starting these facilities. It will be easier to start with Nairobi rather than the rural areas.

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

Mr. Lekuton: Mr. Deputy Speaker, Sir, could the Assistant Minister give us the time frame on when to expect these services?

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

(Mr. Sirma stood up in his place)

Mr. Deputy Speaker: What is your point of order, Mr. Sirma?

Mr. Sirma: On a point of privilege and right in this House, Mr. Wamwere was obstructing Mr. Leshore because I think he is just trying to marginalise him. Could he be warned?

Mr. Deputy Speaker: The hon. Member has left. He had obstructed Mr. Leshore but I think he has realised his mistake and has left.

Proceed, Mr. Assistant Minister!

Mr. Were: Mr. Deputy Speaker, Sir, I had indicated that the rolling out will be done from the beginning of next year.

Mr. Deputy Speaker: Next Question by Mr. Dahir!

INSTALLATION OF NON-PERFORMING
DEUTZ MACHINES AT
MANDERA POWER STATION

(Mr. Dahir) to ask the Minister for Energy:-

(a) Why has the Kenya Power and Lighting Company Limited installed non-functioning Deutz machines intended for vehicles and not for industrial generation purposes at Mandera Power Station?

(b) Could the Minister confirm that the laid down procurement procedures were followed when awarding the tender to the Deutz Company?

(c) Could the Minister ensure that proper machines are installed at the station?

Mr. Dahir is absent. The Question is dropped.

(Question dropped)

Next Question!

LEGAL STATUS OF NAKURU WATER/
SANITATION SERVICES COMPANY

Mr. Mirugi: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sanitation Services Company and thereafter conducted an irregular election of the Board of Directors in August, 2006?

(b) Is the Minister further aware that Nakuru Water and Sanitation Services Company is not a registered company?

(c) If the answers to "a" and "b" above are in the affirmative, what measures is the Minister taking to ensure that this public company is legally constituted in ensuring transparency and accountability in its management and that such schemes by the Municipal Council of Nakuru or any other council are not repeated?

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

(a) I am aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sewerage Company by increasing the number of shares held by council officials. A general meeting of the company held on February, 2006 also increased the number of directors in the Board of Directors.

(b) My Ministry, through Rift Valley Water Services Board, has written to the Registrar of Companies for confirmation of the legal status of Nakuru Water and Sewerage Company.

(c) My Ministry, upon getting confirmation from the Registrar of Companies, will take the necessary action including cancellation of the service provision agreement between Rift Valley Water Services Board and Nakuru Water and Sewerage Company.

My Ministry has developed and will soon gazette rules and regulations governing water services providers aimed at illegalising changes in memorandum and articles of associations of the companies after signing of water services provision agreement.

Mr. Mirugi: Mr. Deputy Speaker, Sir, the shareholding was changed back in February. It is very shameful that it has taken over six months for the Government to act on that problem. I want the Assistant Minister to tell this House why the Rift Valley Water Services Board is taking too long to take action on this Nakuru Water and Sanitation Services Company. This company is holding public money and yet it is not a registered company nor a legal entity. Why is the Government pumping money into this company yet it is not even a legal entity? Could the Assistant Minister confirm to this House that the Ministry will take action and tell us when they will take that action?

Mr. Wanjala: Mr. Deputy Speaker, Sir, I have assured the hon. Member that we have, first of all, written to the Registrar of Societies. Upon getting confirmation from him we will take immediate necessary action, including cancellation of the services provision agreement.

Mr. Mukiri: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that they have written to the Registrar of Companies. This Question is already before the House. Why should the Government write to another arm of the Government? What is so difficult with the Assistant Minister confirming with his colleague as to the status of this company so that when he answers this Question, it is comprehensively answered?

Mr. Wanjala: Mr. Deputy Speaker, Sir, as a Government, we must put everything in writing. This Question was sent to us through Private Notice. It came on a Friday and, therefore, we were given short notice. By yesterday, we were writing to the other department to confirm in writing. We do not come to this House with verbal information. If we were to table information to the effect that this company is not registered, that information must come from the Registrar of Societies.

Mr. Rotino: Mr. Deputy Speaker, Sir, I think the Assistant Minister is not serious. I think he is taking this Question very lightly. The hon. Member has asked when the Ministry will act because that company has no legal basis and yet it has been collecting money. When will the company be registered? This Assistant Minister is joking!

Mr. Wanjala: Mr. Deputy Speaker, Sir, the hon. Member is the one who is not serious because he is talking about hearsay. He has no evidence neither have I, that this company is not registered. That is why I have said that when we got this Question, we immediately wrote to the Registrar of Companies to get confirmation on this matter. If it is confirmed that this company is not registered, immediate necessary action, including cancellation, will be effected.

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir. Is this Assistant Minister serious?

Mr. Deputy Speaker: What is your point of order?

Dr. Ali: Mr. Deputy Speaker, Sir, the Assistant Minister is either misleading the House or this Government is in deep problems. How can the Government pump money into a company which is not a legal entity? Is he telling us that the Government just gives out money to anybody?

Mr. Deputy Speaker: That is not a point of order.

Mr. Mirugi: Mr. Deputy Speaker, Sir, I am very sad that I am not getting the answer which should be given in this House. We reported this matter several months ago. We have engaged lawyers who have confirmed the same. That is why I asked this Question in the House. Why can the Assistant Minister not confirm that this company was irregularly constituted? What action will the Ministry take? We want to have a timeframe within which action would be taken. The year has

gone fast. It is almost halfway through and this company is holding public money. We cannot even sue the company because it is not a legal entity. They are not answerable to the public and they are holding public money. Could the Assistant Minister give us the timeframe within which the Ministry expects to have this company re-constituted again?

Mr. Deputy Speaker: Mr. Assistant Minister, you can hear the sentiments of the House. Could you reply to that?

Mr. Wanjala: Mr. Deputy Speaker, Sir, I want to assure you that I have taken them seriously. Once it is confirmed by the other arms of the Government, my Ministry---

(Mr. Samoei was applauded as he entered the Chamber)

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

Mr. Deputy Speaker: Order, Mr. Marende! Do not interrupt the Assistant Minister. Let him finish!

Mr. Marende: It is a good point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, continue!

Mr. Wanjala: Mr. Deputy Speaker, Sir, I was saying that even here I am confirming to the House that once we confirm these allegations, with proof, we will take immediate action. We have also said we will take further serious action by cancelling the agreement between the Water Services Board and us.

Mr. Deputy Speaker: There was a point of order by Mr. Marende.

Mr. Marende: Mr. Deputy Speaker, Sir, from the answer given by the Assistant Minister, he seems to confess that he is unable to answer this Question, or deal with it comprehensively and satisfactorily, because he has not received information. He is expecting the information in the near future.

Mr. Deputy Speaker, Sir, will it not be in order to defer this Question until the Assistant Minister receives the information to enable him answer it?

(Applause)

Mr. Deputy Speaker: I am persuaded to do just that. The Assistant Minister admitted that he received this Question yesterday, wrote to the Registrar of Societies and is waiting for information. Even if the Question is urgent, I want to defer it to next week.

(Applause)

Mr. Wanjala: Mr. Deputy Speaker, Sir, that is the best thing you have done.

(Laughter)

Mr. Deputy Speaker, Sir, you know that the Ministry of Water and Irrigation is one of the most efficient Ministries. We were, therefore, able to come up with at least some answer.

Mr. Deputy Speaker: Order, Mr. Wanjala! Will you sit down?

The Question is deferred to Tuesday, next week.

(Question deferred)

**COMMUNICATION FROM
THE CHAIR**

PRESENCE OF MEMBERS OF BRITISH HOUSE
OF COMMONS IN SPEAKER'S ROW

Mr. Deputy Speaker: Hon. Members, I wish to make the following communication from the Chair. I wish to bring to the attention of the House the presence, in the Speaker's Row, of Members of Parliament of the British House of Commons who are on a visit to our country.

They are:

- (i) The hon. Hughes Belly, MP;
- (ii) The hon. Gerry Striker, MP.

They are accompanied by Mr. David French, the Chief Executive of the Westminster Foundation for Democracy.

(Applause)

Let me take this opportunity, on behalf of all hon. Members and my own behalf, to welcome them to our country and wish them a very happy stay in our country.

(Applause)

Next Question by Ms. Ndung'u!

*(Resumption of Questions
by Private Notice)*

NON-IMPLEMENTATION OF SEXUAL
OFFENCES ACT BY COURTS

Ms. Ndung'u: Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Why have the courts failed to implement the provisions of the Sexual Offences Act, 2006?

(b) What urgent measures is the Attorney-General taking to ensure that all provisions of the Act are complied with by all actors?

The Vice President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, may I seek your indulgence and explain that the Attorney-General is in Arusha. We should, therefore, defer this Question to Tuesday, next week.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. The Leader of Government Business is pleading for time for the Attorney-General, yet he is aware that it is because of him that the Attorney-General is not in this House. It is because of the fraud he committed in getting Members to the East African Legislative Assembly that the Attorney-General is not here!

(Applause)

Mr. Deputy Speaker: Well; this is neither here nor there.

The Vice President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker,

Sir, that outrage does not require my answer. There is a meeting of Heads of State of East Africa starting tomorrow in Arusha. The Attorney-General is there to represent Kenya.

(Applause)

Mr. Deputy Speaker: That Question is deferred to next week.

Ms. Ndung'u: On a point of order, Mr. Deputy Speaker, Sir. The Sexual Offences Act, Section 48 charges the Attorney-General with implementation of this Act, in consultation with several other Ministers, who are also named in the Act. In that instance, is it not in order to ask either the Minister for Justice and Constitutional Affairs or the Minister of State for Administration and National Security to answer this Question? I do not see the reason for the delay.

Mr. Deputy Speaker: Ms. Ndung'u, you see the Question is directed to the Attorney-General. To be fair to the Minister for Justice and Constitutional Affairs, and even the Minister of State for Administration and National Security she does not even have information about this Question. Can we defer this Question to next week when the Attorney-General will be around? It is so ordered!

(Question deferred)

Next Question by the hon. Member for Samburu West Constituency, Mr. Lesrima!

ORAL ANSWERS TO QUESTIONS

Question No.125

TARMACKING OF RUMURUTI- MARALAL ROAD

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

- (a) when tarmacking of Rumuruti-Maralal Road will begin; and,
- (b) whether he could consider tarmacking the road to Loiyangalani at Lake

Turkana.

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

(a) The tarmacking of Rumuruti-Maralal Road will begin after the design of the road is complete. Invitation for tenders for the design review of the road was advertised in the local Press on 18th, November, 2005. However, there were no submissions from consultants by the time of tender opening on 18th, January, 2006, and it would be re-tendered this financial year.

(b) The tarmacking of the 229-kilometre road from Maralal to Loiyangalani at Lake Turkana would be considered after the completion of the Rumuruti-Maralal Road.

Mr. Lesrima: Mr. Deputy Speaker, Sir, from this answer, you can see that the Assistant Minister is telling an outright lie. He has just lied.

Mr. Deputy Speaker: Order, Mr. Lesrima! "Lie" is unparliamentary. Could you substitute a better word for it?

Mr. Lesrima: Mr. Deputy Speaker, Sir, the Assistant Minister is engaging in terminological inexactitude.

(Laughter)

He says that designs are not complete, yet they were completed in 1994. He also says that tenders were advertised and the consultants did not make submissions by January. It is not possible for consultants in Kenya not to respond to advertisements. Then, he says that they will re-tender this financial year, yet there is no budgetary provision for that this financial year.

Eng. Toro: Mr. Deputy Speaker, Sir, the hon. Member seems to know a lot more about this road than I do. He should note that he is talking about 1994. However, the design was done in 1991. What happened and why was the road not constructed? He was in the Government and at one time at the Treasury. He should be better placed to know why money was not provided by him to build this road when he was in the Government. However---

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

Mr. Deputy Speaker: Could you let the Assistant Minister finish? I will give you a chance later.

Eng. Toro: Mr. Deputy Speaker, Sir, I said we advertised tenders, and that there were no consultants who tendered to do the design review. The design that was done in 1991 is already outdated and we cannot go to tender using that design. That is what we are doing. The provision for doing the redesigning and review is there.

Mr. Raila: Mr. Deputy Speaker, Sir, the Assistant Minister is not serious in answering the Question. If the design was done in 1991, what is being done now is design review, but not a new design. The Ministry has adequate internal capacity to design review without even having to tender.

Could the Assistant Minister inform the House why there were no responses from so many consultants in the country to carry out a simple design review of this particular road? Can he give the reasons?

Eng. Toro: Mr. Deputy Speaker, Sir, this is something that the former Minister knows. He knows why it was not done because I had discussed it with him. So, he knows why up to now the design review has not been done. I cannot say why consultants never tendered because we advertised in the Press and there were no responses. When we re-advertise, we will see whether we will get responses.

Mr. Ochilo-Ayacko: On a point of order, Mr. Deputy Speaker, Sir. You heard [Mr. Ochilo-Ayacko] the Assistant Minister say that the former Minister is the one who was aware of some of the reasons. Is it in order for him to decline to give information to this House on the basis of assumed knowledge of the former Minister? We really would like to know what is transpiring in that Ministry, as a House.

Mr. Deputy Speaker: Mr. Ochilo-Ayacko is right because the former Minister may know, but the House does not know. So, Mr. Assistant Minister, what do you say about that?

Eng. Toro: Mr. Deputy Speaker, Sir, I was saying that the former Minister knows what happened because when we advertised in November, 2005, he was aware that we were doing the design review. That is why we advertised. We made the decision when he was there. So, I am saying that he is aware why we went for design review.

However, once the design review is carried out and we know the scope of the work that is going to be involved, we will tender on the specifications as given by the consulting engineers after they have done the review.

Mr. M'Mukindia: Mr. Deputy Speaker, Sir, northern Kenya, including Samburu District, has tremendous tourism potential. In view of the fact that this area is endemic in violence and cattle rustling and aware that tourism is a major potential in this area, could the Assistant Minister tell this House what urgent measures the Government is putting in place to ensure that we open up northern Kenya for tourism and reduce cattle rustling and other forms of violence?

Eng. Toro: Mr. Deputy Speaker, Sir, the Government is putting up urgent measures to open up areas which have tremendous tourism potential. Within this financial year, the design review contract will be awarded and we will allocate money for the next financial year for the construction of this section of the road while waiting to get resources to do the remaining 229 kilometres to Lake Turkana.

However, the construction of the Isiolo-Moyale Road is just about to commence, which is being funded by the African Development Bank (ADB). This will begin next year.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I want to correct the allegation that I was at the Treasury in 1991. I was not at the Treasury in 1991 or in 1994. However, it is still not clear from the Assistant Minister's answer why consultants would not respond to a project like this one.

Mr. Deputy Speaker, Sir, in fact, the Minister for Roads and Public Works, in 2003, answered a similar Question here and even gave the cost of doing that road as Kshs2.1 billion. Why would the consultants not respond? Since the Ministry has internal capacity to construct the road, why has the Assistant Minister not used this capacity to implement the designs, unless he took the money elsewhere?

Eng. Toro: Mr. Deputy Speaker, Sir, we are off-loading a lot of design works to the private sector because the internal capacity that the hon. Member is talking about is already overloaded. There is no point of saying in Parliament that we are going to do it internally when at the end of the day, the same hon. Member will say that we have taken a very long time.

The easiest way, and the way we had foreseen, is to off-load this work to private consultants. Why they never responded, I do not know. I am also not in a position to state why the consultants who had done the design in 1991 never responded.

Question No.160

REPAIR OF KISUMU-MIWANI ROAD

Prof. Olweny asked the Minister for Roads and Public Works:-

(a) whether he is aware that the Kisumu-Miwani Road (C34) is badly damaged; and,

(b) what he is doing to have the road properly repaired instead of having the damaged sections filled with murrum as has been previously done.

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

(a) Yes, I am aware that Kisumu-Miwani Road was badly damaged.

(b) A total of Kshs9,607,000 from the Road Maintenance Fuel Levy (RMFL) has been allocated for the road this financial year. The money will be used to improve the road to motorable standard.

Prof. Olweny: Mr. Deputy Speaker, Sir, this road runs from Kisumu through Miwani, Muhoroni all the way to Fort Anam. That is the only tarmacked section of this road. Otherwise, the road goes all the way to Londiani. The tarmacked section of the road is about 60 kilometres, which is very badly damaged.

Sometimes back, I was told by the Ministry that this road would be completely overhauled and re-tarmacked. I am wondering whether Kshs9 million is enough to do that kind of work. Otherwise, simply patching this road may not do.

I would like the Assistant Minister to confirm whether this amount of money can do any good work in this badly damaged section of the road, which is over 60 kilometres.

Eng. Toro: Mr. Deputy Speaker, Sir, the money will be used to do spot patching along the road. During the last financial year, we had allocated about Kshs6.5 million to this road, which was used for spot patching. I am not saying that the Kshs9.6 million will be enough to do the sort of

work that we need to do on this road.

We need to do a total rehabilitation of this road. The section is about 54 kilometres and we require a lot of money to rehabilitate it. Right now, we are working on a budget to see whether we can accommodate its total rehabilitation in the next financial year.

Mr. Muriithi: Mr. Deputy Speaker, Sir, this Assistant Minister is known for giving us professional language of designs and consultancy and yet when we go down on the ground, there is little or nothing being done. When I asked him about the Sagana-Nyeri Road, he said that something was going to happen. As at this morning, it is hard to drive on some sections of that road.

We read in the newspapers every day that we have lost ten, 15 or 20 lives through road accidents. The reason given by the police is that these accidents happen when drivers are avoiding to hit potholes. For how long are Kenyans going to lose lives through road accidents which are caused by drivers while trying to avoid hitting potholes?

Eng. Toro: I am sure that the hon. Member from Nyeri is very unhappy about the road he has talked about. But I told him last time we talked about the issue that there were some things we were working on to improve on the rates, so that the contractor for Sagana-Marua Road can carry out his work because the rates he had tendered are far below the ones we are using in construction these days. Once the rates are approved by the Treasury, we will let the contractor to proceed so that he does not abandon the project. There is no question of how long he will take because work is going on and most of it is being undertaken professionally, unlike before.

Prof. Olweny: Mr. Deputy Speaker, Sir, last week, I raised a concern about drainage along crossroads. Water is one of those things that mess up roads in this country. There is poor drainage along and across our roads. This particular road is one of those that has blocked culverts. The Ministry has allocated Kshs9.6 million to do patching of the same road. What about the work on culverts? Unless the drainage system is properly done, we will end up with the same problem.

Eng. Toro: Mr. Deputy Speaker, Sir, when I said there would be rehabilitation of the entire road, I meant that the new design would involve working out the drainage system. Once the road is rehabilitated without the drainage system being addressed, it will deteriorate after a short time. So, we cannot deal with the issue of culverts now because we will come up with a new design during rehabilitation.

Question No.492

IMPLEMENTATION OF ELECTRICITY
PROJECTS IN KITUI DISTRICT

Mr. K. Kilonzo asked the Minister for Energy:-

(a) how many electricity projects are due for implementation in Kitui District by the end of 2006/2007 Financial Year;

(b) whether he could tabulate the projects per constituency and their costs; and,

(c) what criteria is used in determining the projects.

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

(a) There are seven projects which are due for implementation in Kitui District by the end of the Financial Year 2006/2007, at an estimated cost of Kshs44 million.

(b) The projects are as follows:-

Wii Market and Secondary School in Kitui Central, Kshs7 million;

Ngengeka Market in Kitui Central, Kshs8.5 million; Itoleka Market and dispensary in Kitui Central, Kshs8.5 million; Katheka Water Supply in Kitui West, Kshs3.8 million; Zombe Girls in Mutito, Kshs4.3 million; Endau Mixed Secondary School in Mutito, Kshs7.7 million; and Chuluni Market in Mutito, Kshs4.2 million.

(c) The criteria for determining the projects for implementation are on the basis of recommendations received from the District Development Committees (DDCs) and Members of Parliament.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the projects shown here, which the Assistant Minister has tabulated like Chuluni Market were there in the year 2003.

The projects for the year 2003 are now appearing in the Financial Year 2006/2007. What is the Assistant Minister doing to make sure that the projects in my constituency which were supposed to be dealt with this year are captured and not the ones for the year 2003?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have also noted that there are some discrepancies, whereby one constituency seems to have taken all the money. I will make sure that we balance it so that the hon. Member's constituency also benefits.

Mr. Ivuti: Mr. Deputy Speaker, Sir, I listened very carefully to the Assistant Minister. The seven projects he has talked about are all meant for two constituencies. There is a constituency called Kitui South which consists of Mutomo Sub-District. Does this Ministry feel no shame in giving an entire constituency a blackout? This is a Government which should be distributing resources equitably. Is this Government not ashamed of giving us a blackout?

(Applause)

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, if the way the hon. Member looks reflects his age, then I will forgive and not respond on whether or not we are ashamed. However, I have laid a case; that, we are going to take care of his constituency.

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir. Did you hear what the Assistant Minister said? He said that he does not want to respond to the old man who---- Could you take action?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, you know, Dr. Ali is permanently agitated. However, what I said, clearly, is that---

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

Mr. Deputy Speaker: Order, Dr. Ali! You put your point across. I now want to listen to the Assistant Minister.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we could refer to the HANSARD. I said, clearly, that I respect the hon. Member's age and would not respond as to whether we are ashamed or not.

Dr. Ali: No, that is not what you said!

Mr. Kiunjuri: You are supposed to be an experienced hon. Member.

Mr. Deputy Speaker: Mr. Assistant Minister, let us be serious! Could you respond to the hon. Member's query?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I responded to him. I said that I respect him for his age and would not answer whether or not we were ashamed. On the issue of the project, I said that I had noted the mistake. That was a very respectable answer.

Mr. Omamba: Mr. Deputy Speaker, Sir, the matter on the Floor of the House is causing a lot of concern and, indeed, it is serious in other constituencies. In my constituency, I was promised that during this financial year, electricity would be supplied to the Soloya Centre. I was told that almost Kshs4 million had been awarded.

Mr. Deputy Speaker: Ask your question. That was not a question.

Mr. Omamba: When will the centre be supplied with electricity?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have assured hon. Members of Parliament that those contractors who are not performing will be dealt with. We gave them a deadline and by next week, in December, those who will not have completed their work will have no choice but to be blacklisted.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, Kshs44 million for a district is peanuts when it comes to electricity projects. Could he consider increasing the amount allocated to Kitui District and ensure that there is equity in its distribution so that all the constituencies can benefit?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, equity in distribution is something I can take care of. However, the matter concerning additional money is the mandate of this Parliament. It is only this House which can be kind enough to allocate us more money.

Mr. Deputy Speaker: Next Question, Mr. Bahari!

By the way, what is your position in the Opposition? Are you a Shadow Minister?

Mr. Bahari: Mr. Deputy Speaker, Sir, I am a Shadow Assistant Minister for Local Government.

Mr. Deputy Speaker: Very well!

Proceed and ask your Question.

Question No.587

FAILURE TO CARRY OUT ARMED
FORCES RECRUITMENT AT
GARBA-TULLA SUB-DISTRICT HEADQUARTERS

Mr. Bahari asked the Minister of State for Defence:-

(a) if he is aware that no recruitment has been undertaken for the Kenya Army and the Kenya Police Service at Garba-Tulla Sub-District Headquarters in Isiolo District; and,

(b) what steps he is taking to ensure that such recruitments are carried out at Garba-Tulla.

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

(a) I am aware that during the last armed forces recruitment conducted early this year, the following six individuals were recruited from Isiolo District where Garba-Tulla Division falls:-

Barkwakwa A.J.---

Mr. Deputy Speaker: Mr. Tarus, are you reading out their names?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, they are a few.

Mr. Deputy Speaker: Do you want to read out all of them?

The Assistant Minister, Office of the President (Mr. Tarus): Yes, for purposes of clarity, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: But the Question is on Garba-Tulla Sub-District Headquarters.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, let me mention who was recruited from Garba-Tulla Division.

Mr. Basilio P.M. was recruited from Garba-Tulla Division. The other four are from Merti, Kinna, Oldonyiro and Isiolo Central divisions.

(b) The policy for the Ministry of State for Defence on recruitment is that national recruitment is carried out from all district headquarters.

This is to ensure that potential recruits from all the divisions within a district are accorded a

fair chance for interview.

Mr. Bahari: Mr. Deputy Speaker, Sir, I am perplexed by the answer given by the Assistant Minister because what I have is completely different from what he has read out. **Mr. Deputy Speaker:** Mr. Tarus, could you address that matter?

Mr. Bahari: Mr. Deputy Speaker, Sir, even my Question is different, to a large extent, from what he has answered.

Mr. Deputy Speaker: Mr. Tarus, the hon. Member is holding a different answer from the one you have read. What explanation do you have for it?

Mr. Tarus: Mr. Deputy Speaker, Sir, this Question is directed to the Office of the President, but touching on the Kenya Army which falls under the Ministry of State for Defence.

Mr. Deputy Speaker: Mr. Bahari, what is your answer like?

Mr. Bahari: Mr. Deputy Speaker, Sir, the answer I have and what the Assistant Minister has read out is totally different! Could I get the correct answer so that I can respond?

Mr. Deputy Speaker: Mr. Bahari, could I request you to go across and sort out the issue with the Assistant Minister while I go on with the other Questions?

Mr. Bahari: Okay, Mr. Deputy Speaker, Sir.

(Mr. Bahari consulted Mr. Tarus)

Mr. Deputy Speaker: Next Question, Mr. Ahenda!

Question No.568

REINSTATEMENT OF MR. TOBIAS OLELA INTO THE KENYA POLICE

Mr. Ahenda asked the Minister of State for Administration and National Security:-

(a) if he is aware that the High Court in Kisumu quashed the suspension of Mr. Tobias Ochieng Olela (PF. No.214588) from the police force and ordered his reinstatement vide HCC Msc Civil Appl No.21 of 2004;

(b) if he is further aware that the court also ordered that Mr. Olela be paid applicant's costs in respect of the case amounting to Kshs146,194.80;

(c) why Mr. Olela has not been reinstated and paid the applicant's costs as per the court order; and,

(d) when the Government will honour the court order.

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

(a) Yes, I am aware the High Court quashed the suspension of Mr. Olela and ordered his reinstatement.

(b) I am also aware that the court ordered payment for the applicant's costs in respect of the case amounting to Kshs146,194.80.

(c) Mr. Olela has been paid the costs as per the court order vide cheque No.366724.

(d) This Ministry has sought the advice of the Attorney-General on the implementation of the second part of the court ruling.

Mr. Ahenda: Mr. Deputy Speaker, Sir, it is very unfortunate that this case has been pending for several years. It is worth noting that the cheque might have been written, probably today. The Assistant Minister cleverly avoided giving us the date of this cheque. However, I am

very happy that the cheque has finally been written. Now that the Attorney-General is in Arusha, could he confirm that when he comes, Mr. Olela will be reinstated?

Mr. Kingi: Mr. Deputy Speaker, Sir, we have written to the Attorney-General to seek for his advice as far as the second part of the order is concerned. This is a seven-year old case. That is why we are waiting for the Attorney-General to advise us given that we have already filled Mr. Olela's position. We want to be advised on what to do next.

Dr. Oburu: Mr. Deputy Speaker, Sir, the Assistant Minister says he is consulting the Attorney-General. However, this judgement was delivered two years ago. This innocent Kenyan is suffering.

Could he tell us when he will reinstate Mr. Olela instead of taking time consulting the Attorney-General on a court order which is very straight-forward? What kind of advice does he need from the Attorney-General to reinstate somebody yet, the court has given an order?

Mr. Kingi: Mr. Deputy Speaker, Sir, the court order might appear very simple, but it is worth taking account of. However, we have written to the Attorney-General to seek his advice given that Mr. Olela has been out of employment for seven years and we have already filled his position. That is why we want to get an advice from the Attorney-General as to the implications of the order.

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

Mr. Ahenda: Mr. Deputy Speaker, Sir, I need guidance from the Chair. The court ordered that Mr. Olela be reinstated and the Assistant Minister has told this House he is waiting for the Attorney-General to guide him. Can the Attorney-General overrule the court order?

Mr. Deputy Speaker: Mr. Kingi, did you say what the hon. Member is alluding to, that the Attorney-General overruled the High Court order?

Mr. Kingi: Mr. Deputy Speaker, Sir, I did not say so.

Mr. Deputy Speaker: Mr. Ahenda, you requested for the guidance of the Chair, but Mr. Kingi says he did not say what you are alluding to.

Mr. Ahenda: Mr. Deputy Speaker, Sir, the Assistant Minister says the court ordered that Mr. Olela be reinstated. At the same time, he says he is waiting for the Attorney-General to direct him. Is the Attorney-General superior to the courts in this country?

Mr. Deputy Speaker: The Assistant Minister can answer that!

Mr. Kingi: Mr. Deputy Speaker, Sir, I said we are in the process of implementing the judgment. However, we have to do this in a lawful manner that will not create confusion. That is why we were given a directive to pay and we paid. We are awaiting for direction on the other matter. Once we get the advice from the Attorney-General, we will definitely abide by it.

Mr. Deputy Speaker: Next Question, Mr. Bett!

Question No.611

INSTALLATION OF TRAFFIC LIGHTS IN URBAN CENTRES

Mr. Bett asked the Minister for Local Government what plans he has on the installation of traffic lights to control vehicular and human traffic on our roads, especially in the urban centres.

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

Already there are traffic lights within the major townships namely: Nairobi, Kisumu,

Mombasa, Nakuru and Eldoret. There are plans to install new traffic lights while at the same time renovation of the non-functional ones within the urban centres is continuing in order to enhance the smooth flow of vehicles.

This year, 2006, within Nairobi Municipal Council, new traffic lights have been installed on two extra junctions namely, Uhuru Highway - Bunyala Road Junction and Uhuru Highway along Museum Hill Roundabout. In order to improve some of the areas of coverage along the main roads mostly used by pedestrians and other non-motorised transport users, for example, in Kisumu a sustainable urban mobility project is being financed by the UN Habitat and the International Institute for Infrastructure, Hydraulic and Environment Engineering (IIHEE) of the Netherlands. There are plans to relocate bus stops to ease congestion in the City centre and its environs.

Mr. Deputy Speaker: Order, Mr. Shaaban! You are answering a Question! You have already read out a page of the answer, it seems you want to move on to the second page!

The Assistant Minister for Local Government (Mr. Shaaban): Mr. Deputy Speaker, Sir, I want to give a comprehensive answer.

Mr. Deputy Speaker: It is only one Question and you have taken too long!

The Assistant Minister for Local Government (Mr. Shaaban): Mr. Deputy Speaker, Sir, in this financial year, the Ministry has allocated approximately Kshs70 million to improve mobility on non-motorised transport and road safety initiative within 27 urban centres.

Mr. Bett: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer he has given, but I simply cannot understand why he must mislead this House that traffic lights have been installed and are working in Eldoret and Kisumu.

Mr. Deputy Speaker, Sir, is he aware that those traffic lights in Kisumu and Eldoret are not working; they are not functional?

Mr. Shaaban: Mr. Deputy Speaker, Sir, I am not aware that the traffic lights in those two towns are not working. I know that some are working and other are not. But we are working to ensure that those that are non-functional will become functional immediately.

Mr. Marende: Mr. Deputy Speaker, Sir, the Assistant Minister, in his answer has, among other things, said that they aim to achieve smooth flow of traffic in urban centres, including Nairobi. Could he tell this House when this is going to be; is it anywhere in the foreseeable future? Is it even going to happen in our lifetime?

Mr. Shaaban: Mr. Deputy Speaker, Sir, the question I have been asked is about traffic lights. But there have been many efforts made to decongest Nairobi City and other urban centres, including the improvement and increasing the number of traffic lights.

Mr. Bett: Mr. Deputy Speaker, Sir, yes, indeed, traffic lights are supposed to assist in traffic control and decongestion of our roads. But quite often, traffic police cause a lot of mess by simply ignoring the functioning of traffic lights. Could the Assistant Minister ask the relevant Ministry to remove traffic police from the roads and allow the traffic lights to work alone?

Mr. Shaaban: Mr. Deputy Speaker, Sir, it is important to allow traffic lights to work independently without police interference. But during rush hours, in the morning and evening, sometimes, there are more vehicles on one particular road than the other and, therefore, in order to ease the movement of vehicles and human traffic, it is important that the police are there during those times to assist in decongestion.

Question No.596

MEASURES TO PREVENT DUPLICATION
IN INCORPORATION OR ISSUANCE OF CERTIFICATES FOR COMPANIES

Mr. Marende asked the Attorney-General what action he is taking to streamline reservation of names, registration of businesses and incorporation of companies in the light of recent alarming public revelations that there is duplication in the incorporation and issuance of certificates for companies.

Mr. Deputy Speaker: This Question is addressed to the Attorney-General and there was a previous Question and we were told that he is out of the country, in Arusha, and we deferred the previous Question to Tuesday, next week. Therefore, Mr. Marende, I seek your views on this.

Mr. Marende: Mr. Deputy Speaker, Sir, I am aware that the Attorney-General is out of the country. But this Question has been deferred since three weeks ago, and as it is, the situation prevailing is such that this Question needs to be dealt with expeditiously otherwise, we are courting chaos of immense proportions.

Mr. Deputy Speaker: Could the Deputy Leader of Government Business say something on that?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, as earlier stated by the Leader of Government Business, the Attorney-General is in Arusha and we request that the Question be deferred to next week.

Mr. Deputy Speaker: How about Tuesday, next week, Mr. Marende?

Mr. Marende: Most obliged, Mr. Deputy Speaker, Sir.

(Question deferred)

Question No.587

FAILURE TO CARRY OUT ARMED FORCES RECRUITMENT
AT GARBA-TULLA SUB-DISTRICT HEADQUARTERS

Mr. Bahari asked the Minister of State for Administration and National Security:-

(a) whether he is aware that no recruitment has been undertaken for the Kenya Army and Kenya Police Service at Garba-Tulla Sub-District Headquarters in Isiolo District;

(b) what steps he is taking to ensure that such recruitments are carried out at Garba-Tulla.

Mr. Deputy Speaker: Mr. Tarus, what is the position on this Question now?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, I apologise for that incident. But the Question asked by the hon. Member touches on issues about the police and the army, which fall under the Ministry of Defence. The answer we have is the same.

Mr. Deputy Speaker, Sir, I beg to reply. There are no steps being taken to have recruitment to take place in Garba-Tulla as long as it is a sub-district. Recruitment should only take place at district headquarters.

Mr. Bahari: Mr. Deputy Speaker, Sir, this Question is directed to the Office of the President, and I think its framing is very much in order.

However, it is common knowledge, particularly in the remote districts where distances are quite inhibiting, that recruitment, especially for the Kenya Police in North Eastern, has been conducted at sub-district headquarters. Why is the Assistant Minister misleading the House? Could he try to find out properly from his records so that he can give us a proper answer?

Mr. Deputy Speaker: Mr. Assistant Minister, in view of what you have said, could I give

you time to consult so that by next week, you will bring an answer that is acceptable?

Mr. Tarus: Mr. Deputy Speaker, Sir, not much may change now, unless we give consideration to what the hon. Member is requesting to conduct recruitment in areas where he suggested.

Mr. Deputy Speaker: I am really at a loss. The Assistant Minister says the Question is about the army which falls under Defence, not the police. Why can the Assistant Minister not get more time to collect information from both police and the army to come with a satisfactory answer?

Maj. Madoka: On a point of order, Mr. Deputy Speaker, Sir. I think this is disappointing coming from the Office of the President. The Ministry of State for Defence falls under the Office of the President. It was their responsibility to ensure that they bring the correct answer. The excuses they are giving are unacceptable.

Mr. Deputy Speaker: That is exactly what I said. Therefore, I will defer the Question to Tuesday, next week, to give the Assistant Minister time to collect all the necessary information. It is so ordered.

(Question deferred)

MINISTERIAL STATEMENT

GOVERNMENT ASSISTANCE TO AREAS AFFECTED BY FLOODS

The Assistant Minister, Office of the President (Mr. Wario): Mr. Deputy Speaker, Sir, following concerns raised by hon. Dr. Ali, MP for Wajir North, this House requested the Ministry of State for Special Programmes to issue a Ministerial Statement on the current floods in the country.

In this regard, I wish to state as follows. The short rains which have been received in this country have been heavier than normal. As a result, they have caused floods in some parts of this country. The Ministry of State for Special Programmes has been informed by the meteorologists that the country is experiencing a mild *El Nino* which is being caused by the rising temperatures, by 1.5 degrees centigrade, in the Pacific and Indian Oceans. This condition is expected to prevail until mid-January, 2007.

Mr. Deputy Speaker, Sir, as a result, the mild *El Nino* phenomenon has caused serious floods that have been experienced in Coast and North Eastern provinces. Other areas that are also experiencing floods are Budalangi, Siaya, Kisumu, Nyando and Bondo. Nairobi and Turkana districts also face the risk of floods as the rains continue. So far, over 500,000 people have been affected by floods across the country, and the figure could rise due to the current heavy rains which continue to pound the western part of the country. The heavy rains were earlier experienced in Moyale, Marsabit, Isiolo, Wajir and Ijara districts. Parts of Mandera and Thika were also affected. The rains in Moyale and other named districts destroyed roads and bridges, swept away some livestock and left some families homeless. The recent floods which started in Mombasa spread to Kwale and Kilifi districts with the former being the worst hit. This is according to the evidence that was gathered from the air and the ground. About 50,000 people were affected in Kwale District alone.

Mr. Deputy Speaker, Sir, contrary to the fact that Government officials were moving around in helicopters to show the public that they were around, the truth of the matter is that the flooded areas could not be accessed by road, hence air surveys had to be carried out to determine

the extent of the problem thus addressing it from a point of knowledge.

The Government has mobilised its resources to appropriately respond to this situation. In this regard, the Government released helicopters to ferry food, drugs and other essential necessities to those who had been affected by the floods in the worst hit Kwale District. Several flights were made during which food and medical supplies were taken to those who had been cut off.

The Government is effectively handling the flood situation to ensure that loss of life, property and destruction of infrastructure is minimised. The Government has teamed up with United Nations (UN) agencies in the country and other Non-Governmental Organisations (NGOs) to provide relief and other necessary assistance to those affected areas. Indeed, our capacity has been increased to address this situation. Despite these efforts, it is sad that some lives have been lost as a result of the raging floods which have also washed away bridges, drifts and sections of the road network in Coast and North Eastern Provinces.

So far, the Government has dispatched assistance valued at Kshs211,152,385 the details of which I shall lay before the House. The additional food provided was to supplement the normal emergency operation. The food is distributed to the affected populations in those areas. The Government had allocated the Ministry of State for Special Programmes Kshs1 billion towards famine and refugees related activities for the current financial year. These funds have been found inadequate to also fund flood related activities. Further funding has, therefore, been sought from Treasury for this purpose. The Government has also embarked on the repair of the affected roads. To this end, the Ministry of Roads and Public Works released Kshs1.8 billion to meet repair costs in various parts affected by the floods.

On its part, the Ministry of Health is also on the look out for any disease outbreak and is already taking medical supplies to the flooded districts to take care of any eventuality.

In conclusion, the Government is taking relevant action to ensure that the flood situation is addressed with the speed that it requires and that all those who are affected are provided with the necessary facilities, including food and medical supplies to alleviate their sufferings.

Dr. Ali: Mr. Deputy Speaker, Sir, the Assistant Minister has read a very long answer which I appreciate. However, he did not state what the Ministry intends to do in North Eastern Province specifically. Ministers and other officials have already visited Coast Province. I do not know whether they are the experts who are supposed to assess the damage and see what is required.

It is true that political announcements are required in order to highlight the situation, but what specific action did the Assistant Minister take? What is he going to give the people of Wajir District in particular? In Garissa, at least, we have earmarked something. Tana River District in Coast Province is getting good attention. My concern is what the Ministry has in place for Wajir District even as it is faced with all these flood-related problems.

Mr. M.Y. Haji: Mr. Deputy Speaker, Sir, while I congratulate hon. Munyes, the Minister of State for Special Programmes and his Assistant Minister, hon. Wario, for finding time to fly to various places including, Ijara District, to assess the situation, it would appear like every other time we are faced with either droughts or floods the Government does not learn lessons from past experiences by being ready to face the calamities.

The hon. Assistant Minister will agree with me that in Hulugho, which is in Ijara District near the Somali border, for the last three months the people there have not seen food supplies. They do not have sugar, tea or maize meal. The only thing that they have is milk from their cows. Definitely, this is not a healthy situation for the country. Besides, school girls going to school in Ijara cannot go home now, and for the last two months, telephones have not been working at the district headquarters in Ijara because they depend on solar energy. When it rains, you do not get solar energy. There is no passable road at all in the area. I hope that the Assistant Minister will hasten to arrange for food and drugs to be

dropped by helicopters so that we do not have people dying because of malaria and hunger.

Mr. Deputy Speaker: Mr. Wario, before you rise, please also note that it is not only the two districts that have been mentioned that have been hit by floods. Most parts of the country are faced with this problem, including Mwingi District. Are you sure that you are on top of things or you are just addressing issues on an *ad hoc* basis? As I speak now, Mwingi District is suffering the same fate as Ijara District.

The Assistant Minister, Office of the President (Mr. Wario): Mr. Deputy Speaker, Sir, when disasters strike, we have to assess the extent of the damage for us to be in a position to respond. That is why we used helicopters to go round to assess the situation. That was not done for any political gain.

With regard to North Eastern Province, we have already opened a Disaster Response Operation Centre in Garissa. We already have a helicopter there. In fact, from today, it will begin airlifting foodstuffs to the areas that have been cut off. What the hon. Member for Ijara has said is true because I have been to Hulugho and Masalani and I saw school girls who could not access their homes.

The airstrip has been cut off and the only way out is to use a helicopter. So, it is an issue of us getting our priorities right. Which of the two are we going to do first; distributing food to the affected areas or taking the school children home? These are issues to do with our priorities and we are responding to them.

With regard to Mwingi District, we have already sent a lorry with foodstuffs there. We can actually access Mwingi by road currently. Our team is on the ground to assess the situation. If more attention will be required, we are there to respond to whatever situation that arises.

Mr. Deputy Speaker, Sir, the situation is under control and there is no need of panicking.

Dr. Ali: Mr. Deputy Speaker, Sir, what has he done for Wajir District specifically?

Mr. Deputy Speaker: Mr. Wario, please, be specific about Wajir District!

The Assistant Minister, Office of the President (Mr. Wario): Mr. Deputy Speaker, Sir, the Ministry has opened a Disaster Response Operation Centre in Garissa. We have a helicopter in Garissa today to serve the North Eastern Province.

Mr. Deputy Speaker: Including Wajir District!

Very well.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. M'Mukindia) took the Chair]*

THE MICROFINANCE BILL

The Temporary Deputy Chairman (Mr. M'Mukindia): Hon. Members, we are now in the Committee of the whole House to consider the Microfinance Bill.

Clause 2

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

THAT, Clause 2 of the a) in paragraph (b) of the definition of "associate"-

(i) by deleting subparagraphs (i) and (ii) and inserting the following new subparagraphs-

(i) its holding company or its subsidiary;

(ii) a subsidiary of its holding company;

(iii) a holding company of its subsidiary;

(ii) by renumbering subparagraph (iii) as subparagraph (iv);

(b) in the definition of "deposit"-

(i) by inserting the word "or" at the end of paragraph (a);

(ii) by deleting the word "or" at the end of paragraph (b);

(iii) by deleting paragraph (c).

(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 2 as amended agreed to)

Clause 3

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

THAT, Clause 3 be amended by deleting the subclause (3) and substituting therefor the following new subclause-

"(3) Except as provided in Section 4(1), this Act shall not apply to-

(a) a bank, a financial institution or a mortgage finance company licensed under the Banking Act;

(b) a building society registered under the Building Societies Act; or

(c) the Kenya Post Office Savings Bank established under the Kenya Post Office Savings Bank Act."

Mr. Temporary Deputy Chairman, Sir, the rationale for this amendment is basically to have clarity in terms of the institutions that are included within the Bill.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

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

THAT, Clause 4 be amended in subclause (1), by deleting paragraph (c) and substituting therefor the following new paragraph-

"(c) licensed under this Act."

Mr. Temporary Deputy Chairman, Sir, again this is to clarify paragraph (c).

*(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 4 as amended agreed to)

Clause 5

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

THAT, Clause 5 of the Bill be amended in subclause (2)(f), by adding the following new sub-paragraph immediately after sub-paragraph (ix) -

"(x) such other requirement as the Central Bank may prescribe."

Mr. Temporary Deputy Chairman, Sir, this amendment seeks to include a phrase to capture all the additional information that Central Bank may require for application of a licence.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

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

THAT, Clause 6 of the Bill be amended in subclause (3) by deleting the words "for a period of twelve months beginning on the day it is issued" and substituting therefor the words "up to the 31st of December of the year in which it is issued".

Mr. Temporary Deputy Chairman, Sir, this amendment seeks to unify the expiry of all the licences issued up to 31st December of every year so as to avoid licences expiring on different dates.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

(Clauses 7, 8, 9, 10, 11, 12 and 13 agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended in subclause (1) by adding the following new paragraph immediately after paragraph (h) -

"(i) such other activity as the Central Bank may prescribe."

Mr. Temporary Deputy Chairman, Sir, this amendment basically seeks to again expand the additional activities that Central Bank may require to prohibit.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

(Clauses 15, 16, 17 and 18 agreed to)

Clause 19

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

THAT, Clause 19 of the Bill be amended -

(a) by deleting subclause (2) and substituting therefor the following new subclause
"(2) A person who holds more than 25 per cent of the shares of a deposit-taking business existing at the commencement of this Act, which he makes on application for a licence pursuant to Section 49, shall-

(a) comply with the requirements of subsection (1) within four years of the

business being licensed; and

(b) present a plan of action for the reduction of the shareholding at the time of application for the initial licence of the business is made.

(b) in subclause (4), by deleting the word "Minister" and substituting therefor the words "Central Bank".

Mr. Temporary Deputy Chairman, Sir, the rationale for this amendment is to clearly specify the transitional period allowed for the microfinance institutions to meet the minimum shareholding per person at 25 per cent as well as harmonising the provision for approval of the share transfer with that in the Banking 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 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

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

THAT, Clause 21 of the Bill be amended in paragraph (b), by deleting the words "or has been imprisoned for three months or more".

Mr. Temporary Deputy Chairman, Sir, this amendment is seeking to restrict the disqualification of the directors to offences related to financial matters only.

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

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

Clause 27

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

THAT, Clause 27 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

"(b) any advance or credit facility exceeding such limit of its core capital as may be prescribed by the Central Bank; and".

The rationale for this amendment is, basically, seeking to remove the specific limits on lending, as provided for in the Bill, which will be set within the regulations.

(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 27 as amended agreed to)

(Clauses 28 and 29 agreed to)

Clause 30

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

THAT Clause 30 of the Bill be amended in paragraph (b) by deleting the word "business" appearing in subparagraph (v) and substituting therefor the word "institution".

This amendment, basically seeks to clarify that the disqualification of an external auditor will relate to a partner or employee of a person who performs the duties for an institution rather than business.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

(Clauses 31, 32, 33 and 34 agreed to)

Clause 35

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

THAT, Clause 35 of the Bill be amended in subclause (4) by deleting the word "may" and substituting therefor the words "shall state, in detail, whether or not there is".

This amendment seeks to make it mandatory for the person inspecting an institution to report on all the requirements under the Act.

*(Question of the amendment
proposed)*

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

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

*(Clause 35 as amended
agreed to)*

(Clause 36 agreed to)

Clause 37

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

THAT, Clause 37 of the Bill be amended-

(a) in subclause (3)-

- (i) by deleting the words "with the approval of the Minister";
 - (ii) by deleting the word "business" appearing in paragraph (c) and substituting therefor the word "institution";
 - (iii) by deleting the word "business" appearing in paragraph (f) and substituting therefor the word "institution";
- (b) in subclause (4), by deleting the words "with the approval of the Minister."

Mr. Temporary Deputy Chairman, Sir, this amendment seeks to delegate the powers to the Central Bank to intervene in the management of any microfinance institution without having to seek the Minister's approval as well as to clarify that the reference is on an institution rather than on a business.

*(Question of the amendment
proposed)*

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

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

(Clause 37 as amended agreed to)

(Clause 38 agreed to)

Clause 39

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

THAT Clause 39 of the Bill be amended in subclause (3) by inserting the words "Deposit Protection Fund" immediately before the word "Board" appearing in the second line.

Mr. Temporary Deputy Chairman, Sir, this amendment, basically, seeks to clarify that the "Board" refers to the Deposits Protection Fund Board.

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

Clause 40

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

THAT, Clause 40 of the Bill be amended in subclause (2) by deleting the word "business" and substituting therefor the word "institution".

Mr. Temporary Deputy Chairman, Sir, this amendment is for tidying up the language with reference from the word "business" to "institution".

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

Clause 41

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

THAT, Clause 41 of the Bill be amended by deleting the words "institution's business becomes insolvent" and substituting therefor the words "institution is closed or becomes insolvent."

Mr. Temporary Deputy Speaker, Sir, this amendment is for the purpose of tidying up the

language to ensure that the Bill refers to "an institution" rather than "an institution's business".

(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 41 as amended agreed to)

(Clauses 42, 43, 44, 45, 46, 47 and 48 agreed to)

Clause 49

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

THAT, Clause 49 of the Bill be amended in subclause 1-

- (a) by deleting the words "Notwithstanding any other provision of this Act" and substituting therefor the words "Subject to section 19";
- (b) by deleting the word "six" and substituting therefor the word "twelve".

Mr. Temporary Deputy Chairman, Sir, basically, this amendment seeks to harmonise the provisions of Clause 49 with those with Clause 19 as well as extending the transition period for the existing institutions to comply, from six months to one year.

(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 49 as amended agreed to)

(Clauses 50 and 51 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE MICROFINANCE BILL

Mr. M'Mukindia: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Microfinance Bill and approved the same with amendments.

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

The Minister for Information and Communications (Mr. Kagwe) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that The Microfinance Bill be now read the Third Time.

The Minister of State for Administration and National Security (Mr. Michuki) seconded.

(Question proposed)

The Minister for Information and Communications (Mr. Kagwe): Thank you very much, Mr. Deputy Speaker, Sir. I rise to clearly support the Bill and congratulate the Minister for Finance for the extremely good job he has done. I also want to congratulate Members of the Departmental Committee on Finance, Trade, Tourism and Planning for their contribution towards the Bill.

Mr. Deputy Speaker, Sir, this Bill has been long overdue. What we are talking about here is a lifeline for a lot of Kenyans. We are talking about bringing a lot of Kenyans who are outside there into the monetary structure. The current banking sector has already priced itself way out of the market as far as people in the villages and most Kenyans are concerned. Consequently, it is our hope that the microfinance institutions that are going to be created are those that are going to be responsive to the needs of Kenyans and those that are going to avoid the practices that were carried out by the banks, particularly on the issue of very high interest rates, diminishing returns as far as savings deposits are concerned and so on.

Mr. Deputy Speaker, Sir, I think that the House should be applauded particularly because

the people out there and the Media have been talking about how this House does not pass any Bills. This is a very good example that this House is working.

With those few remarks, I beg to support.

Thank you.

Mr. Deputy Speaker: I will allow two more hon. Members to contribute and then I will put the Question; Hon. M'Mukindia and then Mr. Ligale!

(Mr. Kimathi stood up in his place)

Okay, I will allow a third person, Mr. Kimathi.

Proceed, Mr. M'Mukindia!

Mr. M'Mukindia: Thank you, Mr. Deputy Speaker, Sir. I also wish to congratulate the Minister and thank him for bringing this Bill to the House. I hope that it will be implemented as soon as the President gives his assent to it.

A few concerns have been expressed regarding the capital required for rural microfinance institutions; Kshs20 million may be considered too high. But I think the Minister has the leeway, in the setting up of regulations, to allow time for raising the capital so that, at least, some rural areas will be able to have these microfinance institutions. I hope that he will consider that point. Otherwise, I wish to support this Bill strongly and thank the Minister for bringing it to this House.

With those few remarks, I beg to support.

Thank you.

Mr. Ligale: Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Bill and congratulate the Minister. This Bill was long overdue. We went through a very trying time in this country in the 1980s when locally-owned finance institutions went under because of very stringent restrictions that were imposed by the Central Bank of Kenya. With the enactment of this Bill, we see an opportunity for mobilization of resources, including merry-go-rounds that we see a lot in the villages amongst our rural folk and women who want to mobilize resources. I trust that once this Bill has been assented to by His Excellency the President, the Minister and the Central Bank of Kenya will judiciously ensure that we do not lock out people who want to harness those resources slowly and get into this sector to assist our people.

With those few remarks, I beg to support.

Thank you.

Mr. Deputy Speaker: Finally, let us hear Mr. Kimathi before we hear the Chairman of the Departmental Committee on Finance, Trade and Planning, Dr. Oburu!

Mr. Kimathi: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Bill. There is no doubt that the new Minister for Finance has demonstrated unparalleled skill in managing our Treasury. It is commendable to imagine that this country is able to support itself in terms of development projects. I, therefore, want to take this opportunity to congratulate the Minister for Finance and to ask my brothers and sisters that, because we have seen that this Government has really good sense of direction and commitment for this country, we should support it when it does good things in this direction. I can assure you that, whether we are in the Opposition or not, when things are bad, we say "No", but when things are good, we say "Yes". For Mr. Kimunya and the Microfinance Bill, we say "yes" because we are *bourgeois* controlled, and "micro" means that we will be able to entrench the indigenous Kenyans.

With those few remarks, I beg to support.

Thank you.

Mr. Deputy Speaker: Well spoken, Mr. Kimathi!

Proceed, Dr. Oburu!

Dr. Oburu: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Bill. I also want to thank the Minister for presenting this Bill and also for co-operating with the Committee in the preparation of this Bill. I also want to thank the officers in his Ministry with whom we have worked on this Bill. The Minister took into consideration all the concerns which were raised by the Committee and put them in these amendments. My Committee is, therefore, very satisfied.

Mr. Deputy Speaker, Sir, we would like to caution the big commercial banks in this country. They abandoned the ordinary Kenyan who wanted to have access to finance in the rural areas. Now that they hear that the Microfinance Bill is in this House and is being passed, they are rushing to reopen branches which they had closed!

(Applause)

They are doing this purposely to kill the small microfinance institutions which will support the small woman who has access to Kshs1,000 or Kshs5,000. This should not be allowed! The Government should keep watch so that this does not happen. They should not allow the big commercial banks to swallow the small microfinance institutions and then, finally, when they have kicked them out, they will close their branches again, and our people will get back to the same situation where they were.

With those few remarks, I beg to support.

Thank you.

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

Mr. Deputy Speaker: I am sorry, hon. Members! I do appreciate, but you did not rise up early enough when I gave a limit. Otherwise, I could have still given you time. But in order that the Chair is consistent in what it says, I will now put the Question.

(Question put and agreed to)

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

Next Order!

BILL

Second Reading

THE SUPPLIES PRACTITIONERS MANAGEMENT BILL

Dr. Ojiambo: Mr. Deputy Speaker, Sir, I beg to move that the Supplies Practitioners Management Bill be now read a Second Time.

This Bill is for an Act of Parliament to make provision for the training, registration and licensing of supplies practitioners to regulate their practice and for connected purposes. The Act may be cited as Supplies Practitioners Management Act, 2006.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, corruption in this country is considered as a national disaster. It negates the gains this country and Government are trying to make. Procurement has been used by corrupt individuals as a means of enriching themselves. This country spends nearly Kshs150 billion on public procurement every year. It loses about Kshs30 billion per year, through poor procurement practices. This Parliament must make it difficult for this vice to exist in this country.

Mr. Temporary Deputy Speaker, Sir, this House enacted the Public Procurement and Disposal Act, 2005, to establish procedures for efficient public procurement and for the disposal of obsolete or surplus assets and equipment by public entities. The Public Procurement and Disposal Act was assented to over a year ago. However, the Act is yet to be fully operationalised. It has nevertheless, to some extent, improved the procurement environment, like curbing corruption and making Government procurement more transparent and accountable.

Mr. Temporary Deputy Speaker, Sir, the Public Procurement and Disposal Act has, however, one major limitation. It does not allow for the regulation and monitoring of professionalism of the procurement officials in the private sector. This limitation creates loopholes through which past poor practices can sneak back into play once the Act is fully operationalised. Indeed, the Public Procurement and Disposal Act is one of the major reforms that have taken place in this country in the procurement sector. It has dealt with the first reforms, namely, establishment of a strong and well functioning procurement system governed by a clear legal framework establishing the rules of transparency, efficiency and mechanisms of implementation, coupled with institutionalised arrangement that ensures consistency in the overall procurement policy formulation and implementation.

Secondly, the Act has also recognised the need to have professional cadre of staff to implement and manage the procurement functions in this country. Indeed, Clauses 27 and 28 of the Public Procurement and Disposal Act recognise a procurement agent, even though they do not define whom this agent is and where he or she will come from. This limitation has caused a major setback in the operationalisation of the Public Procurement and Disposal Act. The Act further recognises that professionalism is important in implementing an efficient procurement system and, therefore, calls for the establishment of a professional organisation which is the subject of the Bill that we are considering today.

Mr. Temporary Deputy Speaker, Sir, the Supplies Practitioners Management Bill addresses the second initiative of the Public Procurement Sector Reforms by providing a legal framework that regulates professional competence, qualification and integrity of the procurement professionals in both the public and private sector. This Bill addresses the aspects of bringing professionalism to those carrying out and managing the procurement function. Secondly, the Bill recognises the procurement profession; that it has become of age and needs to be regulated.

Thirdly, the Bill further encompasses both the public and private sector professionals. It puts in place a comprehensive legal framework that harmonises standards across the profession. Finally, the Bill by regulating the profession, promotes best practices and, therefore, demonstrates a standard of competence for the benefit of the business environment.

The Supplies Practitioners Management Bill establishes a legal framework that is intended to regulate the procurement profession. Therefore, in this respect, the efforts of the Kenya Institute

of Supplies Management and the Public Procurement Directorate have been harmonised by this Bill to ensure that the institutions do not overstep each other's mandate.

In summary, this draft Bill provides the following: Administration, examination, registration and licensing, arbitration, disciplinary, financial and miscellaneous provisions to ensure that the ethics and integrity of the profession are protected. Lastly, it provides a schedule and conduct of business and affairs of the council of the Institute.

Mr. Temporary Deputy Speaker, Sir, under Clause 3(1), the Bill establishes an institute to be known as the Kenya Supplies Management Institute; a body corporate capable of suing and being sued. The Institute will be managed by a council consisting of nine people. These include: A chair who must be a qualified supplies practitioner and shall be elected during the annual general meeting. There will be also a board of professionals. There will be are other Members of the Institute elected by the same body of professionals, the Permanent Secretary, Ministry of Finance and the Director of Directorate of Public Procurement. The chair and any other appointed member of the Council shall serve for a period of three years and will be eligible for one more term of three years.

Mr. Temporary Deputy Speaker, Sir, in Clause 9 the post of a chief executive officer, who is the secretary to the Council, is created. He or she shall hold office for a five-year-term, renewable for one more term, if found suitable.

In Clause 12, the Examinations Committee of the Council is established, and will consist of five persons who are qualified practitioners nominated by the Council, 12 of whom will come from institutions of higher learning. Two persons will be nominated by the Minister for Education; from the Kenya Institute of Education and another one from the Kenya National Examinations Council to oversee the quality of training. One person will be from the Commission for Higher Education and one person will be from the Directorate of Public Procurement.

The functions of the Examinations Committee are outlined in the Bill. They will be basically to deal with syllabuses, courses and examinations and to report back to the Council.

In Clause 15, the Registration Committee to carry out the function of registering persons who are qualified to be registered under this Bill is established. In Clause 23, a Disciplinary Committee is also established.

I would like to also just say that this Bill does not intend to frustrate the practitioners by disciplining them, but will rather set out enough checks and balances in their profession. In that way, practitioners will find themselves performing more efficiently and will respect their own individual contributions, and by refusing enticements to engage in corruption from outside and within the profession. They will be free to make use of any of the provisions that we have put here to govern disciplinary measures.

In summary, the Bill aims at closing loopholes in the Public Procurement and Disposal Act that we enacted last year in this House. Secondly, this Bill aims at clarifying who a procurement professional is, whom the Public Procurement and Disposal Act says shall be primarily responsible for ensuring that the public entity fulfils its obligation under the Public Procurement and Disposal Act. The Supplies Practitioners Management Bill, 2006 is urgent and important if this country's resolve to end corruption is to be realised. I want to say that this Bill is urgent, and I hope that hon. Members will discuss it in this light because it will help the Minister for Finance to move fast to implement the Public Procurement and Disposal Act.

With those few comments, I beg to move and ask hon. Muturi to second the Bill.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to second this very important proposed piece of legislation.

I hope it will add to the arsenal available to the Government, particularly the public procurement entities. This is because, as stated by the Mover, there has been hue and cry in every Parliament over waste of resources in public procurement processes. This House passed the Public Procurement and Disposal Act, 2005. In that Act, which has not come into operation, despite

receiving Presidential Assent, it is clearly provided that the date of commencement of that Act shall be by notice by the Minister. The relevant Minister in that Act is the Minister for Finance.

It was envisaged that the Public Procurement and Disposal Act was to be an enlightened piece of legislation. A lot of references in it emphasize elements of professionalism within the procurement and supplies subsector. It is, therefore, imperative for that Act to be operational so as to enlighten the spirit of this Supplies Practitioners Management Bill, 2006. We find in various clauses that this Bill introduces serious professionalism in the subsector. As you know, year in, year out, we debate reports by the Public Accounts Committee and the Public Investments Committee. There is no single occasion when we do not find waste that is attributable to either shoddy procurement, underhand procurement procedures and inadequate professionalism in the way procurement of goods and services is done in the public sector. Therefore, this Bill recognises the need to introduce professionalism in the area of procurement.

It also creates this profession. It provides a legislative framework within which the procurement professionalism is going to operate. It recognises that it is possible for somebody to train outside of this country, come here and prove to the Council to have attained certain benchmarks and qualifications that are recognised by the Institute that will be created by the Bill.

People who will qualify to be supplies practitioners will be able to operate privately. Indeed, this Bill, if passed, will be a major step towards curbing waste in the public sector. We could have something similar to the Hippocratical Oath administered to doctors. We have been told, year in, year out, that under the Exchequer and Audit Act, Cap.312, the regulations that have been issued under it are meant to improve the public procurement sector. We welcome that. But this is a further step to acknowledge that it is not enough to get every Tom, Dick and Harry pretending to be an expert in procurement. It is for this reason that we have seen rampant waste. All the mega-scandals that have visited this country, and have been exposed, involved, in some way, some aspects of procurement. I think we have heard of Goldenberg, Anglo Leasing and others, some of which were at lower levels.

Mr. Temporary Deputy Speaker, Sir, the point to make, and which I want the Government to appreciate, is that it is not enough to make these laws. We expect the Government to implement the laws. At the moment, there appears to be a serious disconnect between the law, as it is, and the law as is enforced by the Executive.

Mr. Temporary Deputy Speaker, Sir, I do not want to get into areas that could be political. I could give examples which could include matters done this morning by this Government. This is a Government that does not follow the law. It does not respect the rule of law and separation of institutions. I want to confine myself to this Bill. I can see the Minister is getting excited. I consider this Bill very important, particularly for the public sector. However, I want to say that in this country a lot of attention has been paid to procurement, or supplies, in the public sector. This is for very good reasons. The Government does most of the procurement in this country. Many of the people who want to come to do business in this country want to do it with the Government. They will supply ships, motor vehicles and all manner of things to the Government. Therefore, a lot of emphasis will obviously appear to be placed on what happens in the public sector as opposed to the private sector. However, this Bill recognises that, even in the private sector, there is a weakness within the procurement sector. Indeed, I feel it is high time that those who care to do researches also ventured into the private sector. It is important that when we are told that the Government of Kenya loses so many billions of shillings through shoddy procurement deals, we hear what various private sector players also lose. Shaddy deals are not limited to the public sector.

Of course, for ourselves as Parliament, we are concerned that we seem to lose so much. This is because one, we have had inadequate laws, and two, we have not specified who qualifies to be a procurement professional, or a supplies practitioner. It is for these reasons that as we improve the legal regime within which this profession is going to operate, we be careful not to set low benchmarks. I am happy that even though we talk about certificates in the Bill, we recognise that

other people will train at diploma and degree levels, and, indeed, even at the research level. If they meet the required benchmarks set by the council, they should be registered.

Mr. Temporary Deputy Speaker, Sir, this Bill hopes to create a situation in which a private person can practise the profession of supplies management or procurement. I am also happy, as I second this Bill, to note that there are provisions to deal with those who breach the various codes of conduct. There is also a requirement that, on a yearly basis, supplies practitioners will be applying for registration certificates and will be required to meet rigorous conditions that the institute and the council will put in place.

Mr. Temporary Deputy Speaker, Sir, I am aware that this Bill is a product of several consultations and workshops that have been held amongst stakeholders, both in the public and private sectors. A number of hon. Members have taken part in some of those workshops and training seminars, if only to bring them up to date with the practice of this trade. Therefore, the ideas contained in the Bill must not be seen to be alien to anybody. They have come from both the people at the Kenya Institute of Supplies Management and, indeed, those working in the Directorate of Procurement Management in the Ministry of Finance. I think, because of those consultations, the Bill is rich in its provisions.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to say that we must appreciate that not every hon. Member has seen the Order Paper, and some hon. Members may be worried about what is being debated.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): You should continue!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, Mr. Wetangula prides himself in one thing, telling the world that he was my classmate and roommate. So, I really do not mind him.

Mr. Temporary Deputy Speaker, Sir, the point I was making is that we should not tire, as a House, to improve the legal framework within which various trades and professions are going to operate in this country. Indeed, the law, as an instrument of social engineering, is good. However, we must discard dry proposals, which have no bearing on the social circumstances of a country.

Mr. Temporary Deputy Speaker, Sir, I would like to recommend this Bill to the House. Let those who have useful proposals come up with them. I am informed that the relevant departmental Committee has looked at the Bill and may be coming up with proposals for amendment. I would want to urge that we all look at it as a practical step in the way forward towards cleaning up and streamlining our supplies management sector.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I would, first of all, want to thank you for giving me this opportunity to contribute to the debate on this Bill. I would also like to congratulate the Mover of this Bill for a very well thought-out Bill. In many ways, we need to support the Bill. I stand to support this Bill. I once again want to say that this is yet another jewel from our Lady hon. Members in this House, who have continuously moved good laws in this country that have affected the country in a very positive manner. Hats off to Dr. Ojiambo!

Having said that, I would not agree any more than just say that as the previous speaker has already pointed out, we have a very big problem in the supplies and the procurement sectors in the Government, in parastatals and, indeed, in the private sector. Year after year, we have received reports in this House from the various Committees talking about the many millions of public money that we have lost because of poor practices in procurement. How does this happen? This happens because private and Government procurement and supplies officers collude with traders to carry out heinous acts. This is particularly heinous because it involves public money.

Why does this happen? It happens because the supplies and procurement officers who are

employed in those offices participate, collude and encourage traders to rip-off public funds. We have lost and wasted a lot of public funds. The biggest reason why we are losing a lot of money is because these people who handle supplies are not trained professionals. They do not take oaths to support their profession. They do not have a standing like, for a example, a lawyer, whose name matters in his profession or a doctor who has taken an oath to uphold his profession. There are no ethics or regulations to govern this profession. So, what happens is that when they are called and induced to collude with people who supply goods to public and private bodies, they are more than willing to co-operate.

Tenders are given out and standards are set out for them, but because the supplies officers do not have the ethics or even a place where they can be punished in case of bad behaviour in their profession, they disclose particulars of those tenders, doctor the tender documents and misbehave to assist people who do not even deserve to win the tenders. It is common knowledge that as a result of this, money is paid to people who cannot even perform the contracts they are given.

We have seen people win tenders and then the same tenders are re-advertised in the newspapers. This is because these people collude with the supplies and procurement officers to doctor the documents. Then the tenders are awarded to people who cannot perform the contracts or who later on disappear. I believe that the time has come for us to regulate the conduct of these officers. We need to introduce professional standards that will guide them. This is why I support this Bill whole heartedly.

Mr. Temporary Deputy Speaker, Sir, Clause 5 provides for the establishment of the standards for this profession. This clause defines why we ought to have this particular Bill operationalised. In Clause 35(f), there is again a mention of the standards and conditions of professional practice for persons who are registered or licensed under this Act. My one suggestion would be that in the Bill, certain acts of misconduct must be defined. It must be stated that if you are a supplies officer and you are found to have colluded in doctoring tender documents, for instance, then your certificate should be taken away from you. You should not be legible to be employed again in such capacity.

I would implore the Mover of this Motion not to leave these rules to be promulgated by the Minister. I would suggest that in the Bill, clauses be found where particular professional misconducts and the penalties for them are set out. Here, we are dealing with a historical Bill. We are creating this profession just like the legal and the medical professions were created. If the Mover of this Bill can have a look at the Acts which have created other professions, she will find that in the main body, there are certain misconducts which are so grievous, that they are not left to the regulations which are set up by the Minister. In the Bill, the acts of misconduct that have killed even enterprise and have contributed negatively to the growth of our economy must be defined. That is a crucial thing that needs to be taken care of by the Mover of this beautiful law.

While that is being done, I want to take issue with Clause 21, which gives us the qualifications for one to be registered as a professional supplies practitioner in Kenya.

I would want to see this profession being delinked from the Government, just like other professions which have been set up by other laws. For instance, if you make it a condition that for one to be registered to be an independent practitioner, even after passing all the examinations under the Kenya Institute of Supplies that has been created in this Bill, and having been a person of good conduct, one has to work for the Government as a supplies officer for a period of two years, is not good. What if there are no positions which are created in the Government for two years? Will we say that our youth who have trained in this line and have failed to secure jobs will not be professionals in that area? I hope not. I think we should go the way the lawyers have gone; that, one does not need to have worked for the Attorney-General so as to qualify to have a practising certificate of an advocate. I believe that the same should apply in this case so that we do not tie down someone who has gone to school and all his life has always wanted to be a supplies practitioner. I think this clause can be improved.

Mr. Temporary Deputy Speaker, Sir, Clause 4 can also be improved. For instance, the Bill says that the institute will be managed by a council, just like all other professions such as that of engineers and advocates. I will talk more about lawyers because I am in that profession. Once there is a council that is managing a profession, I do not see why members of the profession should be elected and then wait for a Minister to appoint them. That way, you are reducing the independence of that profession in terms of operationalising it and making it a true profession that people can be proud of.

I have read this Bill and seen that there is too much pegging of everything to the Government, as if we are not creating an independent profession. I think this is a beautiful Bill that addresses a need that is there in this country, by offering support. It should not only receive by-partisan support but also needs a lot more work to be done on it in terms of creating the profession and making it a truly good profession. As they work on it, they will benefit a lot from other Acts that have established other professions. Otherwise, I believe that this is a good Bill and we should support it on both sides of the House

I beg to support.

Dr. Oburu: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill, which has been before the Departmental Committee on Finance, Planning and Trade. This morning, we were discussing this Bill and we will present some amendments which we propose to make. That notwithstanding, this Bill is an improvement on the Public Procurement and Disposal Act which was discussed here and passed. Procurement is a very important aspect of governance and improving the livelihoods of Kenyans. This country, for a long time, had been yearning for the Public Procurement and Disposal Act. We are not quite happy that the Bill was passed, yet it is not operational. I hope that the Minister will make some regulations with his officers to operationalise the Public Procurement and Disposal Act so that Kenyans can benefit from an Act of Parliament which is very crucial in the improvement of the livelihood of ordinary Kenyans. It is a well known fact that supplies officers in this Government, particularly, in the rural areas, are some of the richest people in this country. They are very junior people and seconded to the District Commissioner's (DC) Offices. They are richer than DC's and other senior officials. That is a fact because there are loopholes in the current procurement system in this country. The procurement officers have access to resources that they can use with impunity, yet we talk about corruption at the top, not knowing that it has been decentralised. This Bill intends to cover not only the public sector but also to introduce professionalism in the private sector. The Bill does not say that the procurement officers who are already working in those positions will be sacked. It gives them an opportunity to be true professionals who can work under a regulatory system to prove their work.

This Bill also gives hope to young Kenyans who want to become professionals so that people are not obsessed with becoming engineers, lawyers and doctors, forgetting that there are equally good opportunities in the procurement sector, that is very crucial to the development of the economy of this country. This Bill puts bench-marks in which ethics and professional standards of procurement officers will be measured so that the profession is not left loose. If left loose, many people would not know whether it is worthwhile to take procurement as a profession. It is not recognised by law. There is no law regulating the procurement sector as a profession. The procurement Bill recognised the importance of the procurement profession and it is stated so. However, it did not go further in establishing institutions under the profession. Who is a professional in procurement? This Bill intends to close that lacuna or gap, in the profession. The gap will be completely closed by this Bill which is before this House.

It is well known that regulatory bodies for most professions in this country like engineering, law and medicine were created during the colonial times. They were created to be exclusive clubs for a few professionals who would preserve for themselves lucrative Government jobs and the prestige that goes with the membership. Owing to that, they came up with very stringent rules for joining the clubs. Even professionals who had undergone training, for instance in engineering

would find it difficult to join the engineers professional body because they had to go through examinations which were very artificial. There was no clear criteria as to why the examinations had to be taken.

(Mr. Biwott was applauded as he entered the Chamber)

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I understand Mr. Biwott has been registered as the Chairman of New KANU!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Oburu! Focus on what you were talking about!

Dr. Oburu: Sorry, Mr. Temporary Deputy Speaker, Sir. I was disrupted by the Chairman!

The registration of this body will take into consideration all the defects which have been in the professional bodies of accountants, engineers and doctors. This is a Bill which has come after the formation of all these professional bodies. Therefore, we are not inventing America. We have examples to go by. We have the existence of other institutions to go by. Since we have these institutions in place, we must improve this Bill. We cannot just copy, for example, what is in the profession of accountants, doctors and so on, and replicate it in this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to agree with Mr. Mungatana who said that young people must be given provision in this particular Bill, so that they are not excluded. This includes those who are undergoing training in this field. In the account's profession, for example, they have accounts clerks who are junior accountants, but they are recognised in the profession.

This Bill must give recognition step by step, so that it does not just recognise the highest qualified professionals, but it must also recognise young Kenyans who also want to become professional procurement officers. This will come up in the amendments, which will be presented before this House by the Departmental Committee on Finance, Planning and Trade.

Mr. Temporary Deputy Speaker, Sir, this is a very straight forward Bill. It is an improvement of the Public Procurement and Disposal Act. I do not want to dwell on it any longer. However, it takes two people to engage in a corrupt act. The Public Procurement and Disposal Act was only dealing with public officers and it left out a wide and important sector, the private sector. It is the private sector which corrupts public officers. If we leave professionals in the private sector without any regulation to govern them, and we regulate officers in the public sector, we will not cure the disease. We should look at the root cause of the disease, not the symptoms. The root cause of the disease is the appetite of people in the private sector to get wealthy quickly and, therefore, corrupt officers in the public sector. Therefore, this Bill will treat a very important lacuna.

Mr. Temporary Deputy Speaker, Sir, my Committee supports this Bill 100 per cent. We will be very happy if the Minister also gave his support, so that we do not take a long time debating something which is very obvious. However, those hon. Members who want to bring amendments, including my Committee, will do so.

With those few remarks, I beg to support.

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill in principle. I also would like to thank Dr. Ojiambo for her patience and endurance as she worked on this Bill with all the officials from the Treasury, the private sector, various stakeholders and through workshops. We discussed this Bill and we are in support for various reasons.

First, the Treasury has been working on the issue of regulation of the procurement and supplies management as part of the wider amendments that are coming through within the framework of reforms for better public financial management. We also support this Bill because we believe that professionalising this function is called for under Section 26 of the Public Procurement and Disposal Act. We are also aware that professionalism is the backbone of a

properly run procurement system, including ours. Hon. Members may recall that in 2003 or early 2004, the Government suspended all the procurement officers as part of cleaning up the procurement system because we believe that unless we have a good and functioning procurement system, which includes the people, then our public funds could well go to the wrong places.

Mr. Temporary Deputy Speaker, Sir, we believe that procurement is a key ingredient in the public financial management. This Government has demonstrated its resolve in cleaning up the procurement system. We have realised major savings in procurement. Never mind the scandals that we inherited, which we have put a stop to. We even managed to get back money that was going out. We managed to bring it back because we believe that all public money should be safely within the public coffers. We also believe that none of that money should disappear for unlawful purposes that are not approved by this House.

Mr. Temporary Deputy Speaker, Sir, because of our resolve and the professionalism that we are having within the management of public affairs, we have seen our parastatals making profits. I am sure the Chairman of the Public Investments Committee (PIC) will have better stories to tell when he looks at the reports of this Government. Unfortunately, we are still looking at the reports that were done based on the other Government. However, on the current Government, we believe there are best practices and best stories to be told. Much as there are challenges, there are still issues to be resolved. However, we believe that Kenyan taxpayers' money is now going the extra mile. People are getting value for money. On that basis, people are having faith in the Government, they are paying taxes and money is going right to the communities. We are empowering everyone.

Mr. Temporary Deputy Speaker, Sir, it is important that we professionalise the procurement system as we expand the base of procurement from the people to the local areas. I would like to see this extend to the Constituencies Development Fund (CDF). We are seeing cases of hon. Members getting in trouble because of basic things to do with procurement. If we have all these professionals, then we will be in a position to help hon. Members of Parliament so that we do not find that cheques have disappeared or materials have supposedly been procured by the *wananchi* and they end up saying they do not know what happened.

Mr. Temporary Deputy Speaker, Sir, the other reason we support this Bill is, generally we support a professionally run Government. Professionalism is the hallmark of this Government. This is demonstrated in the way the Government is managed by the Chief Executive from a board room approach rather than from the popularity stands in stadia. Our focus is on where the country is going. That bigger picture of supporting professionalism leaves us to support any initiative that will lead to professionalising the small bits and pieces. The sum total of that will be a professionally run public service and country in the long term. I really want to thank Dr. Ojiambo for this, especially in terms of hastening the process.

Mr. Temporary Deputy Speaker, Sir, this Bill also calls for the Public Procurement Oversight Authority (PPOA) to develop, promote and support professional development of the procurement professionals. We are already in the process of making the regulations that will facilitate the development of the professionals. We accept that this Bill is only part of defining these professionals, but within that wider mandate of the Public Procurement and Disposal Act. We will then see what needs to be harmonised and developed through the Act.

Clause 26 defines what a procurement professional is, and again, it is something that is taken note of, but we need to make sure that it is harmonised so that we do not just concentrate on the supply side ignoring the procurement side, and that whatever we come up with is good for the private as well as public sector.

In Section 10 of the Public Procurement and Disposal Act, as you are aware, aims to facilitate the establishment of an examination body and support the professional association. Again, this is already provided for and it is a step in the right direction.

Mr. Temporary Deputy Speaker, Sir, taking all these into consideration, we are just

concerned as much as the Departmental Committee on Finance, Planning and Trade is, to ensure that this Bill, good as it is, recognises the requirements of the Public Procurement and Disposal Act as contained in Sections 9, 26 and 10 and captures them so that we synchronise the Act and this Bill to ensure that we are moving in the same direction.

I also believe that we need to synchronise and harmonise the expectations of both the public as well as the private sector players. This is because much as the Bill is driven by the need for harmony for sorting out the public sector procurement, the professionals who work in both sectors should benefit.

Mr. Temporary Deputy Speaker, Sir, the other issue that we want to ensure is that the institutional framework for professionalisation that is created by this Bill is modern, and more importantly, that it provides for checks and balances between the various functions as proposed in the Bill.

Mr. Temporary Deputy Speaker, Sir, looking at the umbrella professional body itself, for example, like the Law Society of Kenya, the accountants body and so on, there is the association of the members themselves who are qualified. That creates a group of people that we need to define and state what they can do and what they cannot do.

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

*[The Temporary Deputy Speaker
(Dr. Rutto) took the Chair]*

The other body that we need to clearly define is the examination body. We have, again, for example, the accountants, ICPAK, the Kenya Accountants and Secretaries National Examination Board, which has a certain level of independence to ensure that those who have qualified do not lock out their brothers and sisters who are pursuing studies because they may increase competition within the market. We need to insulate the ones who are not members yet, and we have seen examples of that in some of the bodies I would not mention on the Floor of this House where the people who qualified before have deliberately been excluding the new entrants through frustrating examinations and ensuring that they do not get the necessary paper work to compete with them. I would like to see that this new body that we are creating does not have that discrimination embodied within the law.

We also need to define properly the registration body. This is because people are examined, get registered and they become eligible to become members of the umbrella body. If we do not define the functions properly, then we could end up with hurdles being placed either at the examination stage or at the registration or de-registration points and membership.

The last bit which is very critical is the whole issue of disciplinary system that would be established by this Bill. I know the Bill has said that a committee will be appointed. But disciplining people has implications beyond the committee decision that so and so should be de-registered. It has an indelible mark on the careers of individuals. We need to make sure that we can capture within this Bill the provision of protecting an innocent person who faces a very hostile disciplinary committee.

I think we have seen this happening in institutions in the past including some political parties, where, because of mere disagreements or competition, they take you through a disciplinary mechanism and you are removed and your career is messed up. This is something that we should capture properly within this Bill. I know that between ourselves and the Departmental Committee, we will come up with a formulation that is best for this country.

Mr. Temporary Deputy Speaker, Sir, the four bodies I have mentioned; the umbrella

organisation, the examination body, the registration body and the disciplinary body are all intertwined and placed under the purview of one organisation, which poses a risk in terms of the protection of people who do not agree with those who are within that body. But I am sure that we are going to work out something that will best sort out the issue.

Mr. Temporary Deputy Speaker, Sir, this Bill also needs to make clear the extent of the coverage in terms of private sector practitioners, how to deal with the transitional arrangements for those people who are currently practising as supplies practitioners or quasi-supplies practitioners. There is already an institute registered under the Societies Act, and we do not want a situation where, by passage of this Bill, we automatically grant them one status above all the others who are not members and we start a conflict.

I believe we have had our own issue as accountants since 1978 with the passing of the Accountants Act. There were people who were practising, and some of them were told because they could not sit the examinations, could they be allowed to become authorised accountants. You would have expected that it was only a group that was going to transit, but these days you even see their children saying they are authorised accountants because they inherited their fathers' practices, and dodge the need to go through the professional examination route. I think it is important that we capture this thing here. I am just highlighting, because it may be coming as part of the amendments.

We also need to clearly define and identify the extent of public funds that will be invested in the bodies that are created by this Bill. In Clause 25, it says, "The funds of the Institute shall comprise such monies as may be appropriated by Parliament for purposes of the Institute."

However, we need to identify why Parliament should actually vote money for this purpose. We also need to ask ourselves what amount of money will be contributed by the private sector and what amount of money will be channelled to other institutions and so on. I think it is important that we do not raise expectations that upon passage of this Bill, there will be money coming in to start all these bodies that have been mentioned in this Bill. The Law Society of Kenya, the body governing accountants and that one governing valuers do not receive grants from the public coffers. That is something that we need to be clear about.

We also need to ask ourselves whether we are setting up an extension of the Government. As somebody said, we have a lot of intertwining in the Government and we should assure ourselves that we are setting up an independent body of professionals whether in the private or public sector. I hope hon. Members will contribute more to that issue.

Mr. Temporary Deputy Speaker, Sir, we believe that we shall harmonise the amendments between the Treasury and the relevant Departmental Committee. I am aware that discussions have been going on between our officers at Treasury and the relevant Departmental Committee. I hope we shall finish our discussions shortly so that we can have this body up and running.

I would also like to mention the fact that the Public Procurement and Disposal Act was passed by this House. The Act requires that there be some regulations in place. There is a Question that has been put before the House and we shall be responding to it in detail.

Mr. Temporary Deputy Speaker, Sir, however, I would like to assure the House that the regulations will be set sooner than later. The delay in setting up the regulations has been occasioned by the need to consult widely. We want to ensure that what we come up with is not something that will be challenged in courts.

*[The Temporary Deputy Speaker
(Dr. Rutto) left the Chair]*

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

You all know that the biggest delay in procurement matters, and especially on large

contracts, has been caused by the abuse of our legal system. People look for loopholes in law and then challenge contracts. When they do not win a tender, they rush to court to challenge the decision. At the end of it all, it is the common man and woman who miss the benefits of the procurement as people fight over tenders by using loopholes within the law. We want to make sure that we do not leave any of these loopholes to frustrate development and those who win fairly in the rigorous and competitive processes that have been stipulated in the Act.

Those regulations will be put in place any time from now. Hon. Members will witness that very soon. The relevant authorities and mechanisms are already in place. Early next year, we should be able to see them functioning. We do not need to worry about the fact that professionals have been defined. We also need not worry about the fact that there is no institute in place. I have confirmed with the legal experts that the Act will continue operating until such time as the body mentioned in this Bill will be set up and be able to administer examinations. So, even as we pass this Bill, let us think of it in terms of the future and how we would like to see the practitioners being regulated. Let us not view it as quick fix because there is mention of it in the Act. We need to pass this Bill because we want to regulate the supplies practitioners. We want to ensure that there are disciplined professionals in this field. If we can think of that in our minds, then we will be able to pass a good Bill that will set up a home and a future for supplies practitioners and not necessarily be tied to the operationalisation of the Public Procurement and Disposal Act. Let us not constrain to do something quickly at the expense of looking at the bigger picture. The two are not necessarily linked and I would like the House to know that.

In conclusion, I would like to thank hon. Dr. Ojiambo for really playing her rightful role as a nominated Member of Parliament. She is really looking at her wider constituency and its unfulfilled needs. I hope that after this Bill and the Nutritionists and Dieticians Bill, she will soon work on another one and bring it before the House so that she sets pace on what nominated Members of Parliament are supposed to do. We have seen what she and hon. Ndung'u have done. If each of the 12 nominated Members of Parliament could actually be looking at the wider constituency and bringing Bills to this House to supplement what the Government is doing, then we will really have represented Kenyans both at the constituency and the national levels.

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

Mr. Wamunyinyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on the Supplies Practitioners Management Bill brought before this House by hon. Dr. Ojiambo.

I must, first of all, thank hon. Dr. Ojiambo for the work she has tirelessly done to ensure that this Bill gets to this stage so that it can benefit all those involved.

The Bill aims at streamlining processes of procurement which is a very critical issue in this country. It aims at ensuring that the practising officers are properly trained and that they are licensed. We should not just get anybody practising without being licensed or without the necessary qualifications. It also aims at providing statutory regulations to ensure that the practitioners operate under a legal framework. Obviously, the great beneficiaries of this Bill are Kenyans. It is the public interest that this Bill, at the end of the day, seeks to serve.

We are all aware that the procurement processes have been greatly affected by corrupt activities and malpractices. With proper regulations and guidelines provided in this Bill, it will also help us to prevent corruption and deal with other malpractices. Obviously, the standards and people practising will also have to attain certain standards to ensure that they work within the stipulated provisions of this Bill.

Errant officers will also be dealt with. Provisions are in place to ensure that necessary disciplinary action is taken against any officers who contravene the provisions---

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

Mr. Wamunyinyi: What is the point of order that he is raising, Mr. Temporary Deputy, Speaker?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wamunyinyi, when an hon. Member stands up on his feet on a point of order, you do not ask what the point of order is about.

Mr. Omondi: Mr. Temporary Deputy Speaker, Sir, the Bill seems to be very straightforward and it is agreeable to most hon. Members, including the Minister for Finance. Could it, please, be in order to call upon the Mover to reply?

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

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank hon. Members who have contributed to this Bill. Their contributions, this afternoon, have helped a lot to enrich the material that we are putting together to ensure that the product of this debate is of high quality to the professionals who are going to practise under this Act.

Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for his contribution and the points that he has raised are very important. I also thank him for the support that he has given us during the preparation of this Bill. The Ministerial Committee and the Committee of the Practitioners have been with us, the Parliamentary Departmental Committee on Finance, Planning and Trade working on this document for long hours and have been very patient. I want to thank them all for their contributions. I want to thank the contributors this afternoon for their input to this Bill. I want to thank hon. Mungatana for bringing us experience from the lawyers and other professionals, that we are going to add to what we have as we move towards the preparation for the Third Reading of this Bill.

I also want to thank all other speakers like the Seconder, hon. Muturi and the Chairman of the Finance, Planning and Trade Departmental Committee, hon. Dr. Oburu, who have brought a lot of very important issues to this discussion.

Mr. Temporary Deputy Speaker, Sir, I have picked up specifically the issue of the other practitioners who are not degree holders and who are not of that high training quality that we had envisaged in this Bill, who must also be picked up. These also include the young professionals who are coming up, who are the sons and daughters of the retiring professionals who wish to practice their family trade. We are going to put all of them into an transitional arrangement to ensure that none of the practitioners, suppliers or procurement officers are left out.

Mr. Temporary Deputy Speaker, Sir, I have also taken note of the required harmonisation between the private and public sector practitioners and also between the procurement officers and the supplies officers to ensure that the issues that we are addressing are harmonised. I also want all these practitioners who will preside over the resources of this country to be properly harmonised, trained, licensed and that they are regulated in a manner that they will be truly the guardians of the resource distribution of this nation.

Mr. Temporary Deputy Speaker, Sir, I have taken note of the concerns that have been raised about the disciplinary actions against the errant ones who may want to continue to practice in a manner that has caused this nation loss of property.

As we look into this specific law, let us take into consideration advice and not punitive measures that would cause them to think twice before they can again engage in those acts that have denied this nation very useful resources for development.

Mr. Temporary Deputy Speaker, Sir, as we have said, we have opportunities to sit together as committees to elaborate on what amendments we are going to bring and when we come to the amendment stage, I hope hon. Members will bring ideas that can be included in the amendments this time so that we can net them in. More importantly, we are going to sit as a committee of the drafters together with the committee of the stakeholders and that of the Minister's office to ensure that we do bring amendments that are going to truly assist this sector of our public activity that is very essential for our resources to function very well for this nation.

With those few comments, I beg to move.

(Question put and agreed to)

*(The Bill was read a Second Time
and committed to a Committee of
the Whole House Tomorrow)*

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

MOTION

ADOPTION OF 1998/1999 PAC REPORT

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the Year 1998/1999 laid on the Table of the House on Thursday, 26th October, 2006.

Mr. Temporary Deputy Speaker, Sir, I want to start by giving a brief introduction which is: On behalf of the Members of the Public Accounts Committee (PAC), I take this opportunity to present to the House the Report, Accounts and Recommendations of the Committee for the 1998/1999 Report of the Controller and Auditor-General together with the appropriate accounts and other public accounts.

Mr. Temporary Deputy Speaker, Sir, the Committee commenced its sittings on 16th April, 2003 and held 105 sittings. Accounting Officers of all Government Ministries and Departments concerned appeared before the Committee to respond to issues raised by the Controller and Auditor-General in this Report. All witnesses who appeared before the Committee gave useful information concerning the queries raised. The evidence received together with the written submissions were subjected to careful scrutiny and have been very vital in preparing this Report.

Mr. Temporary Deputy Speaker, Sir, the Committee comprised of the following hon. Members:

Hon. Omingo Magara, MP - Chairman

Hon. Uhuru Kenyatta, MP

Hon. Joseph K. Lagat, MP

Hon. Dr. Julia Ojiambo, MP

Hon. Billow Kerrow, MP

Hon. Peter Ojaamong, MP

Hon. Archbishop Ondiek, MP

Hon. Koigi Wamwere, MP

Hon. Ekwe Ethuro, MP

Hon. William ole Ntimama, MP, who served the Committee until 30th June, 2004 when he was appointed as a Minister in the NARC Government and he was later sacked by the same Government.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the other hon. Member was hon. Bonface Mghanga, MP who served up to 30th June, 2004 when he was appointed Assistant Minister in the NARC Government and he still serves despite the fact that KANU has now changed hands.

Mr. Raila: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to

interrupt hon. Omingo but is he in order to refer to the Government as the "NARC Government" when we now know that it is the so-called "the Government of National Unity"?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, this Government has gone through a total metamorphosis. You cannot even know the head or tail and, therefore, I do not know whether it was tail yesterday and legs today!

(Laughter)

However, I have information that it is now known as "GNU" which stands for "Government of National Unity", but I do appreciate the fact that there is a lot of confusion and I wish to move on nonetheless.

Mr. Temporary Deputy Speaker, Sir, apart from taking evidence, the Committee also visited various projects to obtain first hand information on other status and make appropriate recommendations on the same. We visited Loitokitok border post; a terrible thing which no Kenyan would want to see but yet again on the Kenyan soil. We visited Shimoni Customs Office which is another terrible white elephant where Kenyans' funds have been sunk and I want to say here that the same people who sunk some of this money in this particular white elephant project are now being recycled back into the Government. It is very unfortunate but nonetheless, it is an evil we must address ourselves to as of now.

Mr. Temporary Deputy Speaker, Sir, the observations of the Committee on the projects visited are contained in the specific audit queries, which I will also elaborate on shortly. All the recommendations contained in this Report were arrived at by consensus after thorough deliberations and consultations. These recommendations, therefore, need to be implemented without the fear of victimising anybody. I want to confirm to this House that the particular Committee was God-fearing. We used to start and conclude our deliberations with prayers, which used to be presided over by Archbishop Ondiek.

Our general observations include expenditure control: The Committee noted with great concern that during the year 1998/99, excess expenditure incurred without parliamentary approval amounted to K£17 million, which is the equivalent of more than Kshs35 million. The excess votes were incurred by various Ministries and Departments. It is important that Ministries/Departments and Accounting Officers appreciate the fact that it is illegal to spend public funds without Parliament's approval. However, during the period under review, it was the norm rather than the exception for Accounting Officers to incur expenditure on projects for which there was no budgetary allocation and have the bills paid in the subsequent financial year.

Mr. Temporary Deputy Speaker, Sir, the State House was particularly notorious for spending public finances without parliamentary approval. State House would sometimes renovate what was not renovatable. At times, there would be no renovations done but contractors would seek payment. The State House had an excess vote of more than K£572,000, which is more than Kshs20 million. The House will recall that the Budget used to be prepared in Kenya Pounds. One Kenyan Pound is the equivalent of Kshs20. Second to incur an excess vote was the Ministry of Foreign Affairs. However, in this case, there was some justification in the sense that the Ministry was paying salaries in foreign currencies when its Budget was in local currency. However, we cannot excuse the Ministry for its failure to anticipate foreign exchange losses or gains.

Mr. Temporary Deputy Speaker, Sir, it is critical that the Government appoints people who can provide value and relevance to Ministries. Saying that you were forced to incur an excess vote because you did not factor into the Ministry's Budget, foreign exchange loss or gain, is not an excuse. The other day, somebody joked that some senior Government officers cannot even shut down a computer. He said that if you use a computer to your satisfaction and then ask them to shut

it down for you, they will run away. We are talking about putting value and relevance to particular positions. I am informed that even some Ministers look at a computer as a small television set that has no pictures.

Mr. Temporary Deputy Speaker, Sir, another Ministry which spent more than its Budgetary provision was the then Ministry of Tourism, Trade and Industry.

The Temporary Deputy Speaker (Mr. Poghio): Mr. Omingo, what do you mean that some Ministers look at a computer as a small television set that has no pictures?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, what I mean is that they were born before the computer was invented, that is BBC; so, they do not understand how a computer works.

(Laughter)

The Judiciary, the highest institution in the land that is supposed to uphold justice, had an excess vote of K£333,000. The then Ministry for Rural Development had an excess vote of more than K£59,000. The former Ministry of Research and Technology over-spent by an excess of K£132,000. Some Ministries used to be created for the purpose of conveniently rewarding some people and then disbanding them. The then Ministry of Lands and Settlement over-spent by K£2,131,048. What we are saying is that the facts must be laid bare for now and posterity. I do not care how long it takes. We are talking about things that happened in 1998. History will judge us very harshly. Those who are responsible for these irregularities are still serving in the current regime. For your information, and with due respect, some of them have served in all the three regimes, and gladly so. That was on Recurrent Expenditure.

Mr. Temporary Deputy Speaker, Sir, on Development Expenditure, it is interesting to note that the Attorney-General's Chambers, which is the custodian of the law of the land, incurred an excess vote of K£171,319. The chief legal advisor to the Government broke the law. Again, the former Ministry of Rural Development, which was conveniently created to reward certain people, over-spent by K£4.9 million. The Ministry had not been provided for in the Budget because it did not exist when the Budget was prepared. It was subsequently created through a road side declaration and given some money.

The Committee noted that the Treasury can only discipline an Accounting Officer but it could not take action against Permanent Secretaries (PS), because it is not their appointing authority. Permanent Secretaries are appointed by the President. Therefore, there is no way the Treasury can effectively supervise somebody whose appointing authority is different. The current PS, Treasury, Mr. Kinyua, cannot generally or responsibly discipline another PS in another Ministry although he is supposed to be the chief Accounting Officer of the Government. The Committee recommends that the Treasury should instill strict discipline and take stern action against Accounting Officers who incur excess expenditure without the authority of Parliament.

Mr. Temporary Deputy Speaker, Sir, turning to the issue of public debt, the current position is terrible to listen to. At that time, the public debt, both domestic and external, stood at 53 per cent of our Gross Domestic Product (GDP). To our amazement, as we speak, the public debt portfolio stands in excess of Kshs730 billion. Effectively, about 72 per cent of our GDP goes into servicing debts. That means, every Kenyan, including a child who is born today, bears a public debt burden of more than Kshs32,500. Most of this country's public debts were incurred improperly and applied irregularly. That was the scenario then.

Today, we incur public debt through scandals such as Anglo Leasing. That is the root cause of the public debt problem in this country. It was inherited from the previous regime and perpetuated by the current regime. Kenya now spends more than Kshs112 billion to service public

debt. Suspecting that 90 per cent of our public debt is not genuine, which I know it is not, we could use the amount of money represented by that percentage to double the salaries of our teachers, recall all our doctors from Botswana and South Africa to treat our people at Kenyatta National Hospital, and improve our infrastructure in a year. We inherited a disease, cancerous as it were, and we refused to chop the finger which was cancerous. Today, from Kshs630 billion when the NARC Government took over in December, 2002, the public debt is now apparently Kshs750 billion.

Mr. Temporary Deputy Speaker, Sir, the Committee was gravely concerned that Government expenditure on public debt was higher than the expenditure on other services. Then you say that we want to develop. How do you develop when 70 per cent of your Gross Domestic Product (GDP) is going to service public debt? And this is not a debt which was incurred for service which was delivered! This is a debt which was incurred improperly and applied irregularly. When we take a simple scenario of a deal that is similar to the Anglo Leasing scandal, and I want hon. Members to understand what I mean, I have once said on the Floor of the House that fraudulent debts like this are incurred. For example, if I want to go and buy a Toyota car from Toyota Kenya on lease hire or hire purchase, what it means is that I will pay a deposit and get the services of my car to enjoy driving my children to school or going shopping. As I continue paying the monthly lease rental, at the end of 15 years, the ownership of the car on paper reverts to me. This means that, as soon as you pay the deposit, you are supposed to start enjoying the services of an asset which you have acquired. A good example is the Forensic Science Laboratory in which we paid a deposit and we continued paying the instalments for an asset which was in a foreign land and not here. These are the kinds of debts we are paying as public debts. This is a vice that must be stopped! A public debts register needs to be opened for Kenyans to know who borrowed, for what purpose and what use was that money put to.

Mr. Temporary Deputy Speaker, Sir, pending bills was another cancerous thing. I remember that when hon. Raila was the Minister for Roads and Public Works, he actually blacklisted some contractors because of being "cowboy" contractors. Indeed, that was as a result of an audit which was done by a former hon. Member, Eng. Kiptoon. Later, the "cowboy" contractors became "angel" contractors and their pending bills continued being paid. Today, there is evidence that the contractors have continued being paid the pending bills which were suspended. The former Minister for Finance, Mr. Mwiraria, said:-

"We are not going to pay the pending bills until the Finalization Committee has finalized---

"

At the end of the day, behind the pending bills, there was somebody's take in there and they had to service that particular bill. The Committee noted that:-

"Pending bills have been a thorny problem affecting several Ministries every year.

The Committee expressed concern that bills incurred by various Ministries were carried forward to 1999/2000 as follows---

Once again, State House appeared in that list. I wish I could change this. State House had pending bills amounting to K£4.2 million. The Ministry of Foreign Affairs had pending bills amounting to K£2.7 million and the Ministry of Home Affairs, Heritage and Sports amounting to K£8.3 million. The Department of Defence, because of their security nature, had pending bills amounting to K£10.9 million. These pending bills which are of a security nature are the most notorious! This figure of K£10.9 million, if you multiply it by Kshs20, it comes to over Kshs200 million. This figure was spent courtesy of "security purchases". The Ministry of Agriculture and Rural Development had pending bills amounting to K£1.8 million, the Ministry of Transport and Communications had pending bills amounting to K£1.2 million and the Ministry of Trade and Industry, K£9.2 million. Yet again, the Office of the Attorney-General had pending bills worth K£1.7 million. That is about Kshs34 million.

The Report goes on to say that:-

"The Committee recommended that the Accounting Officers must always ensure that pending bills must be paid within the year they have been incurred. They must also ensure that Ministries and departments operate within the voted provision."

Mr. Temporary Deputy Speaker, Sir, let me now turn to the issue of procurement of Y2K-compliant computers. You would remember that we were crossing over from year 2000 to 2001 and there was this scare that we need to buy computers that are not going to "close their eyes" come the following year, 2001. That is where the intelligent boys in the Civil Service actually made a kill. The Committee noted with grave concern that K£2 million was issued by the Ministry of Finance to pay for 399 computers, which were of low quality than the Ministry had specified. These computers were bought and certified by technical people when they were of a different quality than the one which was specified. No action was taken against Messrs. Olivetti Equatorial Ltd, who supplied the sub-standard items. If you ask me today, I am sure that they are still serving the Government. Instead, the Ministry received the computers knowing that they were faulty and distributed them to the other Ministries without any inspection to ensure that they met the required specifications. The full payment for the computers was also made in advance. Even if you wanted to return them, they would still have the money. If you take the sham computers back, they would still sit on your money because behind that company, there was a tap opened by a "big boy" from the Government, who must have enjoyed that loot. That was K£2 million which is equivalent to Kshs40 million for 399 computers! Therefore, each computer must have cost about Kshs100,000.

Mr. Temporary Deputy Speaker, Sir, the Committee was abhorred by the manner in which the Ministry purchased the computers in total disregard of the financial regulations and procurement procedures. It is unfortunate that this is the Ministry with the mandate to ensure that all Ministries and departments adhere to the financial regulations. What a shame! And they are the same people who are now in those Ministries there, some people are stealing here while they are remote-controlling Government operations from their gardens. They are basking in the glory of our stolen money at the expense of our children. I once said, and I want to repeat here, that when you steal money which was meant for Kenyatta National Hospital and you carry that money home to your wife and children, basically, what you are saying is that you are serving your children with blood money! That is a shame!

Mr. Temporary Deputy Speaker, Sir, the Report says:-

"The Committee strongly recommended that Accounting Officers must liaise with the Attorney-General---"

The Attorney-General who is flouting the rules--- Once again, the Ministry is being asked to liaise with the Chief Government Legal Advisor, who is, himself, misadvising the Government and spending beyond the stipulated expenditure guidelines.

"---and the Kenya Anti-Corruption Commission (KACC) with a view to ensuring that both the supplier and officers who received and distributed the computers face the full force of the law".

I wonder what is happening. I know that there are recommendations which had been made against particular companies. The Committee recommended that those companies be blacklisted from supplying goods and services to the Government, but today, they are still supplying the Government against the Committee's recommendation of blacklisting them.

The construction of customs offices is another scam. We spent slightly in excess of Kshs500 million for projects in Loitoktok and Shimoni. Even if those projects were bombed today, the parent Ministry would not feel anything because they are valueless. The Committee noted with grave concern that the Ministry of Finance constructed customs offices, a police station and staff houses at Loitoktok border post. This area has no tarmac road or water. There was no need for such

a facility. We ended up spending Kshs531 million and there is a pending bill which the Government is still paying to date of Kshs631 million. The total cost of that project is Kshs1.1 billion. The revenue from that border post, if it was to be calculated per month, is only Kshs2,500. If we were to collect in terms of paying back what was spent on that project, it will take generations and centuries to recover the money. That is the shame we are being put in by this Government of recycling the same people to do the same thing. I said God help me when the time comes to be able to associate with people who do not serve blood on top of their tables for their children and wives.

Mr. Raila: On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker (Mr. Poghisio): Do you need that information?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, let me take that information.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I want to inform the hon. Member that one of them has just been registered as the Chairman of KANU by this Government.

An hon. Member: Shame!

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, in fact, that enhances the confusion and mess that we are in. We require divine intervention. If God lives, He must be living in Kenya. This is because we do not adhere to the rule of law nor respect our institutions. Dr. Machage is my neighbour and he knows how the Kurias and Kisiis are suffering. They do not have facilities such as roads, water and so on.

Mr. Temporary Deputy Speaker, Sir, a total of Kshs1.1 billion was spent on a custom border post project. It was paid to a contractor and yet, the income per month from the project is Kshs2,500. The contract was awarded to the fourth-lowest bidder and varied by about 43.9 per cent. When we asked why they gave it to the fourth-lowest bidder, the Permanent Secretary said they gave it to him so that he could not vary the initial sum. But contrary to that, there was an upward variation to Kshs43.9 per cent without authority or going through a fresh tender. The procurement rules provides that if we are going for a variation beyond 20 per cent, you must re-tender. However, they did not re-tender and the Government ended up spending Kshs531 million. It is a pity that they are still paying pending bills for a white elephant project, which even if it was bombed today, nobody would feel it.

The Committee further noted that more than 50 houses had been constructed and finished, yet, there were about only 27 members of staff on site. Several walls were cracked, which was an indication of poor workmanship. In addition, the wooden structures had been attacked by white ants. Colossal sums of money were spent unsuccessfully to sink three boreholes within an area of 10-metres radius. They were advised to get water from a spring nearby in Loitoktok. But they said: "No, let us sink a borehole." They paid for four different boreholes, sunk in a radius of ten metres. Even if you were an hydrologist who was so naive, you were supposed to move a longer distance from where you were to sink a borehole elsewhere, because the first trial hole failed you. It cannot succeed in a radius of ten metres. That is the agony we are going through. We agreed to change the Government for zero tolerance to corruption. However, the same people we changed are being recycled and they are now ruling us from the background. When the first borehole could not be sunk due to hardrock, no further attempt should have been made within the same region. By the time of the inspection tour, the Government had not put the buildings into any use, because there was no water on site.

Similarly, in 1995, the Ministry of Finance contracted M/s Era Care Construction Limited to construct another white elephant project. What a shame! The same people are still controlling Government expenditure from the back door. Some of them are in Government and some in the Official Opposition. Why did we have to change? It pains me! They constructed offices in Shimoni at a sum of £2.3 million. By December, 1998, the project had cost the Government Kshs4.9 million, which was more than double the original contract sum. The same people who are

responsible for this are in this House. God help this country! If there is divine intervention and power, we seek it today. It hurts that we are nursing the same people in the same regime.

The contractor had not registered with the Value Added Tax (VAT), although, he did so later on. All payments made to him were deemed to include VAT which he was not remitting to the same Government. The same people being crowned today as heroes did this to the Kenyan children. I am sorry if I am hurting anybody, but it is a reality which must be spoken. The same people who did all this are still doing it, a bit more with expertise, because both sides of the House have been muzzled up. We do not know who is supposed to watch who. Some of them are now enjoying blood money. They do not know those who are suffering in hospitals. I have been to an area where a woman was in labour for two days. When somebody says *pole sana* to me, he should even say, *pole* to himself, because, indeed, he is feeding on blood money. It is a shame! The Committee made an inspection tour of the project and noted that there was no rump linking the building to the ocean, hence cargo ships could not anchor for loading and unloading.

Mr. Temporary Deputy Speaker, Sir, you are constructing a road from Nairobi to Mombasa and at Mtito-Andei there is a river, yet you do not put a bridge. Have you constructed the road? Yes and no. Now, this means is that they built a fantastic office in Shimoni. However, between the office and the ocean there is supposed to be something similar to a road called a jetty. It should link the house or offices to the ocean.

Mr. Temporary Deputy Speaker, Sir, the house was complete but there was no jetty. They did this project at twice the original cost. There was no bridge linking Nairobi to Mombasa via Mtito-Andei, where there is a river. That is what I mean. When the ship comes, it is supposed to dock somewhere. The officers then go there to inspect it. Unfortunately, they cannot walk on water. There has to be a jetty which was not there.

(Mr. Wetangula interjected)

I still feel agitated, but let me spare my brother Mr. Wetangula, who is also eating. I am, however, not too sure of what he is eating. If he is eating blood-money, woe unto him. May he go to church and confess his sins.

(Mr. Wetangula waved to Mr. Omingo)

Mr. Temporary Deputy Speaker, Sir, I need your protection from Mr. Wetangula and my neighbour, Dr. Machage.

Since the project had not been handed over to the client, the contractor was still on site. This is another scam. Do you know what was happening? These guys would just sit somewhere, ride an old wheelbarrow, keep it on site and say, "we have not handed over the project, therefore, we shall continue demanding damages". This happened to the extent that the machines are out there, the contractor is busy making some blood-money elsewhere and the wheelbarrow on site is earning him more money from the same Government. They say they have not handed over the project because they have a wheelbarrow, without a wheel, on site. That is how amazing these things are. It is important that listen to our voice of reason, and know where we stand as a country, if are to move forward.

Mr. Temporary Deputy Speaker, Sir, the building had not been put into any use by the Government for obvious reasons. As Moses says, there is no Kenya Revenue Authority (KRA) official who is like Jesus and can walk on water. There was no jetty.

Mr. Temporary Deputy Speaker, Sir, the Committee recommended that the Accounting Officer should ensure that the buildings is put into use by 30th June, 2006. This, again, is

postmortem. The date has already passed. By the grace of God, I hope we shall apply it. The Director of the Kenya Anti-Corruption Commission (KACC) should institute investigations into all transactions involving the project, and ensure that all officers involved in the crisis are prosecuted. I do not know whether they will do this. After all they cannot deal with existing corruption cases! The non-existence of the jetty is not an issue to them; money has been eaten, but nobody is going to be brought to book, yet we are saying that we are proud to be Kenyans. I am not! I cannot agree with this kind of thing.

Mr. Temporary Deputy Speaker, Sir, the rules and regulations on holding imprest in any Government office is that it should be surrendered in 48 hours. If you know the amount of money kept by officers upon return from trips, it is amazing. The Committee noted, with dismay, that some imprests issued during the year under review were still outstanding by 30th June, 1999 in the following Ministries, amongst others.

One, again, State House! It had an outstanding imprest of £233,000. Multiply that by Kshs20 to arrive about Kshs4 million.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Foreign Affairs had outstanding imprest of £712,000, Office of the Vice President and Ministry of Home Affairs £143,000, Ministry of Agriculture and Rural Development £370,000, Ministry of Labour and Human Resource Development £21,000, Office of the Attorney-General £216,000---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Omingo! You will continue next time.

Hon. Members, it is time to interrupt the business of the House. This House, therefore, stands adjourned until tomorrow, Wednesday, 29th, November, at 9.00 a.m.

The House rose at 6.30 p.m.