

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 26th November, 2009

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### QUESTIONS BY PRIVATE NOTICE

DELAY IN APPOINTMENT OF PPOA  
DIRECTOR-GENERAL

**Mr. Olago:** Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Why, in spite of the operationalisation of the Public Procurement and Disposal Act nearly two and half years ago, the post of Director-General of the Public Procurement and Oversight Authority has remained vacant?

(b) How has the failure to appoint a substantive Director-General impacted on the Authority's national and international operation?

(c) When will the appointment be made?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Speaker, Sir, I beg to reply.

(a) Following the enactment of the Public Procurement and Disposal Act, 2005, the Public Procurement and Oversight Authority (PPOA) started operations in January, 2007. The first year consisted of setting up of structures under the overall guidance of a Technical Assistant in the institution who performed the duties of the Director-General on an interim basis.

The Public Procurement and Oversight Advisory Board was constituted in October, 2007, and embarked on the recruitment of a substantive Director-General in 2008.

On conclusion of the process, none of the candidates was found suitable. The Board is currently in the process of recruiting the Director-General afresh.

(b) The Ministry of Finance and the PPOA work very closely to ensure that it carries out its mandate as provided for in the Public Procurement and Disposal Act, 2005, and its attendant regulations of 2006. The PPOA enjoys good relations with similar regulatory authorities and partners both in the region and internationally. The PPOA recently hosted the 2<sup>nd</sup> East African Procurement Forum successfully which had representation from Eastern Africa, Africa and internationally.

(c) The process of recruitment of the Director-General is underway and the position will be filled expeditiously.

Thank you.

**Mr. Olago:** Mr. Speaker, Sir, you will notice from the answer of the Assistant Minister that it has taken the Ministry nearly three years to effect what the law requires to have been done within the first year. So, in effect, the Director-Generals who have been acting for three years now have been doing so under the terms of Schedule 15(1), which says:-

“Upon the establishment of the Authority, each member of staff of the Public Procurement Directorate, including the Director, shall remain a member of the Public Service but shall be seconded to the Authority for a period of not more than one year.” So, what is the effect of this in terms of the operations of the Authority? The Director-Generals have been operating illegally for nearly three years.

**Dr. Oburu:** Mr. Speaker, Sir, this Director-General who has been acting has not been acting for three years. He started acting sometimes in---

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. I do know that there has been a succession of Acting Director-Generals. So, whether it is the present one or the previous one, they have all been acting. So, what is the position?

**Dr. Oburu:** Mr. Speaker, Sir, the first person who was acting in that position was not employed by the Kenya Government. So, he was not acting or seconded from the Public Service or the Kenyan Government. This was a technical assistant from the World Bank and when he finished the task of establishing this organization – it was very odious and that is why he took a long time - then he went and a Director-General was appointed and the intention was to recruit the substantive Director-General within a year. Unfortunately, when the process started, we could not identify a suitable Director-General and that is why he is still acting. However, this has, in no way, affected the operations of the organization.

**Mr. Speaker:** Ask your last question, hon. Olago!

**Mr. Olago:** Mr. Speaker, Sir, now that the Directorate has advertized for the position of the Director-General, what steps is the Ministry taking to ensure that they get a competent Kenyan to fill that position substantively?

**Dr. Oburu:** Mr. Speaker, Sir, we advertized this position in various newspapers; the *East African*, the *Standard* and the *Daily Nation*. The closing date is 9<sup>th</sup> November, and the short-listing of these officers is being done by a competent consultancy body that will then recommend the names of those qualified immediately. A competent Kenyan will be recruited to fill this position.

IDENTIFICATION OF LAND FOR RESETTLEMENT  
OF 2007 POST -ELECTION VIOLENCE IDPS

(**Mr. Mbugua**) to ask the Minister for Lands the following Question by Private Notice.

(a) Could he confirm that land to settle Internally Displaced Persons (IDPs) who were displaced during the 2007 post-election violence has been identified, and if so, provide the names of the land owners and the location of the land?

(b) How much money has been factored in the Ministry's budget in 2009/2010 for the purchase of the said land and when does he intend to complete this process?

**Mr. Speaker:** Order, hon. Members! Question No. 2 by Private Notice is deferred to Wednesday next week because I have notification from the hon. Member for Kamukunji that he is indisposed.

*(Question deferred)*

Next Question by the hon. Member for North Imenti!

THEFT OF MONEY ON TRANSIT UNDER  
M/S G4S SECURITY COMPANY

**Mr. Ruteere:** Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice

(a) Is the Minister aware of the continued disappearance of money on transit in the hands of M/s G4S Company?

(b) How much money has been stolen while on transit in the last six months?

(c) Does the Government still have confidence in G4S in transporting money for public, private and other financial companies?

(d) What is the Government doing to arrest such theft of public funds and restore investor confidence?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are three incidences reported within Nairobi whereby colossal amounts of money have been stolen while in the custody of G4S in the last six months.

(b) The total cash reported stolen in the past six months is Kshs86,651,000. Out of this amount, 683,000 was in US dollars translating to Kshs52 million.

(c) The Government has noted some weaknesses in the security arrangements of G4S Security Company and has instituted measures to safeguard public and private funds transported by the company. The company has successfully been engaged in the cash-in-transit industry for four decades and it is considered a reputable international company that has invested in a fleet of bullet proof vehicles. We believe that once the weaknesses are addressed, the company will continue offering quality services.

(d) The Government moved swiftly to investigate the incidences and the following case files were opened:

(i) Police Criminal Case (CR) No.151/182/09; Court File No.5075/09 – Four suspects have been arrested and their cases are before court.

(ii) Police CR No.141/792/09; Court File No.4218/09 – 14 suspects have been arrested and their cases are before court.

(iii) Police CR No.A11/91/09 – The case is still under investigation.

The Government has further introduced the following measures to contain similar incidences:

1. Vetting of staff working in the G4S Security Company.

2. Ensuring that security officers escorting the vans are the ones assigned that particular duty.

3. Considering introducing currency defacing technology after approval by the Central Bank of Kenya (CBK).

**Mr. Ruteere:** Mr. Speaker, Sir, I thank the Assistant Minister for that detailed answer. However, you realize that the country has lost a colossal amount of money, that is, Kshs86 million in three months. Why is it that the Cash-in-Transit (CIT) vehicle has one armed policeman; and two armed policemen in the chase car when we know that the former Minister, hon. Michuki, directed that there should be at least four policemen, that is, two in the chase car and two others in the CIT vehicle?

**Mr. Ojode:** Mr. Speaker, Sir, there are some measures which we are putting in place. That particular suggestion alone will not help us to curb this menace. The G4S Security Company is also progressing a pilot CIT vehicle for review on suitability for CIT runs. Because of the advanced level of armouring, this new vehicle will provide better safety for the police officers and staff if it is adopted.

The G4S Security Company is also installing vehicle tracking devices on its operations fleet. That will also act as an added security layer to manage the CIT. So, even if we provided additional vehicles to follow the armoured vehicles and it is an in-house job, it will still be an exercise in futility. With new armoured vehicles being put in place and the tracking devices, this will be a thing of the past.

**Mr. Mungatana:** Mr. Speaker, Sir, in our neighbouring country, Uganda, most people have guns, including security companies such as the G4S that has been hit with robberies. Could the Assistant Minister consider allowing our security companies to carry guns in view of the fact that the police force is inadequate and we are still living way below the recommendations by the United Nation (UN) as far as the ratio of policemen to citizens is concerned? Could the Minister consider allowing these people to carry guns so that we can reduce the robberies to the same level as that of Kampala?

**Mr. Ojode:** Mr. Speaker, Sir, I think I have mentioned here that we are considering a number of other things. If it is found to be fit, we have no problem with that. There is also a suggestion that we constitute a police unit. We are working out some modalities that will see the establishment of a police unit in support of security companies when it comes to cash logistics. Those are some of the areas that we will explore if need be, in order for the cash not to be tampered with.

The other device system is where the CBK is progressing the approval of the draft that will see regulation on smoke and dye technology with a view to its introduction in the market as soon as possible. This technology has been used in other markets to protect cash movement. When you interfere or tamper with the box, the dye spills out and the currency will be tainted with ink. It will be useless for one to use such currency in the market. Those are some of the areas we are exploring.

**Dr. Khalwale:** Mr. Speaker, Sir, it is a fact that CIT services is a Kshs12 billion business in this country. The best practices in the larger economies is that CIT is a special service that is left to the CIT companies to manage by way of training their own personnel, paying them and so on. In this country, the Government spends millions of shillings to train police officers. It then wastes them by giving them out to CIT companies which pay them Kshs500 only. What plans does the Assistant Minister have to completely withdraw police officers from this service so that CIT companies have their own security and our officers are left to do more important services like providing security in Pokot?

**Mr. Ojode:** Mr. Speaker, Sir, we are exploring ways and means of carrying this cash without any problem. We are intending to establish a police unit which is going to deal firmly with CIT matters. If, indeed, this goes through, we will not have any problem with these added technological devices. So, I do not think we should have any problem should we constitute some of these measures.

**Mr. Ruteere:** Mr. Speaker, Sir, the police officers who escort the CIT vehicles put their life at risk because robbers wait for them. What remuneration do you give these police officers? What are the payment policies of these companies who provide Cash-In-Transit services?

**Mr. Ojode:** Mr. Speaker, Sir, as you are aware, electronic transfer is now being undertaken. Also, those who are involved in the cash transactions are provided with insurance. We always advise that they must put on bullet-proof vests as a security measure.

**Mr. Ruteere:** On a point of order, Mr. Speaker, Sir. I asked about the remunerations that these officers get for those services.

**Mr. Ojode:** Mr. Speaker, Sir, G4S Company pays these fellows risk and responsibility allowances.

**Mr. Speaker:** Next Question by the Member of Parliament for Ikolomani Constituency!

MEASURES TO ADDRESS SOFA PAKA/AFC  
LEOPARDS FINANCIAL PROBLEMS

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Is the Minister aware that two Kenyan Community Football Clubs, AFC Leopards and SOFAPAKA, which have qualified to represent Kenya in Continental Championships, risk failure to participate due to financial constraints?

(b) What is the Minister doing urgently to arrest the above threat since the two teams have to immediately go into camp for training?

**Mr. Speaker:** Is the Minister for Youth Affairs and Sports not here? We will revisit the Question later.

Next Question by the Member of Parliament for Cherengany!

REPAIR OF ELDORET-ZIWA-KITALE ROAD

**Mr. Kutuny:** Mr. Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

What measures has the Minister put in place to ensure that Eldoret-Ziwa-Kitale Road, which is currently in a deplorable state, is restored to motorable condition?

**The Assistant Minister for Roads (Mr. Kinyanjui):** Mr. Speaker, Sir, I beg to reply.

The Ziwa-Kitale Road comprises of two sections. One is Kachibora-Sibanga-Kitale Road, Road C48, which is in a fair and maintainable state. My Ministry has allocated Kshs3 million for routine maintenance of that section. The other section, which is Eldoret-Ziwa-Kachibora Road, Road D328, has deteriorated due to overloading. The

Kenya Rural Roads Authority (KERRA) is taking an urgent assessment of the costs required for spot improvement to make the road motorable. I have also instructed the KERRA to carry out a detailed design for the rehabilitation of the road.

For the second part of the road, Road D328, I wish to remind the hon. Member that we also send money through the District Roads Committees (DRCs). Road classes "D", "E" and "Others" fall within the mandate of the DRCs.

Thank you, Mr. Speaker, Sir.

**Mr. Kutuny:** Mr. Speaker, Sir, the answer given by the Assistant Minister is making the situation worse. It shows that the Government is not committed to improving these roads. The amount of Kshs3 million set aside for Kachibora-Sibanga Road is like a drop of water in the ocean. Right now, there is a lot of muram on that road, which is making it worse. I do not know why the Government is not using tar, instead of muram, to repair these roads.

Secondly---

**Mr. Speaker:** Order! Order, Mr. Kutuny! We allow one supplementary question at a time. You have developed your first supplementary question very well. Let the Assistant Minister answer.

**Mr. Kutuny:** Mr. Speaker, Sir, on the Eldoret-Ziwa-Kitale Road---

**Mr. Speaker:** Order! You have asked that supplementary question. You spent about one-and-half minutes to do so. Allow the Assistant Minister to respond.

**Mr. Kinyanjui:** Mr. Speaker, Sir, I want to confirm that the Ministry is very serious with the maintenance of this section of the road. We can only allocate that money that has been allocated to the Ministry. We appreciate that there are constraints in terms of finances, but we will ensure that we prioritise this section of the road in the coming financial year.

**Mr. Wamalwa:** Mr. Speaker, Sir, in the last Session, the Assistant Minister promised to visit roads in this region, particularly the Eldoret-Kitale Road, and the Ziwa-Kachibora-Kitale Road. I do not know when he intends to visit those roads; because Kshs3 million is clearly insufficient for fixing those roads. When does he intend to visit the roads to appreciate the situation?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I would like to confirm to the hon. Member that, indeed, we have visited that section of the road. We are aware of the deplorable condition of roads in those regions. I want to assure the hon. Member that in the coming financial year, we will ensure that we prioritise that section of the road. I would like to appreciate that most of the other roads, especially in the Northern Corridor, have been done. Now our priority will be to ensure that the access roads to the producing areas have been taken care of.

**Mr. Speaker:** Is there anybody else who is interested in asking a supplementary question?

Last question, Mr. Kutuny!

**Mr. Kutuny:** Mr. Speaker, Sir, the Assistant Minister has stated very clearly in his reply; that the KERRA will be undertaking an assessment exercise for the cost requirement for the improvement of the roads. Could he give a specific time-frame as to when the KERRA will do the assessment and table its findings to the concerned authority? When will he take action?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I have indicated that the KERRA is undertaking an urgent assessment of the roads. I may not be able to give definite dates as to when that will be done, but “urgent” means it is already going on. As soon as that exercise is completed, we will prioritise it.

I also wish to draw the hon. Member’s attention to the fact that, that section of the road has worsened because of the Elgeyo Marakwet Forest. Loggers have been using that road to escape the Eldoret Weigh Bridge. That has made the state of that road very bad.

**Mr. Speaker:** Next Question by the Member of Parliament for Kieni Constituency!

## ORAL ANSWERS TO QUESTIONS

### *Question No.323*

#### AFFORESTATION OF ABERDARES/ MOUNT KENYA AREAS

**Mr. Warugongo** asked the Minister for Forestry and Wildlife:-

(a) what measures he is taking to ensure that areas around the Aberdares and Mount Kenya, which have continually been deforested, are rehabilitated and more trees planted to restore the water catchment base; and,

(b) whether he could consider providing funds and tree seedlings to youths in Kieni West and Kieni East districts to enable them undertake afforestation in the region.

**The Minister for Environment and Mineral Resources** (Mr. Michuki): On a point of order, Mr. Speaker, Sir. The Minister for Forestry and Wildlife is not here, but he has authorised me to answer the Question on his behalf. So, I am seeking your permission to proceed.

**Mr. Speaker:** Permission granted!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Speaker, Sir, I beg to reply.

(a) In our effort to ensure that the Aberdares and Mount Kenya water towers are conserved, and that the degraded areas within the forest reserves rehabilitated, my Ministry, in collaboration with the local communities, development partners and other stakeholders, have been actively undertaking tree planting and other conservation measures geared towards restoration of the water catchment areas.

(b) My Ministry, through the Kenya Forest Service (KFS), has been engaging the youth in the afforestation programme, both in Kieni East and Kieni West districts, in Government and donor-funded programmes. In this endeavour, through the *Kazi kwa Vijana* Programme Phase I, the Ministry engaged 342 youths in afforestation programmes in the two districts. However, the tree planting programme was hampered by lack of sufficient rains and will resume as soon as the situation improves. During Phase II of the *Kazi Kwa Vijana* (KKV) Programme, the Ministry intends to plant trees in public degraded lands, institutions and water catchment areas. These activities will again be accomplished through engagement of youth in the two districts.

**Mr. Warugongo:** Mr. Speaker, Sir, the answer given by the Minister is okay but he should explain to this House--- The project has stopped and as we are talking, there is

nobody on the ground to plant trees? When we shall have the youth back to plant the trees. I am talking about areas next to the forest and the forest; both on the side of Mt. Kenya and Mt. Aberdares. These are areas like Gakanga, Belle vue, Kafaru, Gakawa, Kiamathaga and other areas which have been left without a single tree standing.

**Mr. Michuki:** Mr. Speaker, Sir, in my reply I did refer to Phase II of the programme. Under this phase, about 55 hectares of land are going to be planted with trees at a cost of Kshs650,000 and will employ 100 youths from the two districts.

**Mr. Kiuna:** Mr. Speaker, Sir, I would like to thank the Minister for answering this Question. However, I would request him to state what the Government is doing about the Mau Forest Complex issue. I come from the northern part of the Mau Forest Complex where we have been waiting for the implementation of the Task Force Report. Its recommendations were even endorsed by the Cabinet. We have not seen anything on the ground. How long will the Government take to make sure that the northern part of the Mau Forest Complex is replanted with trees?

**Mr. Michuki:** Mr. Speaker, Sir, although the Mau Forest Complex has similar characteristics that obtain to the problem in Mt. Kenya and Mt. Aberdares, it is an entirely different Question. However, I would like to say that there is a programme to replant Mau Forest Complex as soon as the current problem has been concluded.

**Dr. Otichilo:** Mr. Speaker, Sir, I would like to know from the Minister what long term programme they have for reforestation of water catchment areas in the country. This problem in Mt. Aberdares and Mt. Kenya is widespread in the whole country. What long term programme does the Government have for the rehabilitation of these areas? These areas include places like Ebusiekwe Hills and Maragoli Hills in Emuhaya and Vihiga respectively.

**Mr. Michuki:** Mr. Speaker, Sir, I had hoped that the hon. Member would bring an entirely different Question on that. I have no brief to advise him. However, his question requires more time than the time available during Question Time.

The Ministry of Forestry and Wildlife together with the Ministry of Environment and Mineral Resources have plans to plant 7.6 billion trees in the next 20 years on 4.1 million hectares of land. We are looking for funds for this. We shall be using 35,000 primary and secondary schools that will prepare tree nurseries all over the country. The school programme requires Kshs3.5 billion to provide water tanks and harvesting material because we have to harvest water. At the same time, it is intended that we shall employ the services of 6,500 women groups and 4,300 youth groups. So, there is a programme.

**Mr. Ruteere:** Mr. Speaker, Sir, while I appreciate the efforts of afforestation, especially in lower Imenti Forest, is the Minister aware that the exercise is being put in futility because camels are being grazed in the forest? Has the Government allowed camels to enter Imenti Forest as grazing ground?

**Mr. Michuki:** Mr. Speaker, Sir, we have not allowed anyone, camels or goats to destroy forests. It is an offence to interfere with forests. I am sure that if the matter is properly brought to the attention of the Ministry, we have adequate forces to deal with the problem.

**Mr. Warugongo:** Mr. Speaker, Sir, the Minister has mentioned that he will spend Kshs650,000 and employ members of about 4,300 youth groups to do that work. The area we are talking about is quite expansive. It will require about 10 million to 20 million



seedlings. I am talking about the area around Laikipia, Kieni and Mathira on the side of Mt. Kenya. On the other side is the Mt. Aberdares. You know how long the Aberdare Ranges are. We will need not less than 10 million to 20 million seedlings to plant in that region so that we can have enough water in the future. Could the Minister adjust these figures; and when is this work going to start?

**Mr. Michuki:** Mr. Speaker, Sir, I hope Mr. Warugongo noted what I said before. Namely, that the programme was there, it was interrupted due to lack of rains. Now the rains are back and within the two districts, it is intended that over Kshs2 million will be used this year to plant 82 hectares of degraded regions in the areas that he now mentions. So there is a programme, the details of which will be available to him if he cares to come to the Ministry.

**Mr. Speaker:** Next Question, Member for Garsen!

*Question No.341*

TOTAL COST OF TEAMS PROJECT

**Mr. Mungatana** asked the Minister for Information and Communications:-

- (a) what is the total cost of the recently launched East African Marine Systems (TEAMS) project;
  - (b) when the project will start actual operations;
  - (c) what security measures are in place to ensure safety of the fibre optic cables;
- and,
- (d) what steps he is taking to ensure optimum use of the facility, considering that very few Kenyans own computers.

**The Assistant Minister for Information and Communications** (Mr. Godhana): Mr. Speaker, Sir, before I reply, I wish to apologise for not being able to respond to this Question twice or three times previously. This was not deliberate; but it was because of the busy schedule within the Ministry that could not allow any of us to be available for the last two or three occasions.

It was not intentional, but because this House and country in general, have given the Ministry of Information and Communications the mandate to spearhead the achievements of the objectives of Vision 2030. For that reason, we are really on our toes. But the fruits of hard work---

**Mr. Speaker:** Order Mr. Assistant Minister! Failing to be present in the House to answer a Question on three occasions is not illustrative of a Ministry that is on its toes to achieve vision 2030. That explanation, I am afraid, is not tenable, but proceed to answer, if you have the answer now.

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

The Member for Garsen, Mr. Mungatana, wanted to confirm with the Ministry (a) the total cost of the recently launched The East African Marine System Cables, (TEAMS) project (b) when the project will start actual operations (c) what security measures are in place to ensure safety of the fibre optic cables, and (d) what steps the Minister is undertaking to ensure optimum use of the facility, considering that very few Kenyans own computers.

(a) The total cost of the recently launched East African Marine Systems Cables was US \$105 million.

(b) The project started actual operations on the 21<sup>st</sup> August, 2009.

(c) The fibre optic cable is armoured and buried in the seabed so as to ensure its safety. The landing stations are also manned and protected 24 hours. However, accidents do occur, especially if big ships anchor on the cable's path; that can be detected and repairs can be done.

(d) My Ministry has put in place the following mechanisms to ensure optimum use of the facility.

(1) We have initiated a one-million laptop project, which aims at ensuring that as many citizens as possible across the country have hardware to access and utilize broadband available through the cable. The private sector have also taken up this project and are implementing it.

(2) We have laid a National Terrestrial Fibre Optic Infrastructure (NOFBI) network to distribute broadband country wide as well as link neighbouring countries to our cable network.

(3) We have introduced mobile computer laboratories in all constituencies. However, this initiative is under consultation with members of Parliament.

(4) A general awareness campaign on the benefits of this cable has been launched.

(5) We have launched broadband support to universities, colleges, schools and Government institutions.

(6) The Ministry has also initiated digital villages, and the last mile connection initiative under Phase II of the NOFBI, which aims to bring connections directly to Kenyans in their homes.

**Mr. Speaker:** Member for Garsen!

**Mr. Mungatana:** Mr. Speaker, Sir, first of all I would like to thank the Assistant Minister for bringing the fibre optic cable into operation in Kenya, because previously we had a lot of problems with the call centre operators using the old technology, which used to have the problem of latency. But now that the Government has spend US Dollars 105 million, what has it done in a practical manner to tap into the 109 billion dollar call-centre outsourcing business worldwide? We have learned from the facts available that India is doing 39.6 billion, Philippines is doing 3.26 billion, and Kenyan entrepreneurs, after the Government has spent that kind of money, are doing US\$105. What has the Government practically done to assist local entrepreneurs who want to set up call centres and outsourcing business, so that we can create the number of jobs that the Government has targeted to create for the youth of this country?

**Mr. Godhana:** Mr. Speaker, Sir, the Ministry has just completed the Phase 1 of training applicants, and we have already started evaluating the proposals by the graduands. Soon we will be able to facilitate acquisition of loans through the World Bank, so that they can set up these villages in the 210 constituencies. Over and above that, we have already initiated some pilot projects on the same in Garissa, Malindi, Mukuru and other places. About the call centres, I know even Mr. Mungatana, although I cannot prove it, knows there are some few call centres in his constituency. I believe that given the pace at which we are moving, we can attain the expectations of Mr. Mungatana.

**Mr. Langat:** Thank you Mr. Speaker, Sir. The Assistant Minister has said that as part of increasing the optimum use of this system, they are introducing mobile

laboratories. What feasibility studies were done before these mobile laboratories were introduced, so that we do not introduce white elephants in our constituencies?

**Mr. Godhana:** Mr. Speaker, Sir it is not the intention of the Ministry to bring on board white elephant projects in Kenya. What I said in my reply is that we are still negotiating to see how viable the mobile computer laboratories are. We have not yet established them. We are trying to look into the issue so that at the end of the day, it does not become a loss to the country.

**Mr. Letimalo:** Thank you Mr. Speaker, Sir. Could the Assistant Minister tell the House the implementation period of this project and whether or not it is going to connect the entire country, or it is going to be in phases.

**Mr. Godhana:** Mr. Speaker, Sir, the National Fibre Optic Infrastructure is supposed to connect the 210 constituencies. In each constituency we intend to have one digital village. So eventually each constituency will be connected to the fibre optic cable.

Currently we are working on meeting the challenges of the last miles, going beyond the constituency headquarters; we are exploiting other technologies like internet over power line and satellite communication to address that one. That one is supposed to go hand in hand with the electrification programme by the Government. So I have no doubt that your concerns will be addressed.

**Mr. Mungatana:** Mr. Speaker, Sir, you remember that during the Budget, there was a proposal to create what the Assistant Minister is cleverly calling “mobile computer laboratories.” which were just buses to carry computers into our constituencies. The issue was that the bus itself, its maintenance and everything would cost more than the computers which were to be carried in it. Could the Assistant Minister assure this House that he will re-allocate the funds for buying those buses and the white elephant project into a fund that will be used to buy computers to schools in various constituencies so that public money can be optimally utilized and not wasted in funny ventures?

**Mr. Godhana:** Mr. Speaker, Sir, we will look at that proposal amongst the many floated. I have said that the Ministry is consulting with the Departmental Committee on Energy, Communications and Information and once we arrive at a decision which we feel is the best way forward, we will go by it.

*Question No.412*

COUNTRYWIDE EXPANSION  
OF PRISON FACILITIES

**Mr. Omollo** asked the Vice-President and Minister for Home Affairs:-

(a) whether there are programmes to expand prison facilities in the country to cater for the rise in population and crime rate;

(b) what security arrangements are in place to curb spread of various categories of diseases including HIV/Aids, considering the immoral acts that are rampant in prisons;

(c) whether the Community Service Order (CSO) and Probation Service (PS) sentences are working free of corruption, and whether there have been gains arising from the operationalization of these orders; and,

(d) when the Government will establish GK Prisons in Uriri District.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) The Office of the Vice-President and Ministry of Home Affairs has plans to expand prison facilities in the country; indeed, in all district administrative centres. Already four new prisons have recently been constructed. A construction of nine others is also in progress. The Ministry has also completed construction of new inmate accommodation blocks in existing prisons with the latest completion in 12 stations. Thirty six others are currently under construction. Beyond expansion of prison facilities, the Ministry is exploring other methods to ease inmate congestion, particularly the PS and CSO programmes under which offender correction is undertaken on non-custodial basis.

(b) Some prisoners, both remand and convicted, are usually admitted in prison already with infectious and ill health quite akin to what obtains in the communities that such inmates will have come from. Prison authorities, therefore, conduct medical examinations including VCT on all incoming prisoners as quickly as possible and commence treatment where applicable besides holding cases of infectious disease such as TB in exclusive facilities. The Prisons Department also runs sensitization programmes to control the spread of HIV/AIDS; intensive surveillance systems are applied to deter potential cases of unbecoming or abnormal behavior.

(c) The CSO and PS including the after-care programmes run smoothly on the highest possible standard of professional integrity. Furthermore, the Ministry has very strong corruption prevention structures and programmes including specialized committees, appointment of integrity assurance officers and open-day activities. Thirteen cases of professional misconduct were reported in the last 10 years since the CSO programme began. Five of the cases were found to be invalid, four were removed from the service and four are before the courts. Tremendous gains have, therefore, accrued since bringing into operation of the CSO programme. The programme serves about 52,000 offenders every year and has so far served a total of 520,000 offenders since its inception in 1999.

These huge figures translate into cost-saving since this population would have had to be maintained in custody at the expense of the taxpayer. The CSO programmes help to maintain family ties and values between the offender and the kith and kin. These are ties that could have been severed in case of custodial sentence. The programme is flexible enough to allow the offender to continue with usual employment and fend for family and dependants. The programme affords the community a sense of justice since the offender pays reparation through work on community projects. The programme also creates opportunity for employment in that some offenders are eventually offered formal employment and retained at the local institutions.

(d) A prison facility will be established in Uriri District in accordance with the existing plan of the Ministry to establish a prison facility in every administrative district and more so where we have a magistrate court nearby. However, the programme is heavily dependent on the availability of funds, the land upon which the facility can be situated and on the hierarchy of priority that is in turn based on proximity to an existing facility. Meanwhile, districts without a prison will continue to use one or others that are nearest to them. In the case of Uriri District, construction work will commence as soon as funds and land are available and in consideration of allocation over needs of the district

in the hierarchy of priority. Meanwhile prisoners from Uriri are accommodated at Migori Prison which is 15 kilometres away. Furthermore, Migori Prison is one of the facilities that are actually not congested. It has a holding capacity of 500 men and 100 women whereas its current occupancy is 369 men and 23 women respectively.

I would like to very quickly add that as the first step, the District Development Committee in the hon. Member's constituency should set aside land and ask us to provide the money for the construction of a prison facility. Of course, if you have the "tools", we will give you the funds.

**Mr. Omollo:** Mr. Speaker, Sir, I thank the Vice-President and Minister for Home Affairs for that detailed answer. Now that he has said that if we have land in Uriri, they can build a prison in that constituency, I confirm to him that Uriri is now a district with its headquarters in Uriri Shopping Centre. That district has land and he can build a prison there.

What has the Government done now that it has been confirmed that there is an outbreak of cholera and other diseases in our prisons countrywide? Could the Vice-President and Minister for Home Affairs consider putting up fully-fledged medical facilities in all our prisons?

**Mr. Musyoka:** Mr. Speaker, Sir, on the question of land, I thank my colleague, Mr. Omollo and request him to do that in writing. Since there is land, we will talk to our friends in the Treasury so that we can consider establishing a prison in Uriri Constituency in the next financial year. However, the hon. Member should bear in mind, and this is on a light touch, that he should not be loud about this because his constituents will say that he wants to get them into prison. This is a matter he has to be pretty careful about. However, you create employment opportunities with the establishment of a prison facility.

Secondly, I will issue a Ministerial Statement on cholera outbreak in our prisons soon after this.

**Mr. Mwadeghu:** Mr. Speaker, Sir, at one time, the Vice-President and Minister for Home Affairs had promised to relocate Wundanyi Prison to some other place. Could he donate it to Uriri because that prison does not reflect the criminal behaviour of the Taitas? We are surrounded by three Government of Kenya (GoK) prisons and we do not need them. Could he consider taking Wundanyi Prison to Uriri?

**Mr. Musyoka:** Mr. Speaker, Sir, the very action of relocation might end up being as expensive as giving Uriri its own prison. Besides, I think the Member for Wundanyi would be well advised to check when we actually sent some transport. There was absolutely no transport for the officer in charge and other officers in Wundanyi. I thought the Member for Wundanyi would actually be thanking us for having moved very swiftly to sort out transport problems in that place. I am sure if you check with the people on the ground, they will not want to hear of relocation.

**Mr. Olago:** Mr. Speaker, Sir, one of the oldest and largest prisons in Kenya is Kodiaga Prison in Kisumu, which was designed for 800 inmates. But, now, it accommodates in excess of 8,000 inmates. What is the rationale behind building or expanding other prisons, when the Ministry is not improving conditions and affordability of health in Kodiaga Prison?

**Mr. Musyoka:** Mr. Speaker, Sir, my learned friend knows that when I last attempted to answer a supplementary question from him, both of us agreed to visit

Kodiaga Prison. I was able to honour that promise, but I think my learned friend had difficulties in catching up with me. He knows that we have an outstanding appointment to try and discuss Kodiaga Prison. The figure is not actually in excess of 8,000, but about 5,000. I can confirm to this House that the total prison population countrywide today is just about 47,000. This figure oscillates between 47,000 and 50,000 inmates.

*(Loud consultations)*

**Mr. Ochieng:** On a point of order, Mr. Speaker, Sir. Members are consulting very loudly. We cannot hear what the Vice-President and Minister for Home Affairs is saying.

**Mr. Speaker:** Order, hon. Members! Will you, please, lower the level of your consultations so that the Vice-President and Minister for Home Affairs can be heard?

**Mr. Musyoka:** Mr. Speaker, Sir, my good friend and old boy of Kitui School has done me proud. I can understand why hon. Members do not want to discuss matters relating to prisons. It is the last place that one wants to visit. But I think it is important because we are discussing the plight of citizens of this country, who are currently resident in our prison institutions. Therefore, I consider this a very important matter.

Mr. Speaker, Sir, I was just responding to hon. Olago. I had said that Kodiaga Prison will receive very special consideration. Already, we have actually set up a meeting where we are going to discuss, in some greater detail, what we will do at Kodiaga Prison. My friend, the Minister for Medical Services, has actually agreed with me that in Kodiaga and Kamiti prisons, we need fully-fledged district hospitals in order to deal with the plight of some of the inmates who become sick because of the large population.

**Mr. Speaker:** Last question, Member for Uriri!

**Mr. Omollo:** Mr. Speaker, Sir, I want to ask the Vice-President and Minister for Home Affairs what happened to the reform programme which was initiated by his predecessor. Was the programme meant to give television sets and executive buses only or was it also geared to offer medical facilities and expand our prisons?

**Mr. Musyoka:** Mr. Speaker, Sir, the programmes initiated by my predecessor, Uncle Moody, have actually been intensified. Wherever we go, of course, we do receive requests for several of those things, including television sets. But when we took over, we realized that we had a problem, for instance, with bucket toilets, which is what prison officers were using in several of our institutions. We have now gotten rid of those. We also realized that inmates were using pieces of mattresses as well as blankets as toilet paper when they were in custody. All those things are now history. As I said, we have actually intensified the reform process. We are committed to implementing the report by Maj. Madoka. I think the House realizes that I actually tabled the report of the Madoka Committee before the House. That is what we are following as a blue print.

*Question No.039*

NUMBER OF LBDA PROJECTS  
IN MARAKWET DISTRICT

**Mr. Kaino** asked the Minister for Regional Development Authorities:-

(a) whether he could provide the list of projects undertaken by the Lake Basin Development Authority (LBDA) in Chebiemit, Kapcherop and Kapyego divisions in Marakwet District; and,

(b) what steps he will take to ensure that the projects benefit the local community.

**The Assistant Minister for Regional Development Authorities** (Mr. ole Metito): Mr. Speaker, Sir, I beg to reply.

(a) The three divisions are within the Cherangany Hills Watershed which is experiencing environmental degradation due to encroachment by settlers and logging. However, the Authority has developed a project proposal for conservation interventions and is currently sourcing for funds. Meanwhile, three tree nurseries with a capacity of producing an average of 100,000 seedlings per year have been established at Sambirir, Kabetwa, Kapyego and Cherangany to address the environmental concern.

(b) The Ministry has put the Authority under a performance contract in which development projects, programmes and activities are part and parcel of the performance targets that the board and management of the Authority are expected to implement within a stipulated time frame. In addition, the board is under instructions to ensure that they implement projects that impact positively on the surrounding community.

**Mr. Kaino:** Mr. Speaker, Sir, it is now two decades since LBDA was started. It appears that it was designed for only some specific regions. Is the Assistant Minister aware that, even after 20 years, there is nothing on the ground? Not even a tree nursery has been developed in Cherangany Hills by LBDA?

**Mr. ole Katito:** Mr. Speaker, Sir, that is true and the hon. Member has correctly put it. But the problem is that Marakwet East and Marakwet West constituencies are under two regional development authorities; the Kerio Valley Development Authority (KVDA) and the LBDA. I think there has been some misplaced understanding in terms of the boundaries; where each authority covers in the district. But I have assured the hon. Member that, that is going to be a thing of the past because there is a section around Cherangany that has been left by both development authorities and the boundary has now been put very clearly. I have also assured the hon. Member that we will be with him on the ground to ensure that conservation--- I am so much inspired by the hon. Member because he is really supporting our conservation efforts. We are going to ensure that through the two regional development authorities, conservation efforts will be undertaken.

**Mr. Speaker:** Last question, Member for Marakwet West!

**Mr. Kaino:** Mr. Speaker, Sir, I thank the Assistant Minister for acknowledging the problem that has been there. We have been put between KVDA and LBDA. Now that he has understood that there is a problem, when will he come to the ground to understand the problems that are affecting the people? He had promised to do that.

**Mr. ole Metito:** Mr. Speaker, Sir, as I said earlier, I have a commitment with the hon. Member that in the forthcoming recess, I will be on the ground and we will ensure that the disparities are corrected.

**Mr. Speaker:** Next Question by the Member for Ikolomani!

### QUESTION BY PRIVATE NOTICE

MEASURES TO ADDRESS SOFA PAKA/AFC

## LEOPARDS FINANCIAL PROBLEMS

**Dr. Khalwale:** Mr. Speaker, Sir, for the second time, I rise to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Is the Minister aware that two Kenyan community football clubs, AFC Leopards and SOFAPAKA, which have qualified to represent Kenya in continental championships risk failure to participate due to financial constraints?

(b) What is the Minister doing urgently to arrest the above threat since the two teams have to immediately go into camp for training?

**Mr. Speaker:** Is the Minister for Youth Affairs and Sports not yet here? Mr. Vice-President and Minister for Home Affairs, we appear to have a chronic problem with this Ministry. Can you hold brief for them and give an account?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I want to register my sincere apologies to the hon. Member for Ikolomani. I give an undertaking that I will be taking up this matter with the Minister for Youth Affairs and Sports, Prof. Sambili, and if it is possible to have it heard next week.

**Dr. Khalwale:** Mr. Speaker, Sir, the two Assistant Ministers in the Ministry of Youth Affairs and Sports are on record as having said that they are not going to answer any Questions on behalf of the Minister, because of their domestic problems in the office. Could the Chair kindly direct that the Office of the Prime Minister - I saw his deputy here - takes over and answers the Question, since he is responsible for supervising the Ministries?

**Mr. Speaker:** Order, hon. Members! I will defer this Question to Tuesday next week and, hon. Vice-President, will you, please ensure that the Ministry responsible comes to offer an explanation as to why apparently - and mark that word "apparently" - the Ministry is not functioning?

*(Question deferred)*

**The Minister for Environment and Natural Resources** (Mr. Michuki): On a point of order, Mr. Speaker, Sir. Is it in order for Dr. Khalwale to say that a matter is on record, without specifying as to whose record it is?

**Mr. Speaker:** Order! Hon. Michuki, that may very well have been a valid concern, but unfortunately, it comes too late after I have already made directions. My directions will, therefore, stand!

## ORAL ANSWERS TO QUESTIONS

*Question No.394*

LOAN WRITE-OFF FOR FARMERS  
IN MOLO CONSTITUENCY

**Mr. Kiuna** asked the Minister for Agriculture whether he could consider writing off the loans advanced to farmers in Njoro, Lare and Mau-Narok divisions, in view of the total crop failure caused by prolonged drought and post-election violence.



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

My Ministry, through Agricultural Finance Corporation (AFC), will treat each case reported on its own merit and in cases where individual clients fall into extreme distress for reasons beyond their control, the following three options will be considered:-

(a) Rescheduling of the loan where the business option is still operational.

(b) Rescheduling where it is realised that the enterprise needs fresh injection of capital to rehabilitate the incomplete project.

(c) Through negotiation with the client where the client needs more time for the repayment.

Thank you.

**Mr. Kiuna:** Thank you, Mr. Speaker, Sir. I agree with the Assistant Minister's answer, but I will ask one more question. Surely, with all the due reasons given, we have some farmers in my constituency whose properties and crops were destroyed during the post-election violence (PEV) and thereafter, they became Internally Displaced People (IDPs). When they returned to their former lands, they were caught up with the drought. Mr. Assistant Minister, surely, however, much these people would like to repay the loans, whether it is by rescheduling or by refinancing; how does a person who is crying for food - we are now relying on relief food---

**Mr. Speaker:** Order, hon. Member for Molo! Can you, please, come to the Question quickly?

**Mr. Kiuna:** Mr. Speaker, Sir, my question is whether the Ministry can write-off the loans for farmers in Njoro, Lare and Mau-Narok divisions because they are unable to service them?

**Mr. Mbiuki:** Thank you, Mr. Speaker, Sir. As much as the Ministry sympathizes with the situation in Molo arising out of the PEV, the hands of the AFC are tied. The corporation can only undertake general write-offs of loans where authority has been granted by this House following a Sessional Paper laid on the Table.

**Mr. Mbadi:** Mr. Speaker, Sir, from the Assistant Minister's answer, I guess that the Government does not have funds to write-off these loans, and since these people were displaced because of the PEV and the substantive Minister is very effective in mobilizing Harambee, can the Ministry consider organizing Harambee to finance these loans instead of writing them off?

**Mr. Mbiuki:** Mr. Speaker, Sir, Harambee are not in the docket of the Ministry of Agriculture. The hon. Member can direct his energy somewhere else.

**Mr. Kutuny:** Thank you, Mr. Speaker, Sir. I welcome the efforts the Government is making to save the farmers from this disaster. Could the Assistant Minister extend the same gesture to some other parts of the country? It is not only parts Njoro and Mau-Narok divisions, which were affected because of failure of rain; but there are other parts of the country which were also affected. There have been a lot of crises where farmers are not going to harvest because of lack of rain.

**Mr. Mbiuki:** Thank you, Mr. Speaker, Sir. The efforts which I have just stated are available across the entire country. Those are the options which the AFC undertakes in the entire country to bail out the farmers or the clients, who are in distress. So, the clients can just visit the AFC and renegotiate on the best options so that they can be able to move forward with their business.

**Mr. Wamalwa:** Thank you, Mr. Speaker, Sir, for the opportunity. The Assistant Minister has indicated that they only write-off loans with the approval of this House. Is the Assistant Minister aware that there was a resolution by the House that the AFC loans be written-off because of what the farmers went through during the PEV in the last session? If so, why have they not brought a Sessional Paper for approval by this House?

**Mr. Mbiuki:** Thank you, Mr. Speaker, Sir. Yes, there was a general write-off of the AFC loans, which was carried out in 2004, after the approval by Parliament, through Sessional Paper No.1 of 2002 for the farmers affected by drought and other natural circumstances. There is a due process which AFC follows before the write-offs can be done. As at now, due to the PEV, the AFC is doing the due diligence to determine which loans cannot be repaid. Thereafter, they will give us a report which will be forwarded to the Cabinet and subsequently a Sessional Paper will be generated and presented to this House. Once the Sessional Paper is approved, we can comfortably start a process of writing-off the loans.

**Mr. Kiuna:** Mr. Speaker, Sir, I do agree with the Assistant Minister, but I will request him whether he can replicate what the Minister for Health did. He ordered the write-off of the bills of those patients who were detained at the Kenyatta National Hospital, because they are in the same Government. Even the Minister for Agriculture can do the same and write-off these loans for these Kenyans who are dying. They do not have anything. Their small farms will be auctioned. Mr. Assistant Minister, can you be serious? If that is not the case---

**Mr. Speaker:** Order, hon. Kiuna! Mr. Assistant Minister, do you have any response?

**Mr. Mbiuki:** Mr. Speaker, Sir, I sympathize with the people who were mostly affected by the PEV. We anticipate further problems due to the issues which are coming up in the Mau Complex because most of the farmers will be moved forcibly out of their land, as their title deeds are charged. Once they move out of Mau area, they will not be able to repay loans. So, once the Government's resettlement programme is complete, we shall be able to move forward and do a Cabinet Paper. Once we get the authority of this august House, we will be able to decide the fate of all those loans.

Thank you.

**Mr. Speaker:** Order, hon. Members! Because where we have reached we are on time, I am afraid, that will bring us to the end of Question Time. The last two Questions are deferred to Wednesday next week.

*Question No.509*

ABANDONMENT OF KAMUTHATHA-NDATU  
ROAD PROJECT

*(Question deferred)*

*Question No.529*

UPGRADING OF KHUNYANGU  
SUB-DISTRICT HOSPITAL

*(Question deferred)*

**Mr. Speaker:** We have two Ministerial Statements to be delivered. We will begin with the Vice-President and Minister for Home Affairs.

Next Order!

## MINISTERIAL STATEMENTS

### CHOLERA OUTBREAK AT KAMITI MAXIMUM SECURITY PRISON

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Thank you, Mr. Speaker, Sir. I wish to make the following Ministerial Statement in accordance with the direction of the Chair. The Ministerial Statement has to do with the outbreak of cholera at the Kamiti Maximum Security Prison.

The Ministry of Home Affairs confirms, with much regret, the outbreak of what has since been diagnosed to be cholera at the Kamiti Maximum Security Prison on the nights of 20<sup>th</sup> and 21<sup>st</sup> November 2009. The outbreak was first reported in Block B of the inmate residential quarters where it presented itself initially in the form of diarrhoea and vomiting. The condition spread to other prisoners and also to other blocks namely blocks A, E and F. A total of 59 inmates have been affected by the outbreak. In all the cases, prison authorities evacuated the affected persons to the prison healthcare facility for observation and treatment. Some 14 patients required close observation and they were transferred to Kenyatta National Hospital. However, by the next morning, which was Sunday 22<sup>nd</sup>, the number of those affected prisoners had increased to 73, with two more being referred to Kenyatta National Hospital. The number of affected inmates had risen to 81 by the end of that day. No new cases have since occurred. That is to say that the cholera outbreak had by Sunday evening been brought under complete control. The current status is that all patients admitted for cholera treatment have been discharged. However, six patients remain admitted at the Kenyatta National Hospital and one at the Kamiti Maximum Prison Hospital on treatment for other non-cholera related illnesses.

Out of the 81 cases of the infections, nine succumbed to the attack and passed away. The first death occurred at about 5.00 a.m. on Saturday, 21<sup>st</sup> November, the second at 6.00 p.m., the third at 6.30 p.m., the fourth at 10.00 p.m., the fifth at 10.15 p.m. and the sixth at midnight. The seventh death occurred on Sunday 22<sup>nd</sup> at 1.00 a.m., the eighth at 1.30 a.m. and the ninth at 9.20 a.m. Prison authorities commenced remedial measures when the incident was first reported to the night guard. The problem was dealt with by a team of high ranking officials from relevant technical departments of Government to take three professional measures.

The first measure was to transfer the affected persons to hospital and to commence treatment immediately. The second measure was to prevent the spread of the infection to other prisoners as well to the officers through administration of a prophylaxis or doxycycline. The third measure was to investigate the cause and source of the infection. The experts involved in this investigation included the Director of Public Health and Sanitation, the Provincial Medical Officer, the City Council Chief Medical

Officer, the Director of Health Services in the Kenya Prisons Service, the Director of Water in the Ministry of Water and Irrigation, the Chief Executive Officer of the Nairobi Water and Sewerage Company and the Commissioner of Prisons. The team of experts reached important findings.

(a) The team found that the infection was cholera, caused by vibrio cholera, a highly contagious bacterium that is spread orally through contamination of water or food. Cholera is reputed to attack very swiftly without warning and the period between onset and fatality can be as brief as 45 minutes. Typically, it can be between 45 minutes and four hours.

(b) The team found out that the source of infection was a newly admitted inmate who was a healthy carrier of the bacteria.

(c) The team tested the water consumed and used at the prison both from the borehole and from the Nairobi Water and Sewerage Company and both samples were found to be bacteria free and safe for human consumption.

(d) The team found out that the spread of the infection was not due to congestion - although the prison is highly congested; it has a capacity of 1,300 inmates but, today, holds 3,100 inmates.

(e) The doctors found out that many of the cases that had resulted in death had prior health conditions that complicate the management of cholera. Three of the dead inmates, for instance, were already physically weak and on anti-retroviral medication. Two were anaemic and on malaria treatment. Two were in an advanced age of approximately 70 years and were fairly weak. One had chronic liver disease, commonly known as cirrhosis.

(f) The team also found out that the health facility at the Kamiti Maximum Prison required upgrading to a district hospital status to cope with the difficult situations that occasionally arise.

The Minister has since commenced plans to expand that facility. As I said earlier, this includes Kodiaga Prison in Kisumu.

**Mr. Njuguna:** Thank you, Mr. Speaker, Sir. Once again, I would like to direct a question to the Vice President. Aware that this problem has been unprecedented and the whole thing has been triggered by serious congestion at the prison hospital, aware that we have lost 18 lives at the prison, could he, or the Ministry for that matter, consider giving financial assistance to the families affected because I know that some of the relatives of the prisoners at the Kamiti Maximum Prison are very poor, indeed? That is in terms of supplying coffins and any other assistance that may be required.

**Mrs. Noor:** Mr. Speaker, Sir, I would like to thank His Excellency the Vice-President and Minister for Home Affairs for giving that response and the immediate measures they have taken as a Ministry. I would like to know what long term measures they are putting in place to prevent such a disaster from taking place in our prisons. We understand that the hygiene situation at the prison is wanting and the sanitation is also not good.

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Speaker, Sir, just a correction on what my friend, Mr. Njuguna has said. There were nine deaths and not 18. If he is interested, I could read out the names. However, I do not think that is of interest at this particular time.

Yes, we will do whatever it takes to help the families that were affected in terms of carrying out the burial arrangements. With regard to hon. Noor, as the Chairperson of the Departmental Committee dealing with prison matters, I would like to invite her to feel free to accompany us in the Ministry and look at--- I can confirm that some of the situations in our prison services are really wanting. We are doing whatever it takes to first of all tell our prisoners that they need to wash their hands after going to the toilet. However, what you call a toilet inside the room is an issue by itself. I think we have to consider that there is great need to improve the prison cells in this country. That is a matter that comes with budgetary implications. We will be talking to the Treasury. I know that hon. Noor and her colleagues in the Departmental Committee are very supportive of us doing something. We are even looking at possibilities of doing some model prisons on the basis of Build, Operate and Transfer (BOT). However, we have not reached a stage where we can privatize the Prisons Service. If we can privatise like it has been done in the United Kingdom (UK) and a few other countries, I am sure that the standards of hygiene will similarly improve.

Having said that, we are doing the best we can within the available resources to make sure that we contain any situation as it arises. In this case, I visited the affected prisoners at the Kenyatta National Hospital (KNH) and found that the problem was not restricted to Kamiti Maximum Prison. The healthy carrier I referred to may have come from places like Gikomba where there are cases of cholera outbreak. Other places where there is an outbreak of cholera are Dandora and Mathare. When we visited the KNH, we found 15 cases compared to 16 cases from Kamiti Maximum Prison. Therefore, you can see that the problem is national.

I was in Lodwar the previous two days when some media houses reported that there was an outbreak of cholera in Lodwar Prison. I would like to say that, that was not the case because there was a general outbreak of cholera in Lodwar Town, Turkana. I called the Ministry of Medical Services from Lodwar and they sent more drugs but I discovered to my amazement that even the fluids that are used to treat cholera patients were not available. The officer in charge of medical services had to go to Kiambu to collect the little he could get in order to save some lives. This problem has to do with procurement in the Government and we should give priority to health. When I talked to the Minister for Medical Services, Prof. Anyang'-Nyong'o, he agreed with me that there is need to provide enough funds to our public hospitals. I think there is a big problem which not only affects the prisoners but all Kenyans.

**Mr. Speaker:** The Minister for Justice, National Cohesion and Constitutional Affairs, deliver your Ministerial Statement now.

#### PROGRESS OF CONSTITUTIONAL REVIEW PROCESS

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Mr. Speaker, Sir, with your kind permission, I would like to issue a Ministerial Statement on the progress of Constitutional Review process in the country.

It will be recalled that on 17<sup>th</sup> November, 2009, my good learned friend, the hon. Member for Garsen, Mr. Mungatana, rose on a point of order to seek a Ministerial Statement on the progress of the Constitutional Review process. The hon. Member sought

clarification on the time table for the review process and confirmation of the expected date of the new Constitution. He also wanted to know whether there is merit in the request for an extension of the 30-day ongoing public debate period; whether there is merit on the agreement for a yes-yes vote; whether there is merit on the concerns for enacting the Referendum Act; the amount of money so far spent on the review process and the expected expenditure by the time of going to the referendum.

Mr. Speaker, Sir, the hon. Member again rose on a point of order on 24<sup>th</sup> November, 2009, to seek a Ministerial Statement on a number of issues which are very important to this country namely; the number of copies of the Harmonized Draft Constitution distributed around the country so far; the number of copies of the Harmonized Draft Constitution produced; structures put in place for distributing the copies; whether and when Kenyans at the grassroots will get copies and when Kenyans in the marginalized remote areas will get copies.

I owe a debt of gratitude to Mr. Mungatana for raising these very key issues and, therefore, I am pleased to respond as follows.

With regard to the time table, the Constitution of Kenya Review Act which this honourable House passed in 2008 provides in Section 32(1)(a) as follows:-

“The publication of the Harmonized Draft Constitution once made, the public would be allowed 30 days for transmitting their views to the Committee.”

The date for that exercise to start and end is 17<sup>th</sup> November, 2009. Therefore, that period is clearly set out under the law.

Section 32(1)(b) says:-

“Once the Harmonized Draft Constitution has incorporated the views of the public, the Committee of Experts (CoE) is given 21 days to consult among itself.”

In response to the hon. Member and for the benefit of the country, I am happy to say that the Committee has advised me that instead of 21 days, they are willing and would consider scaling down to 10 days only. That will take us to 7th January, 2010.

Section 32(1)(c) says:-

“Upon the presentation of the draft, which has now incorporated the public’s views, the Committee is required to hand it over to the Parliamentary Select Committee (PSC) for deliberation and consensus building.”

The PSC is given 21 days by that Section, and the completion period is 28<sup>th</sup> January, 2010.

Mr. Speaker, Sir, the Committee thinks and, of course, this is subject to what the PSC may decide, that this can be done in 10 days instead of 21 days. However, I am not sure on this. Therefore, I comfortably tell this House and the country that the PSC has 21 days to perform this task.

Section 33(2) says that after the revision of the draft has been considered by the PSC, they are given 21 days and the commencement period will be from 29<sup>th</sup> January, 2010 to 18<sup>th</sup> February, 2010. I am not at liberty to confirm whether this can be brought forward or not.

Mr. Speaker, Sir, after the consensus has been built by the PSC, Section 33(3) which is Agenda Item No.5 requires that the Draft Constitution be tabled in Parliament and a report be made to the National Assembly. Seven days are provided for that. That will start on 18<sup>th</sup> February, 2010 and end on 25 February, 2010. The House should bear in

mind that 19<sup>th</sup> February, 2010 is slotted for Parliament to receive the report on the consensus built by the PSC when it considers its recess.

The period for considering that draft by the National Assembly is 30 days under Section 33(4). That will start from 26<sup>th</sup> February, 2010 to 27<sup>th</sup> March, 2010.

Section 33(5) provides that the revision of the Draft Constitution with proposed amendments from the National Assembly--- This puts to rest concerns that this document will not be amended by Parliament which is given seven days to revise it. That will be from 13<sup>th</sup> March, 2010 to 19<sup>th</sup> March, 2010.

Mr. Speaker, Sir, under Section 33(6)(7)(8), consensus building with the Parliament Select Committee, Committee of Experts and the Reference Group, the period is given as 14 days from 20<sup>th</sup> March, 2010 to 3<sup>rd</sup> April, 2010. The revision draft will then have to be again looked at by the National Assembly, the period commencing 4<sup>th</sup> April to 12<sup>th</sup> April, and this may not arise. It can only arise if there are any issues that have not been sorted out in the consensus seeking process. Therefore, if this calendar is followed and I expect that it will, under Section 34(1), the publication of the draft by the Attorney General is given 20 days. In my view, this can be reduced to seven days. This is under Section 34(1) and the date that we have in mind is 4<sup>th</sup> April, 2010.

Finally, Mr. Speaker, Sir, Section 33(3) provides for 60 days for the Referendum. under the calendar that we have, we contemplate that to cover the period, if the Attorney General sticks to 20 days, to be the period 6<sup>th</sup> May to 4<sup>th</sup> July, 2010. So, the final calendar will be reached on 4<sup>th</sup> July, 2010.

Mr. Speaker, Sir, let me now address the issue of extension of time. In light of the period Kenyans have waited for a new Constitution, in my estimation it is about 20 years. Further, in view of the fact that Kenyans have given their views to the Committee of Experts since March, 2009, which views have adequately been considered in the Harmonised Draft Constitution, there is little need for extending time for debate. Indeed, Parliament, in its wisdom, while enacting the Constitution of Kenya Review Act, 2008, provided for the 30 days debate period. I do not recall any member proposing a contrary period. Therefore, despite any logistical challenges in the dissemination of the Draft, the time is sufficient. In addition, both the Ministry and the Committee of Experts have received views that this process should not be extended beyond the current time for fear that it will polarise Kenyans even more.

Mr. Speaker, Sir, allow me now to discuss merits as to whether a yes-yes vote would be required. You will recall that this Act was passed by this honourable House. I am satisfied that there is no merit on a yes-yes vote. In fact, from a careful analysis of a yes-yes vote, it will be seen that it is essentially a yes or no vote. To pursue this debate is to justify why Kenyans should be balkanised and then harden their position on, for example, issues such as system of Government. Kenyans should vote for the proposed draft on its merit.

Mr. Speaker, Sir, on draft law, this is stipulated in various laws, including the Constitution. The Constitution of Kenya Review Act and any regulations that may be made thereunder, there is need for a special referendum law as a matter of urgency and allow me to use Latin *Ex Abundati cautela*--- The reason I have used Latin is because it is a legal term which means as a matter of abundant caution. This will overate the risk of the often public spirited Kenyans and legitimately so, who may want to forestall the process for purely technical reasons. Such people may base their arguments on the

interpretations of the requirements of Section 47(a)(4) of the Constitution as read together with the requirements of Agenda IV which requires that Parliament enacts a special, and I quote “Constitutional Referendum Law” to establish powers and enactment process for approval by the people in a Referendum. In other jurisdictions within the Commonwealth and outside the Commonwealth, for instance, even when there are election laws, there is always a special constitutional referendum law. This law ought not to be complicated. It is a simple legislation that takes care of the importance of replacing a Constitution. I find no reason as to why we cannot enact one.

The monies so far spent in the review process amounts to Kshs404,669,434 against a total budget of Kshs1,485,085,543. This sum, however, does not include the amount needed to conduct the referendum. Copies of the expenditure and funding estimates as well as the summarised work plan and budget for July, 2009 to June, 2010, are available, if they are required. I will be more than willing to table them.

Mr. Speaker, Sir, as concerns the Ministerial Statement sought on 24<sup>th</sup> November, I am pleased to state as follows. That prior to the release of the Harmonized Draft Constitution, the Committee of Experts produced 1,700,000 copies of the Draft. Some of these copies were distributed during the unveiling at KICC on 17<sup>th</sup> November, 2009. The Committee is producing a further four million copies by tomorrow, 27<sup>th</sup> November, 2009. The Draft is available in both English and Swahili languages. It is in hard print, electronic and Braille format.

Mr. Speaker, Sir, upon release of the draft, there has been intensive countrywide debate on the content as evidenced in both print and electronic media. This is despite the Committee’s uphill task of disseminating the Harmonized Draft which they intend to do at three levels. These levels include national, provincial and district, as well as the marginalized areas. At the National level, the Committee of Experts structured its distribution as follows:-

1. Through partnership with National organizations, civil society organization and grassroots networks countrywide such Uraia, Catholic Justice and Peace Commission, Action Aid, the Pastoralists Development Network , just to mention a few.

2. They are also using the media in both print and electronic formats. The Committee of Experts printed inserts of the draft on all major dailies, including *The Daily Nation*, *The Standard*, *The Kenya Times*, *The Star* and *The People*. In addition, the Committee has secured full slots for the whole 30 day period with various television talk shows and FM Stations where they are disseminating the draft document to Kenyans from all walks of life.

3. Through Committee of Experts Website. The Committee of Experts website witnessed the highest traffic ever on 17<sup>th</sup> November, 2009, when the document was launched. As at 11.00 a.m. on that day, the number of visits to the website per 30 seconds was 1,073 and by midday, the site was completely inaccessible due to high traffic that stalled the website for hours. The peak on 17<sup>th</sup> November, was seven times more compared to an ordinary day. The jam prompted frantic efforts by the public and groups from various sectors in the form of phone calls as they sought to know how else they could get the just released draft. Responding to the crisis, the technical team at the Committee moved the website to an independent local service provider which has got a bigger bandwidth capacity than the Committee in a bid to handle the traffic and restore the Committee of Experts website connection. What was witnessed in the web is a clear



indication that the release of the draft was anticipated by many Kenyans and many have accessed it. Between 17<sup>th</sup> November, 2009 and 18<sup>th</sup> November, 2009 morning, 4,900,000 people visited the website. This implies that, certainly, more than 4 million Kenyans have had access to the soft copy of the draft despite the demand for hard copies. At the provincial level, the Committee has dispatched copies of the Draft Constitution to all the eight Provincial Commissioners so that all the District Commissioners, District Officers and Chiefs can disseminate this to the public. This information was given to the public through local FM radio stations.

Mr. Speaker, Sir, as regards the marginalized areas - this is a very important segment of our country - the Committee appreciates the difficulties in accessing such parts, owing to infrastructural challenges and adverse weather conditions. Consequently, the Committee has sought through my Ministry, Government assistance for provision of air transport to enable the distribution of the draft document. The Ministry of Justice, National Cohesion and Constitutional Affairs has, in turn, formally requested the Ministry of State for Provincial Administration and Internal Security to facilitate the use of air transport for the said distribution. I can confirm that I have received assurances that they are only waiting for the Committee of Experts' (CoE) schedule on distribution and then through suitable arrangements with either the Kenya Wildlife Service (KWS) or through the military choppers, documents will be forwarded as follows: The facility will take these documents to the following marginalized---

**Mr. Speaker:** Order! Order, Mr. Minister! How long do you still have to go?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Speaker, Sir, I have another five or six minutes.

**Mr. Speaker:** Can you restrict yourself to seven minutes! If you please, look at the clock?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): I will, Mr. Speaker, Sir.

**Mr. Speaker:** We will finish at 4.30 p.m. You must stop that Statement.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): I will, Mr. Speaker, Sir. You know how much I respect your ruling.

Mr. Speaker, Sir, it is important that I mention that Mandera, Wajir, Moyale, Marsabit, North Horr, Maralal, Baragoi, Loiyangalani, Lodwar, Kakuma, Lokichoggio, Lokitaung, Lokichar, Harare, Hola, Garsen, Lamu, Tana River, Kwale, Lunga Lunga, Oloitokitok, Isebania, Kuria, Lokari, Chemalingot and others, are scheduled to receive these documents through chopper delivery, probably starting tomorrow. We are on top of this.

In addition, the Committee is travelling across the country to all the eight provinces to physically distribute the draft. As for Parliament, all MPs have already been given a total of 240 copies through the National Assembly and I believe the documents are with the Clerk. If one of us has not collected it, please, do so. Yesterday, another 500 copies for each legislator for his constituency were brought. For political parties, 47 registered political parties have already collected their copies. For reference groups, each member of the reference groups and all institutions have been given. For the media, each house has been given a document for disseminating to the public. For Government departments, most of the 42 Government Ministries have collected copies. For civil societies, all major umbrella organizations with countrywide networks have received the

draft. Umbrella religious groups, churches, mosques and the Hindu Council of Kenya have received the draft. Professional associations have also been given the draft. Various women's groups have been given, including FIDA. The umbrella youth organizations have collected their copies from the CoE. The private sector, the Central Organization of Trade Union (COTU) and other umbrella organizations have received copies of the draft, including the general *mwananchi*, where it matters.

Apart from the above channels, *wananchi* will receive copies of the draft from the CoE's physical countrywide distribution points. The CoE is in the process of facilitating this through nationwide courier service and other distribution points.

Mr. Speaker, Sir, in conclusion, the CoE assures Kenyans – and I also want to join in that assurance – that we are determined and committed to ensure that Kenyans access this document for purposes of reading and giving comments. To this end, the Committee has unlocked a lot of funds through various partners to ensure timely response in meeting this unprecedented interest and demand for the Harmonized Draft. In total, the Committee hopes to provide access to over 8 million copies of the draft document to Kenyans.

Thank you.

**Mr. Speaker:** Any hon. Members seeking clarifications?

Proceed, Mr. Affey!

**Mr. Affey:** Mr. Speaker, Sir, I thank the Minister for such a comprehensive Statement and I must begin by also thanking the CoE for giving us the possibility to discuss this Harmonized Draft Constitution so that this country gets a new constitutional dispensation.

The Minister must be aware that the greatest threat to a new constitutional dispensation is the political class in this country. I do not understand what arrangements the CoE has to engage directly with the political parties so that the debate in the funerals and *harambees* which, in most cases tends to misinform the country, stops so that the real people, who are the stakeholders, get consulted very quickly so that we ease the burden we place on the CoE.

Secondly and more fundamentally, Mr. Speaker, Sir---

**Mr. Speaker:** Order, Amb. Affey! There is a lot of interest on this issue and I would just allow one clarification per hon. Member.

Proceed, hon. Mututho!

Mr. Minister, please, take notes.

**Mr. Mututho:** Thank you, Mr. Speaker, Sir. You heard the Minister say that they will use the chiefs to distribute the documents and said that the chiefs should be sacked. How possible is that?

**Mr. Wamalwa:** Mr. Speaker, Sir, I think the Minister has acknowledged that the document is still in the process of being circulated yet time started running from the 17<sup>th</sup> of November, 2009. This is the second week. The 30 days are already being counted. What is the Minister going to do about the outcry by members of the public for the extension of the period of the 30 days?

**Mr. Olago:** Mr. Speaker, Sir, as time ticks away – I do agree with the Minister that, indeed, we should not tamper with the time that is in the law – what steps has the CoE taken to ensure that the ordinary *mwananchi* down there who has got no access to the web can drop his or her view at a particular collection point near his or her home?

**Mr. Speaker:** Mr. Farah, are you still interested?

**Mr. Farah:** Mr. Speaker, Sir, my sentiments were, by and large, expressed by hon. Olago, but just one other bit. Hon. Minister, we come from constituencies that are as much as 17,000 square kilometres, 23,000 square kilometres and in the case of North Horr, it actually goes up to almost 30,000 square kilometres. Even if the hon. Members were to go out there and try to educate the people in vernacular, it would take ages. What kind of other mechanisms do you have in place to make sure that Kenyans in the four corners of this country are carried along in understanding the content of the Harmonized Draft Constitution? And they just do not have to be told what to do by the political class.

Thank you.

**Mr. Speaker:** Mr. Minister, you may now respond!

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Mr. Speaker, Sir, I want to salute hon. Members for those very important questions. I would like to inform Mr. Affey and the House that the engagement with politicians and for the information of the House, this process has been underway for some time now. I want to thank the leaders of the Grand Coalition Government for making it possible to have consensus seeking committee formed. The committee has been working and will continue to work. We are trying as much as we can to make sure that we reach out to all the politicians. However, Members of Parliament themselves are in the political class and there is an extensive period starting from 18<sup>th</sup> December, 2009 in which Parliament is going to be engaged. I have just alerted the House that it may, in fact, not have to wait until March, 2010 to resume. It may have to come earlier because the reports will be presented in February, 2010.

Therefore, knowing that the Parliamentary Select Committee is donated by this House, I am comfortable and I need not go into the details of this joint coalition committee seeking consensus. I want to salute hon. Members and assure them that I think we will be able to reach out to them. As for the political parties, I am also happy to say that only last weekend, National Democratic Institute (NDI), and I want to thank them, organized a retreat for the political parties in Naivasha to seek consensus. The reports are available and I hope that the secretaries general of the various political parties will share the reports of this work which is very encouraging. The one of last weekend declared a ceasefire. I am happy to say that since that weekend, I have not seen a violation of that ceasefire - if I may use that expression. We are discussing this quietly among the various political parties.

Mr. Mututho, as a matter of fact, the chief is the only provincial worker who has not been recommended for removal. However, this is not a document cast in stone. We still can use chiefs. If you feel that you want to retain the Provincial Administration, feel free to make such a comment so that we can compare that with what the rest of the country is saying. If we find that the majority favours that, then that is the way we will go. Again, it is not cast in stone. It is not enough to write to newspapers, or speak in radio stations, or appear on television, write! Take a piece of paper and write to the Committee of Experts.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, to answer Mr. Olago, if citizens have views and they do not know where to take their documents, please, let them drop them at the nearest provincial office or direct them to my office. I have already received quite a number and we always send them over almost immediately to the Committee of Experts (CoE) because we have an arrangement.

Mr. Wamalwa asked something about extension. I am deeply conscious of the history of Constitution-making in this country. I am afraid that I will not be willing to stand here to tell Kenyans that the period should be extended. We have sufficient time to be able to debate this document. We have sufficient time to collect views. I think that with regard to the period of 30 days, when we designed this law, with respect, it was intended for those people who were so keen on particular positions that they cared to write memoranda to the CoE. It is those people who have 30 days to look at what they were suggesting, whether it has been catered for or not. They need to indicate whether they are satisfied with the proposals or not. We can then use that to polish the draft. I am hesitant and I want to advise the country, without fear, that the 30 days, in my view, is enough time. If you cannot do it in 30 days, you will never be able to do it.

Mr. Deputy Speaker, Sir, I attempted to answer Mr. Olago but I am offering my office and the provincial headquarters offices, be it the offices of the chiefs and so on. Even if you do not know the CoE and you are a Kenyan with a strong view, surrender your document to the chief and address it to Mr. Mutula Kilonzo or the Minister for Justice, National Cohesion and Constitutional Affairs. I intend to collect them countrywide. In addition, my Ministry will now be organizing meetings with interest groups so that we can meet with you and hear you. We are seeking consensus because not everybody can have his view prevail.

I share the view of hon. Farah Maalim. My constituency is bigger than 17,000 kilometres, but I am attempting to reach out to the public. Our key interest is not everybody out there. It is that person with a serious interest on devolution; the nature of the Executive and people's representation. Those are the people we want to target at this point during the 30 days. During the civic education – because there will be civic education in January, 2010 to March, 2010 once Parliament is through with the document, then we will reach out to the others. I want to plead with my fellow Kenyans to join us wherever they are in this very important exercise. If we do not do it now, when shall we do it?

## POINTS OF ORDER

### CANCELLATION OF LOANS ADVANCED TO PASTORALISTS

**Mr. Affey:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Agriculture.

Considering that pastoralists have suffered three years of continuous drought; aware that as a result some of the pastoralists have taken loans from the Agricultural Finance Corporation (AFC) and thereby used their ranches as security or collateral to secure these loans; given that this prolonged drought has continued to affect the pastoralists' ability to service the loans; aware that Kenyans engaged in other forms of

economic activities, particularly the growing of cash crops like coffee and tea and who might have suffered similar calamities have had their loans written off by the Government; I would like the Minister to give a statement regarding what particular consideration he will give to write off these AFC loans given to pastoral farmers and whether, indeed, he has made financial arrangements to cater for these pastoral farmers who have lost large herds of livestock. This has, indeed, crippled them economically. We would like to know whether, in fact, the Ministry has made arrangements to provide funding to restock the lost livestock.

This matter is quite serious. As you know, the rains have just started and pastoral farmers are under threat from the banks which are seeking to have repayment of the loans. I would like the Minister to give a fairly urgent Statement on how these pastoralists can secure their future in this business.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): On a point of information, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Is Mr. Affey willing to have the information?

**Mr. Affey:** Yes, Mr. Deputy Speaker, Sir.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I am a pastoralist. What the hon. Member has requested the Government to do is very important.

On 12<sup>th</sup> March, 2009, I had an opportunity to speak to the two principals when they visited my constituency to launch *Kazi kwa Vijana* Programme. I mentioned that pastoralists are suffering and the AFC is harassing them. As you may have realized, pastoralists were in the process of losing their livestock. They have lost about 80 per cent of their livestock. The two principals promised that the Government was going to look into this matter. I wrote to the Minister for Agriculture requesting that since AFC is an institution and it should not lose money, the Government should bail out the farmers by paying AFC the amount of money owed by the farmers. I got a reply from the Minister for Agriculture that he was to table this request to the Cabinet. It is now about six months since that time. So, I would like this issue to be taken seriously by the Government.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Maj-Gen. Nkaisserry, you are a Member of the Government! Much as the Chair would want to respect the passion and the calamities that your own pastoralists are suffering, this is the same Government you are serving. So, you need to be talking to your Government. Are you now going to make an undertaking on behalf of the Minister for Agriculture? Where is the Minister for Agriculture?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I have given this information as the Member of Parliament for Kajiado Central Constituency, and not as a Member of the Government; because I am affected as a pastoralist.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. It is up to the Chair to uphold the dignity of this House. An hon. Member has asked a Question. All of us agree that it is important, and I think the Assistant Minister, who is on the Government side, can only undertake, on behalf of Government, to respond to it; and not to make further requests.

**Mr. Deputy Speaker:** Fair enough! The Chair takes note of that observation. Could a senior Minister make an undertaking, on behalf of the Minister for Agriculture,

on this Ministerial Statement, which is so passionate that it is even getting the Assistant Minister to behave like Backbencher?

*(Mr. Kenyatta stood up in his place)*

When could we have that Ministerial Statement issued, Mr. Deputy Prime Minister and Minister for Finance?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, it will be issued on Thursday, next week.

**Mr. Deputy Speaker:** Are you happy with that, Mr. Affey?

**Mr. Affey:** Mr. Deputy Speaker, Sir, let us have it on Tuesday.

**Mr. Deputy Speaker:** The Chair directs that we have it by Wednesday morning, next week.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, it will be brought on Wednesday morning, next week.

**Mr. Deputy Speaker:** Yes, Mr. Olago!

#### PLIGHT OF MAU EVICTEES

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. Last week, I sought for a Ministerial Statement from the Minister for State for Special Programmes, and she undertook to bring it today. She has informed me that she has the Ministerial Statement, and it is very brief.

#### INSECURITY IN MATHARE AREA 3C

Secondly, I am seeking a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the current state of insecurity and organised crime in Mathare Area 3C, Mabatini area, Nairobi, which culminated in the murder of one Jared Odhiambo on the day before yesterday. In that Ministerial Statement, I would like him to address the following pertinent and urgent issues:-

(i) whether the Minister is aware that from 16<sup>th</sup> November, 2009 up to yesterday, organised gangs have been terrorising Mathare C, Mabatini Area, with a view to evicting members of certain communities from the area;

(ii) what are the circumstances surrounding the beheading of Jared Odhiambo on 24<sup>th</sup> November, 2009; and,

(iii) what steps the security agents are taking to curb this organised crime, protect communities from selective attacks and apprehend members of these gangs.

**Mr. Deputy Speaker:** Who is going to make an undertaking on behalf of the Minister?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, we will endeavour to provide the Ministerial Statement on Wednesday afternoon, next week.

**Mr. Deputy Speaker:** Fair enough!

Yes, Mr. Letimalo!

KILLING OF VILLAGERS  
IN ISIOLO DISTRICT

**Mr. Letimalo:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. On 21st November, 2009, at around 4.00 a.m. police officers surrounded a village at Holuko in Isiolo North District and indiscriminately shot and harmed villagers, leading to the death of a woman and a 16-year old boy, and injured others. In that Ministerial Statement, I would like the Minister to clarify the following:-

- (a) what was the mission of the officers and who gave the shooting orders;
- (b) why the police abandoned the dead and the injured persons, instead of taking them to the mortuary and hospital, respectively; and,
- (c) what action the Government is taking, including the arrest of the police officers responsible for the killings.

**Mr. Deputy Speaker:** Yes, Assistant Minister, Ministry of State for Provincial Administration and Internal Security?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima):** Mr. Deputy Speaker, Sir, we will provide the Ministerial Statement on Wednesday.

**Mr. Deputy Speaker:** In the morning or afternoon?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima):** Mr. Deputy Speaker, Sir, we will provide it on Wednesday afternoon, next week.

**Mr. Deputy Speaker:** Very well!

*(Mr. Koech stood up in his place)*

Are you on a point of order, Mr. Koech?

**Mr. Koech:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is it?

STATUS OF ELDORET-CHAVAKALI ROAD

**Mr. Koech:** Mr. Deputy Speaker, Sir, on 15<sup>th</sup> September, 2009, I sought a Ministerial Statement from the Minister for Roads on the status of the Eldoret-Chavakali Road, but we immediately went on recess. I would like to know when the Minister will issue that Ministerial Statement.

**Mr. Deputy Speaker:** Minister for Roads, when will you discharge that obligation?

**The Minister for Roads (Mr. Bett):** Mr. Deputy Speaker, Sir, I will do so next Tuesday.

**Mr. Deputy Speaker:** Fair enough! Dr. Naomi Shaban, you will have to issue your Ministerial Statement on Tuesday afternoon. We are constrained of time. So, yours will be on Tuesday afternoon.

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

## IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Prof. Kaloki) took the Chair]*

## THE FINANCE BILL

*(Clauses 2, 3, 4 and 5 agreed to)*

*Clause 6*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new clause-

Amendment of Fifth Schedule to Cap.472. 6. The Fifth Schedule to the Customs and Excise Act is amended –

(a) in the manner specified in paragraph 1 of the First Schedule to this Act;

(b) in the manner specified in paragraph 1A of the First Schedule to this Act;

(c) in the manner specified in paragraph 2 of the First Schedule to this Act;

(d) in the manner specified in paragraph 2A of the First Schedule to this Act;

(e) in the manner specified in paragraph 3 of the First Schedule to this 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)*



*(Clauses 6 as amended agreed to)*

*(Clauses 7 and 8 agreed to)*

*Clause 9*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended by deleting the words “six months”, and substituting therefor the words “three months”.

*(Question of 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 9 as amended agreed to)*

*(Clauses 10, 11, 12 and 13 agreed to)*

*Clause 14*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 of the Bill be amended by renumbering the existing paragraphs as paragraphs (b) and (c) respectively and inserting a new paragraph (a) as follows –

(a) in Part A –

(i) in the manner set out in paragraphs 1, 2 and 3 of the Second Schedule to this Act;

(ii) in the manner set out in paragraph 4 of the Second Schedule to this Act.

*(Question of 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 14 as amended agreed to)*

*(Clauses 15, 16, 17, 18, 19, 20, 21,*

*22 and 23 agreed to)*

*Clause 24*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

- THAT, Clause 24 of the Bill be amended –
- (a) in Subclause (a), by deleting the words “and policy holders” appearing in the proposed paragraph (a);
  - (b) in Subclause (c), by deleting the words “and policy holders” appearing in the proposed paragraph (a).

*(Question of amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*(Clause 25, 26 and 27 agreed to)*

*Clause 28*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 of the Bill be amended in the proposed Section 75A by deleting Subsection (1) (c).

*(Question of amendment proposed)*

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

*(Clause 28 as amended agreed to)*

*Clause 29*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

- THAT, Clause 29 of the Bill be amended –
- (a) in paragraph (a)(i), by deleting the expression “paragraph 5(1)(c)” and substituting therefor the expression “paragraph 1(1)(a)”;
  - (b) in paragraph (e)(i), by inserting the words “outside the City of Nairobi or the Municipalities of Mombasa or Kisumu” immediately after the word “machinery” appearing in the proposed paragraph (f);

(c) in paragraph (e) (ii), by deleting the proposed paragraph (c) and substituting therefor the following new paragraph –

(c) in the case of an investment referred to in subparagraph (1)(f), be equal to one hundred and fifty per cent of the capital expenditure.

(d) by inserting the following new paragraphs immediately after paragraph (e) (ii) –

(iii) by inserting the words “or the building or machinery referred to in subparagraph (f)” immediately after the expression “subparagraph (e)” appearing in subparagraph (1);

(iv) in subparagraph (3)(e), by inserting the words “or the transformation and distribution of electricity through the national grid” immediately after the words “supply to the national grid” appearing in the definition of the word “manufacture”;

(e) by inserting the following new paragraph immediately after paragraph (e) -

(ee) in paragraph 26, by deleting the expression “paragraph 24(1) (a) or (c)” and substituting therefor the expression “paragraph 24(1) (a), (c) or (f).”

(f) in paragraph (f), by deleting the expression “one-twentieth” appearing in the proposed section 31B and substituting therefor the expression “one-fifth”.

*(Question of 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 29 as amended agreed to)*

*(Clauses 30, 31, 32, 33, 34, 35, 36,  
37, 38, 39, 40, 41, 42 and 43 agreed to)*

*Clause 44*

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

THAT, the Bill be amended by deleting Clause 44.

Mr. Temporary Deputy Chairman, Sir, Clause 44 seeks to establish the Kenya Airports Authority Fund, and I think that is a very substantive move that requires a substantive Motion to be brought to this House. It would be very negligent on the part of this House if we were to go ahead and create a Fund in this manner without creating structures for managing it. The funds we are talking about are big funds. We are talking of funds in the range of Kshs2.5 billion to Kshs3 billion a year.

Mr. Temporary Deputy Chairman, Sir, this is an attempt to cannibalize the Treasury. This is a way of mutilating the Treasury. The Constitution says that all revenues shall be paid into the Consolidated Fund. If we have to move away from that it is important that, that be brought up substantively. Secondly, if we allow this trend of cutting the arteries that feed the Consolidated Fund, then eventually we will not remain

with a Treasury. I am seeing a situation where, if this goes through, then there will be a possibility of creating a Kenya Ports Authority Fund. That is a dangerous route to go and; if we are to go that way, then we need to do it substantively.

Lastly, this country is on the verge of getting a new Constitution. In the new Constitution, there is a proposal for devolution. If at this point we start re-investing funds there, will be very little left for this country to devolve. I think this Parliament, on behalf of Kenyans, needs to be very vigilant about the way funds are diverted. I want to persuade this House that we need to thoroughly scrutinize this proposal when it is brought before this House.

With those remarks, I want to persuade this House to reject this Clause; let it be deleted.

*(Question of the amendment proposed)*

**Dr. Khalwale:** I would like to very quickly support Mr. Ogindo. The reason is that if we do not pass this amendment then we will create a situation where this money will be reinvested by the Authority. The immediate effect is that if you do it for the first year, the second year until the sixth year when we go to the elections, you will have an account that will have an approximate amount of Kshs15 billion. This money will then be used by some people in this country to fund their campaigns, so as to perpetuate themselves in the leadership of the country. For that reason I support the amendment.

**Mr. Mbadi:** My main reason for supporting the amendment is that in the recent past we have had a lot of issues with the Kenya Airports Authority as a State Corporation. It is even under investigation by the Public Investments Committee. Giving it more powers to have more funds and to re-invest more funds in it would be negligence; so, I would like to support the deletion of this particular provision.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I think there is very big misunderstanding about this particular Fund. What this clause seeks to do is to amend the Air Passenger Services Act to enable the Kenya Revenue Authority, which is currently collecting this revenue, to remit the air passenger service charge collected directly to the account of the Kenya Airports Authority. The air passenger service charge is a fee collected to finance development and improvement of the airports facilities, and is, therefore, due directly to the Kenya Airports Authority, which is charged with the responsibility of spending.

Currently, the charge is collected and remitted to the Exchequer for onward transmission to the Authority as A.I.A. This process has resulted not only in delay in remission of the fees to the Authority but also--- As a result of the funds not going directly, even when the Authority is undertaking development, because they do not have access to their own revenue, there are constant calls on the Central Government to provide guarantees, which are actually unnecessary since this money is eventually remitted to the Authority and is due to it.

The situation is that prior to the introduction of the Kenya Airports Authority, the airports in our country were run by the Ministry of Transport. It was when they were run by the Ministry that the Exchequer used to collect that money on behalf of the Ministry of Transport. When the parastatal itself was formed, this money belonged directly to it. But there was never a change in the Act to allow for direct transmission by KRA to the

Authority. So all this Act is seeking to do is to correct that anomaly. That is all this Act seeks to do.

We ran through this with the Committee on Finance Planning and Trade, debated and deliberated on this issue extensively. We showed clearly that this is what has been happening. This is also what happens when you have the ports that collect revenues that are due to them. They collect it and we do not collect it on their behalf and transfer it to them.

These are independent bodies and all we are trying to do is to remove future necessity for the Government to guarantee commitments by parastatals when they are able to stand on their own by use of the revenues that they earn. So, all that we are doing is to remove the Central Government from having to bear a burden which ordinarily should be with the parastatals. Therefore, as agreed with the Committee on Finance Planning and Trade.

I beg to oppose this particular amendment.

**Ms. Karua:** It may well be as the Deputy Prime Minister and Minister for Finance has explained but, in this House, apart from the Committee on Finance, Planning and Trade, we have the Budget Committee and the Mover of this amendment is a Member of the Budget Committee. If a key Committee of the House is not aware of this matter, then it means the House is in doubt. Since the money will still, according to the explanation of the Deputy Prime Minister and Minister for Finance, end up with the Kenya Airports Authority, for the time being let him streamline the operations of the Kenya Revenue Authority, so that there are no delays. Let Parliament first understand what is happening. The caution here is, when in doubt do not act. Before we finally understand this, this amendment ought to be supported.

I beg to support the amendment and to caution that when substantive issues like this one are brought here, instead of giving us a lengthy explanation at the Committee Stage, the matter should come earlier so that the committees interrogate it. Once we are comfortable, we will be very supportive.

**The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta):** on a point of order, Mr. Temporary Deputy Chairman, Sir. When it comes to the Finance Bill, the relevant committee is the Departmental Committee on Finance, Planning and Trade and I seek your guidance on this situation. This is the committee that we report to and it is the one that is supposed to examine the Finance Bill. As the Treasury, we have done precisely what we are mandated to do. We took the Bill to the relevant Committee before bringing it to this House. So, I seek your guidance on that matter because it cannot be that we should report to ten different committees on the same Bill. It can only be one committee!

*(Ms. Karua stood up in her place)*

**The Temporary Deputy Chairman (Prof. Kaloki):** Order, Ms. Karua! The Minister is right! The relevant committee is the Departmental Committee on Finance, Planning and Trade but when we are debating the Bill, an hon. Member like Ms. Karua can give her opinion. We will vote at the end of the deliberation to find out the side that carries the day.

Proceed, Ms. Karua!

**Ms. Karua:** Mr. Temporary Deputy Chairman, Sir, I was just saying that irrespective of which committee is the relevant committee, there are overlaps. The Budget Committee has a role to play. We cannot be asked hurriedly to pass an amendment if the House is in doubt or if we do not understand it. It is the duty of Government Ministers to find out where there are overlaps, issues and make sure that there is adequate consultation. It also means that doubts were lingering in the minds of hon. Members as the matter was being introduced. Once again, since this money will end up with the Kenya Airports Authority (KAA), why the hurry? Let us have time to understand this.

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

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I believe the amendment proposed by Mr. Ogindo is premised on the wrong thing. Having listened to the explanation, let me, first of all, clarify and take from where Ms. Karua has stopped. It will be unfortunate to introduce an amendment at this late stage without hon. Members getting the benefits to scrutinize it. This is what the amendment by Mr. Ogindo is trying to do. Hon. Members have not even understood what his amendment seeks to do. The explanation he has given that it is to prevent the money from being misused is not what the amendment was brought here for, in the first instance.

*(Mr. Ogindo stood up in his place)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Order! Let him finish!

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, what is contained in Clause 44 of the Finance Bill is very simple. It gives authority to the KAA to access the same money it charges at the airports. The KAA generates money which goes through a very circuitous route before it gets back to them. If we go by the explanation of the future devolved situations we are looking at, people should retain the money they charge at that point and utilize it for the development for which it is intended. I believe the argument by Dr. Khalwale that this is to create a fund for money for campaign purposes should be expunged from the records of this House.

**Dr. Khalwale:** Why?

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, if he wanted to use this money for campaign purposes, he would not need to create a fund for it.

**Hon. Members:** Oh!

**The Minister for Trade** (Mr. Kimunya): You would probably get it from other places where---

**Hon. Members:** Now we understand!

**The Minister for Trade** (Mr. Kimunya): This Government is getting out of the mischief the hon. Member is thinking about by disclosing that this money has been collected for the development of the airport. Therefore, it should go to the KAA Fund and be utilized for that purpose. So, I urge the Mover of this amendment---

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I think the Minister for Trade has misunderstood what Ms. Karua has said. The current situation is being changed by the Deputy Prime Minister and Minister for Finance.

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Mbadi, you are on a point of order! Could you be specific on your point of order?

**Mr. Mbadi:** Mr. Temporary Deputy Chairman, Sir, but that is what I am explaining! I am saying the Minister has misunderstood Ms. Karua and I am explaining to him so that he can understand. Is it in order for the Minister to misunderstand and misinterpret Ms. Karua's comments? The current situation is that the Kenya Revenue Authority (KRA) collects money, passes it to the Treasury and finally to the KAA. The Minister wants to change that by channeling the money directly and that is why Ms. Karua is saying that since we have not understood the proposal by the Minister, why can we not maintain the *status quo* by deleting--- That is the amendment that Mr. Ogindo is referring to. So, the Minister should not misunderstand her comments by saying that it is Mr. Ogindo who has not been understood. It is the Minister who has not been understood by this House.

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I believe the Finance Bill was tabled on 11<sup>th</sup> June, 2009 and the amendment we are talking about has been tabled today. I am referring to the amendment to delete Clause 44 which was tabled today and I am not sure how many hon. Members have looked at the amendment by Mr. Ogindo against Clause 44 which is in the Finance Bill. That is what I am referring to. I am saying that it is unfortunate that we have had three months to look at this Bill; it has gone through the Departmental Committee on Finance, Planning and Trade; the Committee has looked at it and found it to be okay and at this late point we want to deny the KAA the money it requires to develop those airports. We will still come back to this House, as a Government, to seek guarantees even for monies when they are held in the Treasury. I urge hon. Members not to bring the fights between the two Committees before this House, but to have this amendment removed.

**Ms. Odhiambo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I am not in either Committee so I am not bringing fights of the Committees before this House. First, is the Minister in order to suggest that? Secondly, is he in order to suggest that this amendment is improperly before the House and yet it has been approved and is on the Order Paper?

(Applause)

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Kimunya, is that what you are saying?

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I do not think I have said that this amendment is improperly before this House. I have said that this amendment has been brought to this House today. That does not mean it is improperly before the House. The amendment is on the Order Paper and is the property of the House. All I am saying is that the Finance Bill is not new. This Bill has been here for the last so many months. I was saying that it is unfortunate for us to consider this amendment which has been brought to this House today before we even internalise it and yet this matter has been discussed and agreed by the relevant Departmental Committee on Finance, Planning and Trade. I believe it is up to hon. Members and their conscience to think whether they want to do justice to the KAA and give it the ability to develop the airports. Do hon. Members want to deny it the authority to do that by taking all the

money back to the Treasury and then going through a circuitous route to give them the same money instead of doing it directly? That is exactly how we operate the Constituencies Development Fund (CDF), the Local Authorities Transfer Fund (LATF) and every other fund that is being set up to expedite the disbursement of money.

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Chairman, Sir. With due respect to the former Minister for Finance who is a very good friend of mine, is he in order to mislead this House that the amendments came today? When did he expect those amendments to come? Amendments only come at the Committee Stage which is today!

*(Applause)*

**Mr. Temporary Deputy Chairman** (Prof. Kaloki): Mr. Ethuro, you have made your point very clearly. The amendment by Mr. Ogindo, that we are discussing came today. That is okay. You are just stating the same.

**The Minister for Trade** (Mr. Kimunya): Exactly, Mr. Temporary Deputy Chairman, Sir! I am not sure what his point of order is but English is a difficult language.

I urge that Mr. Ogindo withdraws this amendment in good faith so that we can make progress and give the KAA power to carry out the work it is doing by reinvesting some of these monies. In any case, as I have said, the money will still be collected and that is not the issue. They are still charging but for them to access it, it has first to go through a circuitous route. By the time they get it, it has been delayed yet they could get it directly and use part of it as security to get more money based on their cash flow. I do not think I can convince the hon. Member further, but I urge him to reconsider the amendment in good faith.

**Mr. M'Mithiaru:** Mr. Temporary Deputy Chairman, Sir, I am a Member of the Departmental Committee on Finance, Planning and Trade. This issue was brought before the Committee and we deliberated on it at length. We were actually convinced that Kenya Airports Authority (KAA) needs a fund. We know for sure that there is a bottleneck that we are trying to address here. That is because Members of Parliament have travelled all over the world and seen other airports. The development of airports is a continuous process. We thought that to ensure that bid is actually done when it is necessary, those funds must actually be made available to KAA.

Mr. Temporarily Deputy Chairman, Sir, we also know that even from prudent financial management, if a fund is established and then funds are received there, it is even easier now to monitor how they are received and used so that, even for audit purposes, this issue is handled very adequately. Already, we have the Public Investments Committee (PIC) that can handle that issue.

Mr. Temporary Deputy Chairman, Sir, we are all in the Parliamentary Committees and on issues that concern different committees, there is always a reference issue that can be done. I remember the Chairman of the Committee on the Constituencies Development Fund (CDF) came to the Committee on Finance, Planning and Trade and we deliberated on these issues and we were able to get a common position. But being a Member of the Committee, I am constrained because I do not have the information which hon. Ogindo has at hand. So, could he withdraw his amendment so that we can proceed with the Bill?



**The Temporary Deputy Chairman** (Prof. Kaloki): Of course, there will be an opportunity to cast the votes.

**Mr. Ochieng'**: Mr. Temporary Deputy Chairman, Sir, I wonder whether at this stage we are creating another government in the name of KAA. I thought that it is the Kenyan Government which is in charge of collecting all the revenue to the consolidated account. If they are trying to bequeath that to KPA--- KPA has been collecting its funds directly, but what have they done with those funds, apart from us reading about scandals after scandals? Do we want to go the Kenya Ports Authority way? I think we should not create another government in the name of KAA. We are paid to come and give all these authorities money and we have never been tired of that.

I want to support hon. Ogingo's amendment.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Mr. Temporary Deputy Chairman, Sir, I would like to persuade my fellow hon. Members to look at this issue seriously.

First and foremost, if you look at the amendment proposed, the intention of the Minister was to ensure that we remove the bureaucracies that, obviously, bog down the process and create efficiencies, so that we can have a very competitive environment where we have airport authorities being able to quickly utilize funds that are collected by the passenger service department. So, my persuasion to the hon. Members is that if we are looking at Vision 2030 and having competitive airports authorities, we need to take this issue seriously. Let KAA access its funds as quickly as possible and free the Government from having guarantees that bog them down and stop us from getting other development funds.

Mr. Temporary Deputy Chairman, Sir, I would really persuade hon. Members to look at this issue and reconsider it, so that we are able to move on with our Finance Bill and free the Government to do its bureaucratic duties and carry out the airport services as quickly as possible.

**Hon. Members:** Put the Question!

**Dr. Kones:** Mr. Temporary Deputy Chairman, Sir, I think hon. Members want us to vote, but before you put the Question, I also want to support the amendment. Having listened keenly to those who are opposed to the amendment, I get more convinced that this sounds more like a campaign kitty. That is because I really do not see the reason why we are saying that we need to take time to put regulations on how to manage such a fund. Since there is no ample time now to do that, and given the fact that KAA will still not be denied the funds that it deserves, why can we not delete that clause and then take time as a House to put in place the necessary regulations to ensure that, that fund is actually not a campaign kitty?

**The Minister for Trade** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for hon. Members to start making allegations that an amendment brought here through the Finance Bill is intended to create a campaign kitty?

**The Temporary Deputy Chairman** (Prof. Kaloki): Indeed, hon. Dr. Kones, could you clarify to the House that issue of campaign money?

**Dr. Kones:** Mr. Temporary Deputy Chairman, Sir, what I am saying is that since it is ambiguous and does not look like it is regulated according to---

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Dr. Kones, do you have information that the money for KAA can be used for campaigns?

**Dr. Kones:** Mr. Temporary Deputy Chairman, Sir, what I actually mean is that it is a kitty that is not---

**Mrs. Odhiambo-Mabona:** On a point of information, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Odhiambo, I am the Chair! I will give you time. Dr. Kones, I am very specific. Do you have that information that you submitted?

**Dr. Kones:** Mr. Temporary Deputy Chairman, Sir, when the hon. Minister was contributing, he made the allegation that some hon. Members have made it look like---

**The Temporary Deputy Chairman** (Prof. Kaloki): No! No! Dr. Kones, you are not getting me! I heard you very clearly say that this Fund will be an avenue for campaigns. If that is not the case then---

**Mrs. Odhiambo-Mabona:** On a point of information, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Odhiambo, that is the last time! Dr. Kones, if you do not have any facts to back your allegation, could you withdraw?

**Dr. Kones:** Mr. Temporary Deputy Chairman, Sir, it is not about facts, but let me withdraw. I said that it looks ambiguous.

**The Temporary Deputy Chairman** (Prof. Kaloki): Very well! Hon. Njuguna!

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, I am being affected by the debate that has been developed in this House. My observation is based on two points. Now, this issue is very critical and the whole nation is expectant of fruitful discussions on this particular issue that we have. But I think that when we are driven by certain feelings against personalities managing national institutions, we will not be heading anywhere. These inclinations will derail the entire work that we are doing for this nation. If we remember, we have very good work that is taking place at the Kisumu Airport. We want the airport to be opened immediately. If we had funds that are ready and released by the same Fund, we would have the entire entity ready for use in this nation.

Mr. Temporary Deputy Chairman, Sir, this House is full of very competent committees which are not impeded from investigating or inspecting anything that we may decide on, or the House views to be directed by mischievous plans.

I, therefore, oppose the amendment.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, hon. Members! I will now put the Question.

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

**Hon. Members:** Division! Division!

**The Temporary Deputy Chairman** (Prof. Kaloki): Clerk-at-the-Table, could you ascertain the number of hon. Members present? They should be 20 hon. Members as per the Standing Orders. They are more than 20 hon. Members. They are 22 hon. Members. Yes, there are more than enough Members seeking a Division. All right! Ring the Division Bell!

*(The Division Bell was rung)*

**DIVISION**

*(Question put and the House divided)*

*(Question negatived by 37 votes to 19)*

**AYES:** Messrs. Chanzu, Ethuro, Kaino, Ms. Karua, Dr. Khalwale, Koech, Dr. Kones, Messrs. Langat, Magwanga, Dr. Monda, Messrs. Mwadeghu, Mwiru, Mbadi, Nyamai, Ogari, Ogindo, Dr. Otichilo, Messrs. Outa and Wamalwa.

Tellers of the Ayes: Messrs. Mbadi and Washiali.

**NOES:** Ms. S. Abdalla, Messrs. Bahari, Bett, Githae, Eng. Gumbo, Messrs. Kenyatta, K. Kilonzo, M. Kilonzo, Kimunya, Kinyanjui, Kiuna, I. E. Mohamed, M'Mithiaru, Mudavadi, Muriithi, Musyimi, D. Mwangi, Mwathi, Nguyai, Mrs. Ngilu, Mr. Njuguna, Maj-Gen. Nkaisserry, Mrs. Noor, Messrs. Obure, Ochieng, Odhiambo, Ms. Odhiambo, Messrs. Omollo, Orenge, Raila, Eng. Rege, Mr. Ruteere, Dr. Shaban, Messrs. Waititu, Warugongo, Washiali and Were.

Tellers of Noes: Messrs. Mwathi and Wathika.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, we will now proceed from where we left from.

*(Clause 44 agreed to)*

*(Clauses 45 and 46 agreed to)*

*Clause 47*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended in paragraph (b) of the proposed proviso by inserting the words "long-term insurance business or" immediately after the words "investments of".

*(Question of the amendment proposed)*

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

*(Clause 47 as amended agreed to)*

*(Clauses 48,49,50 and 51 agreed to)*

*Clause 52*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move-

THAT, Clause 52 of the Bill be amended in the definition of “agency” by adding the following proviso at the end thereof-

“Provided that where such entity is a co-operative society, prior approval to provide the services shall be sought from the Sacco Societies Regulatory Authority established under the SACCO Societies Act, 2008.”

*(Question of the amendment proposed)*

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

*(Clause 52 as amended agreed to)*

*(Clauses 53, 54, 55, 56, 57, 58, 59, 60,  
61, 62 and 63 agreed to)*

*Clause 64*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move-

THAT, Clause 64 of the Bill be amended in the proposed Section 56A, by deleting the word “office” and substituting therefor the word “offence.”

*(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 64 as amended agreed to)*

*(Clauses 65 and 66 agreed to)*

*Clause 67*

**The Temporary Deputy Chairman** (Prof. Kaloki): There is an amendment to this Clause to be brought by Eng. Gumbo.

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Chairman. The Clause that I had proposed to amend concerns the work of actuaries in Kenya. We have had discussions with the Minister. In fact, what is emerging is that professional actuaries in Kenya have not endeavoured to have their practice embedded in our laws. We have

discussed this issue with the Minister and we have agreed that merely deleting the provisions will not be helpful to actuaries. We have agreed that, I will try to work with the Minister and his office, so that we can bring a framework where their practice can be regulated properly in the country without having to refer to professional societies. In that spirit, I wish to withdraw the proposed amendments.

*(The proposed amendment to Clause 67 withdrawn)*

*(Clause 67 agreed to)*

*(Clauses 68, 69, 70, 71, 72 and 73 agreed to)*

*New Clause 30A*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following New Clause immediately following the heading "PART V- MISCELLANEOUS" as follows-

Amendment of Section 2  
of Cap.5

30A. The National Assembly Act is amended in Section 2-

(a) by deleting paragraph (a) of subsection (2) and substituting therefor the following-

"The persons for the time being holding the several offices specified in the first column of Part 11 of the First Schedule shall receive a sitting allowance at the rates respectively specified in the second column of that Schedule in respect of every meeting attended.

(b) by deleting the proviso to the subsection.

*(Question of the new Clause proposed)*

*(New Clause read the First Time)*

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

*New Clause 39A*

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, there is an amendment on Clause 39A by hon. Wamalwa.

**Mr. Wamalwa:** Mr. Temporary Deputy Chairman, Sir, due to the necessity for further consultations, I wish to withdraw the proposed amendment.

*(Proposed New Clause 39A withdrawn)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, New Clause 39A has been withdrawn by hon. Wamalwa.

*(Ms. Karua stood up in her place)*

What is it, Ms. Karua?

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The New Clause 30A that has just been passed and was a new clause ought to have been read a Second Time because it is a new clause. But it has been passed as though it is a normal amendment. It is irregular and I think it ought to be regularized.

*(Applause)*

I remember another time we were sitting and it happened. That is not a properly passed Clause. We ought to revisit it.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, that is correct.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, give us a little time to consult and we will proceed.

*(The Temporary Deputy Chairman  
consulted the Clerks-at-the-Table)*

*New Clause 30A*

Hon. Members, let us dispose of that issue raised by Ms. Karua.

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

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Chairman, Sir. We want to contribute.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Ms. Karua! There was an opportunity to contribute and you did not come to contribute. We have to move on!

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Chairman, Sir. You just proposed and you did not give us a chance to contribute.

**The Temporary Deputy Chairman** (Prof. Kaloki): I did!  
Order, Ms. Karua! You cannot hold us hostage!

### PROGRESS REPORTED

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Chairman, Sir. In view of the fact that there is a lot of pending Business for the Finance Bill, I beg to move that the Committee of the whole House do report progress to allow for the completion of the Business of the Finance Bill.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House is considering the Finance Bill, and has instructed me to report progress and seek leave to sit again today.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth continue with its sittings until the conclusion of the Finance Bill as on the Order Paper.

**The Minister for Trade** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Prof. Kaloki) took the Chair]*

## THE FINANCE BILL

*(Resumption of consideration interrupted in  
Committee today)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, we will continue with the Committee of the whole House. The Clerk will now read the New Clause.

*New Clause 67A*

**Mr. Wamalwa:** Mr. Temporary Deputy Chairman, Sir, the position is the same. So, I withdraw this new Clause.

*(New Clause 67A withdrawn)*

*(Clause 68 agreed to)*

*New Clause 69A*

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, we consulted with the Minister and we agreed that since they have made a similar amendment – although I will be making further amendments to the amendment - I wish to withdraw my amendment.

*(New Clause 69A withdrawn)*

*New Clauses 70A, 70B and 70C*

**Mr. Wamalwa:** Mr. Temporary Deputy Chairman, Sir, the position is the same.

**The Temporary Deputy Chairman** (Prof. Kaloki): Which is what?

**Mr. Wamalwa:** Mr. Temporary Deputy Chairman, Sir, this is a matter that needed further consultations and I wish to withdraw it at this point.

*(New Clauses 70A, 70B and 70C withdrawn)*

*New Clauses 74 and 75*

**The Temporary Deputy Chairman** (Prof. Kaloki): The New Clause 74 and 75 will be moved by the Deputy Prime Minister and Minister for Finance.

**Mr. Ethuro:** Clause 74, Mr. Temporary Deputy Chairman, Sir?

**The Temporary Deputy Chairman** (Prof. Kaloki): That was a proposal!

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT the Bill be amended by inserting the following New Clauses immediately after Clause 73 -

Amendment to  
section 6 of  
No.7 of 1999.

**74.** Section 6 of the Kenya Roads Board  
Act, 1999 is amended in subsection (2)(d) -



(a) by deleting the expression “twenty percent” appearing at the beginning of paragraph (i) and substituting therefor the expression “twenty-two percent”;

(b) deleting the existing paragraph ((ii) and substituting the following -

“(ii) ten percent of the monies from the Fund is allocated for the maintenance or development of link roads between constituencies and to serve as Government counterpart funds in funding works on rural roads, to be administered by the Kenya Rural Roads Authority.”

Repeal and replacement of section 17 of Act No. 7 of 1999.

**75.** The Kenya Roads Board Act is amended by repealing Section 17 and replacing it with the following new section -

**Establishment**      **17.(1)** There is hereby  
, powers, and established, for every  
functions of constituency, a committee to  
the be known as the Constituency  
Constituency Roads Committee.

Roads

Committee

(2) The Constituency Roads Committee shall comprise of -

(a) four members from the respective Constituency Development Fund Committee;

(b) the Member of Parliament for the Constituency;

(c) a representative of the Kenya Rural Roads Authority in the region, who shall be the Secretary to the Committee;

(d) a representative from the Ministry responsible for planning;

(e) the respective Provincial Commissioner or his representative; and

(f) two members co-opted by the Committee to represent such special interests with regard to roads as the Committee may determine from time to time, and who shall not have voting rights;

(3) The Constituency Roads Committee shall designate two of the members appointed in paragraph (a) of subsection (2) to be the Chairman and Vice Chairman of the Committee respectively.

(4) The function of the Constituency Roads Committee shall be to advise the Kenya Rural Roads Authority on the formulation of the annual roads programme and the roads to be included therein.

(5) The Constituency Roads Committee shall meet at least four times a year, and a quorum shall comprise of the chairman or vice-chairman and four other members.

Establishment,  
powers, and  
functions of the  
Constituency  
Roads Tender  
Committee.

17A. (1) There is established for every Constituency a committee to be known as the Constituency Roads Tender Committee.

(2) The Constituency Roads Tender Committee shall comprise of -

(a) three representatives of the Constituency Development Fund Committee who are members of the Constituency Roads Committee;

(b) a representative of the Kenya Rural Roads Authority in the region;

(c) the procurement officer of the Kenya Rural Roads Authority in the region, or his representative, who shall be the Secretary;

(d) the respective Provincial Commissioner or his representative;

(e) a representative from the Ministry responsible for planning.

(3) The members of the Constituency Roads Tender Committee shall appoint two of the members referred to in paragraph (2)(a) to be chairman and vice-chairman of the Committee respectively.

Provided that the chairman of the Constituency Roads Committee shall not be eligible to be appointed chairman or vice-chairman of the Constituency Roads Tender Committee.

(4) The functions of the Constituency Roads Tender Committee shall be to procure roads works for the Constituency with funds allocated to the Constituency under this Act.

(5) The quorum shall be the Chairman and at least three other members of the Committee.

*(Question of the New Clauses proposed)*

*(New Clauses read the First Time)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Ethuro, do you want to make a contribute to clauses 74 and 75?

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, I have amendments for the Third Reading.

**The Temporary Deputy Chairman** (Prof. Kaloki): Any contributions? Hon. Martha Karua!

**Ms. Karua:** Mr. Temporary Deputy Chairman, Sir, I would just like to note that when we are reading a Second Time, explanations are expected so that the hon. Members pass what they know. In the absence of explanation by the Mover, it means that there may not be any good reason for passing the amendment. It is for that reason that I oppose.

**The Temporary Deputy Chairman** (Prof. Kaloki): What is your point of order, hon. Ethuro?

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, in the light of Second Reading and Third Reading of a new clause, those are two distinct positions. I just wanted to confirm to the House that the reason I withdrew my other amendment on New

Clause 69A is because we are proposing further amendments on the two New Clauses 74 and 75. These amendments will be discussed at the stage of amendments. As for now, it is necessary for the Deputy Prime Minister and Minister for Finance to do his bit as I did mine. Maxwell once said that integrity is like virginity; once lost, it is never recovered. I hope he will maintain his integrity.

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Minister, would you like to make some explanations on the clauses?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, these two clauses are in line with the Budget Speech as well as with discussions we have been having with the relevant Departmental Committees with regard to the constitution of the Constituencies Roads Committees and the operations of the Kenya Roads Board Act.

*(Question, that the New Clauses be read a Second Time, proposed)*

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

*(The New Clauses were read a Second Time)*

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

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Just to guide the House, we were dealing with Second Reading, in terms of proposing, but we still have the Third Reading to bring the amendments, as indicated to the Chair and the rest. In any case, that is why I was very clear. I made a statement. You cannot purport not to have heard me!

**The Temporary Deputy Chairman** (Prof. Kaloki): Let me consult a little!

*(The Chair consulted the Clerks-at-the-Table)*

According to the Clerks-at-the-Table, I have done the right thing. I have properly consulted. These clerks are our institutional memory and have the necessary expertise. So, we will proceed on.

#### *First Schedule*

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Dr. Khalwale! We are on another area of the Schedule.

Anyway, what is your point of order?

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, we have spent a lot of time on the amendment. In fact, we have negotiated with the Deputy Prime Minister and Minister for Finance, and the Minister for Roads. Both Ministers and ourselves are ready

with the amendments. So, if because of the confusion, we have not discharged our responsibility properly, it is only fair that the Chair rescinds his decision, so as to give us an opportunity to do exactly that. This is because when the Minister was reading his Budget Speech---

**The Temporary Deputy Chairman** (Prof. Kaloki): Dr. Khalwale indeed, I am not objecting. I am with you. Let us try to get the right procedure to make sure that this appears correctly in the HANSARD. Alright, there is a document here.

**The Minister for Trade** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Minister! Let us Proceed!

*(Mr. Ethuro stood up in his place)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Ethuro! We are just trying to correct---

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, --

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Minister! Let us proceed on!

**An hon. Member:** You are going back!

**The Temporary Deputy Chairman** (Prof. Kaloki): I am not going back! I am correcting an issue here to get the record right.

Mr. Ethuro, please proceed!

*Clause 74(a)*

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, I wish to propose amendments to Clause 74(a):-

THAT, the following words after the words "22 per cent" should be added. The words are---

**An hon. Member:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order! Mr. Ethuro; just a minute! Let me consult my clerks a little bit.

*(The Temporary Deputy Chairman  
Consulted the Clerks-At-the-Table)*

Mr. Ethuro, proceed!

**Mr. Ethuro:** Thank you, Mr. Temporary Deputy Chairman, Sir.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Temporary Deputy Chairman, Sir.

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, protect me from Mr. Ojode!

Mr. Temporary Deputy Chairman, Sir, I wish to propose amendments which are properly placed before the House. They have been consulted upon and I speak in my

capacity and authority as the Chairman of the Constituencies Development Fund Committee.

**Prof. Kaloki:** Which clause?

**Mr. Ethuro:** Clause 74(a)

*(Applause)*

I propose that the following words after the words, “22 per cent” be added:-

“which shall be deposited into a special bank account to be called the Constituency Roads Fund”

Mr. Temporary Deputy Chairman, Sir, the justification of this is that once the Minister has allocated the 22 per cent, he has not specified where the money will be kept. In the Committee deliberations, we had agreed on all those things. This is, therefore, just a reminder to the Minister that we had agreed and that a special account should be made and signatories will follow in subsequent amendments.

**The Temporary Deputy Chairman** (Prof. Kaloki): Any further contributions?

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I want to agree with my colleagues that we are repeating ourselves. I think the matter had been closed. I have no objection so long as the document you have has the last words beginning from, “Fund”--- to be maintained in every constituency”, I want that to be deleted as read by Mr. Ethuro. If you read the first statement, it was being put in a special account called “Constituency Roads Fund to be maintained in every constituency”. There was no issue of banking the money. So, I agree with what Mr. Ethuro has proposed but I want it to be taken care of in the document that you have.

**The Temporary Deputy Chairman** (Prof. Kaloki): It will be taken care of. Any further contributions on the same?

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I would like to repeat what I have read. We accept that there be an amendment to Clause 74(a) after the words “22 per cent” to read “which shall be deposited into a special bank account to be called “Constituency Roads Fund.” This cannot be “every constituency” because there are some constituencies without banks.

**Mr. Lessonet:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The Minister is not in order! The amendment has been brought by Mr. Ethuro, and we can only vote on that amendment. So, if the Minister wants to bring an amendment to the amendment of Mr. Ethuro, that is a different matter. Let him bring that amendment.

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Bett, could you move a further amendment?

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, it is not a further amendment. I think I have heard Mr. Ethuro clearly. He has read exactly what I am reading.

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Ethuro, what I am getting here is that the following words be added: “22 per cent which shall be deposited into a special account to be called Constituency Roads Fund and to be maintained in every constituency”.

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I agree with Mr. Ethuro. The only thing I am saying is that it has to be a special bank

account. Therefore, I wish to amend Mr. Ethuro's amendment to read "which shall be deposited into a special bank account to be called "Constituency Roads Fund" to be maintained in every constituency." I want to amend "to be maintained for every---"

*(Question of the amendment to the amendment proposed)*

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, I just want to support the Minister's further amendment to my amendment.

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I think it makes a lot of sense, except that we must recognize that it is not in every constituency that we have banks. So, the clause should now read that the account must be held in every constituency, which is very different from "for every constituency."

Mr. Temporary Chairman, Sir, would I be in order to amend the clause further by deleting "in" every constituency and replacing it with "for" every constituency.

**Hon. Members:** By!

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, "by" every constituency.

**The Minister for Lands** (Mr. Orengo): Mr. Temporary Deputy Chairman, Sir, words can be very complicated, but it is very critical that the word "by" is used as opposed to "for."

**The Temporary Deputy Chairman** (Prof. Kaloki): I think the hon. Members have agreed. It will now read:-

"Add the following words after the words 22 per cent which shall be deposited into a special bank account to be called Constituency Roads Funds to be maintained by every constituency."

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

*(Clause 74(a) as amended agreed to)*

Hon. Ethuro, you have another amendment to Clause 74(b).

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

THAT, Clause 74b(ii) be amended by adding the following words at the end of the word "authority"; "and that the said per centum shall be equally distributed to the constituencies where Kenya Rural Roads Authority (KERRA) has the mandate."

Mr. Temporary Deputy Chairman, Sir, if you look at the existing KRB Act that we are proposing to amend, this portion that has been traditionally going to the districts is based on equitable distribution. The experience of "equitable" distribution has meant that some constituencies get an unfair share than others. "Equal distribution" means that all constituencies – because KERRA is a rural Authority, it may not affect all the constituencies. But in the relevant constituencies where KERRA has the mandate will be given the money. Once that money is allocated, the Minister's provisions for the regional manager--- If that regional manager has three, five or ten constituencies, he will get the money according to the number of constituencies that are under him. So, we are not taking money to the constituencies *per se*. This money will be given but allocated to the KERRA to be used as per the provisions of the amendments.



**Mr. Lessonet:** Mr. Temporary Deputy Chairman, Sir, I rise to second the proposed amendment by hon. Ethuro. But, basically, because of my experience in my first year as a Member of Parliament, I have actually come to realize that the words “equitable distribution” cannot objectively give the amount that goes to every constituency. We realize that whenever we use the word “equitable”, you will find one district getting Kshs1 million and another one Kshs100 million. At that time, you are told that it is equitable.

Mr. Temporary Deputy Chairman, Sir, we appreciate the fact that the Deputy Prime Minister and Minister for Finance still wants to get donor support and it is the reason why he wants to beg hon. Members that this money be channeled through Kenya Rural Roads Authority (KERRA) for purpose of attracting other funding. But for the end gain of having it equally distributed in all constituencies where KERRA operates, you realize that when we use the words “equitable distribution”; actually that money is like pocket money for the Minister, the Permanent Secretary (PS) and the Managing Directors (MDs) of KERRA and Kenya Roads Board (KRB). It is actually their pocket money and you will find that for hon. Members to access these “equitable distributed funds”, they actually must go and line up in the Minister, the PS and the KRB’s offices. We want to stop that lining method and get this money equally!

I beg to support.

**The Minister for Roads** (Mr. Bett): On a point of order, Mr. Temporary Deputy Chairman, Sir. Did you hear the hon. Member say that this money is going to be pocket money for the Minister, the PS, and the MDs? If that is the truth, can the hon. Member substantiate?

**The Temporary Deputy Chairman** (Prof. Kaloki): Order! Hon. Lessonet, please, just withdraw that remark. I mean, what is pocket money? That is too causal!

**Mr. Lessonet:** Mr. Temporary Deputy Chairman, Sir, yes, I beg to withdraw the words “pocket money” and actually replace them with the words, “the money is actually available to the Minister, the PS and the MDs”.

**The Temporary Deputy Chairman** (Prof. Kaloki): Fine! They use it with discretion!

**Mr. Lessonet:** They use the money discretionary, but we want now to agree that we can share it equally.

Thank you.

**Hon. Members:** That is good English!

**The Temporary Deputy Chairman** (Prof. Kaloki): Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Minister, any contribution to that addition?

**The Minister for Roads** (Mr. Bett): Thank you, Mr. Temporary Deputy Chairman, Sir. I want to thank Mr. Ethuro and I want to indicate that this matter was negotiated on the basis that when Mr. Kenyatta made the statement in Parliament, he only touched on 22 percent. He did not touch on this 12 percent. Initially, it was 12 percent, but because the Deputy Prime Minister and Minister for Finance in his Budget Speech said that he would make available 22 percent, after consultations with him, we agreed to

offload 2 percent from 12 and this is the reason why we are seeing 10 percent. Hitherto, it was 12 percent.

Mr. Temporary Deputy Chairman, Sir, I want also to indicate that this money is not at the discretion of anybody. There is a specific provision there indicating how the money will be used. The hon. Members will be having 22 percent available to them, given in an equal distribution to every constituency; and which is now going to be managed under the Constituency Roads Committee (CRC). This money will be used for those link roads between constituencies. There is a road that has been done in Turkana South and another one in Turkana North, but there is a road linking the two constituencies which the two hon. Members may not be able to do because of inadequacy of funds or because priorities in the two constituencies may not be the same. So, we are saying that, that money will be used by KERRA to connect the two constituencies. It is meant for connectivity between constituencies.

We will also use the money as counterpart funds. We have donors who are willing to help us work on rural roads. However, they will want to see our contribution. We want to have that 10 per cent as our source of contribution so that we can join together with Roads 2000, for example, so that roads are constructed in various constituencies. That is our intention. The money is intended to be used for that purpose and not in any manner to be misused.

Mr. Temporary Deputy Chairman, Sir, as you move further, Clause 17(4) says that the function of the Constituency Road Committee shall be to advise the Kenya Rural Road Authority on the formulation of the annual road programme and the roads to be included therein. So, the committee has a responsibility to advise the authority on the issue of roads from that section. Therefore, I want to persuade hon. Members that we have this money available to the Authority. It will be used for projects which are common in most constituencies and projects that require counterpart funding as a result of donor funding. That is my plea to hon. Members.

**The Temporary Deputy Chairman** (Prof. Kaloki): Are you opposing or supporting?

**The Minister for Roads** (Mr. Bett): I am opposing the amendment.

**Eng. Rege**: Mr. Temporary Deputy Chairman, Sir, the word that describes the road that connects two constituencies could be ambiguous or is not technically or logistically correct depending on how constituencies are situated. Some border water bodies and there is no road that connects, to them. The word "may" in liaising with the Ministry of Roads officials", is the way we should put it.

**Mr. Were**: Mr. Temporary Deputy Chairman, Sir, I have looked at the amendment. The 10 per cent that has been given to KERRA was initially meant for district roads. What we have to understand is that when we talk about equal, we should know that we already have 22 per cent being distributed equally among constituencies. Constituencies differ in terms of road network. There are some with good roads, while there are some with bad roads. If you say that the 10 per cent will again be distributed equally, it will be unfair to the constituencies with very poor road network. Therefore, in my thinking, this amendment should not be passed so that those constituencies which are disadvantaged can get slightly more than those which have good roads.

Therefore, I oppose.

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir. I would like to make a clarification before further contributions. I agree with the Deputy Prime Minister and Minister for Finance that the money will be used by the authority to allocate on the basis of need. What this amendment on equal distribution is talking about is that you have a certain amount of money which you want to allocate on the basis of a stringent formula that is not left to the whims of particular individuals to decide where to take the money. I thought I was very clear. If the regional manager of Turkana region, for example, has three constituencies, then he or she will allocate the money to the three constituencies to manage. The money should not be brought to the constituency *per se*. In that regard, we will look at all the roads in our constituencies and districts and allocate the money appropriately. However, the allocation formula is at the source of the money. Mr. Deputy Prime Minister and Minister for Finance, how do you allocate the 10 per cent?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir---

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

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Mbadi! Proceed, Mr. Deputy Prime Minister and Minister for Finance.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, to be honest, we have deliberated the two Clauses with all the relevant Committees. That is the Departmental Committee on Finance, Planning and Trade; the Constituencies Development Fund (CDF) Committee and the Departmental Committee on Transport, Public Works and Housing for three to four sessions. So, these explanations were given.

The issue that has been raised by the CDF Chairman was contained in the Budget. I thank the Minister for Roads for complying and agreeing that we move these resources closer to the grassroots. I find it unfortunate that after we have discussed and agreed with a full explanation being given by the Minister and his team, as to why this is necessary - a position that was agreed by both Committees--- I thank the Chairman of the Roads Committee for standing by what we agreed. We now want to change and completely destabilise the operations of the Kenya Rural Roads Authority. If, indeed, the points that my colleague is making are valid, why can he not allow that debate to be done by the Minister for Roads and the Departmental Committee on Transport, Public Works and Housing to establish if they are valid and can be effected? It is not in good faith to do this, this way. Why do we go to our Committees? Why do we spend time with our Committee? For the last few weeks, I have gone through all these things for the purpose of hopefully coming up with a common position of agreement.

I oppose, Mr. Temporary Deputy Chairman, Sir.

**Ethuro:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The Deputy Prime Minister and Minister for Finance, who is a very good friend of mine, knows the devil is in the details. We made agreements and asked him to come back to us with the amendments. He did not come with them until this morning. So, he cannot talk about the relevant Committee. The relevant Committee for Economic Stimulus is the CDF. More importantly, as a Member of this House, I have the right to raise issues on a particular matter. So, the Deputy Prime Minister and Minister for Finance should not seek refuge in a Committee that is friendly to him.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order!

Mr. Minister, proceed on with your submission.

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I want to confirm to this House that the CDF Committee is not unfriendly to me at all. We went back to the Departmental Committee on Transport, Public Works and Housing which is our Committee as detailed in the Standing Orders and we explained ourselves. It is at that stage that we conceded reducing from 12 per cent to 10 per cent. I want my colleagues on the other side of the House to appreciate the magnanimity that we have done on that issue. We have held many meetings, like my colleague, Mr. Kenyatta has said in good faith.

**The Temporary Deputy Chairman** (Prof. Kaloki): Is the Chairman of the Departmental Committee on Transport, Public Works and Housing here?

**An hon. Member:** Mr. Were!

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, it is quite clear that the Deputy Prime Minister and Minister for Finance is very agitated. I quite agree with you that this is the moment to be agitated.

As I agree with him, may I beg with him to hold himself because this is democracy at play? When you are our Minister for Finance, you will have to listen to us.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, hon. Khalwale! You are standing on a point of order, right!

**Dr. Khalwale:** No, I am contributing!

**The Temporary Deputy Chairman** (Prof. Kaloki): Would you then contribute?

**Dr. Khalwale:** Yes, Mr. Temporary Deputy Chairman, Sir, I am doing so. We all have different styles.

**The Temporary Deputy Chairman** (Prof. Kaloki): Proceed on the subject matter we are talking about not personalities.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, the reason why hon. Ethuro's amendment is justified is that the words "equitable distribution" are not new in this country. We have had these words there. In spite of them being there, we find our roads in some parts of the country being what they are and others being what they are.

Whereas, I would like to agree with the Chairman of the Departmental Committee on Transport, Public Works and Housing that they should be given this leeway, the problem is the Constitution of Kenya the way it is. If I am neighbouring a constituency where one of the movers and shakers of the politics of this country comes from and now the Regional Director of Kenya Rural Roads Authority (KERRA) is in charge of my constituency and that one of that big man, it will mean that he will simply lift up a phone and the money will go there. I, therefore, would like us to move the country a step higher and distribute the money "equally", rather than "equitably".

I beg to support, hon. Ethuro's amendment.

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I believe that the amendment we are looking at is to just remind ourselves that the said per centum shall be equally distributed to the constituencies where KERRA has the mandate. We have been talking a lot about inequality in the development of some areas in this country. By putting this money and now distributing it across all constituencies, we are actually denying the constituencies that have not had the benefit of development. We will be putting the money where it is not needed because it will be distributed. This is because KERRA has an operation there whether or not there is a link road. This money is to do

link-roads between constituencies. If I give the example, between Naivasha Constituency and Kipiripiri, there is a road, D390, that links us together. However, one portion of that road is actually more on the Naivasha side than on the Kipiripiri side. If the money was to be distributed equally to do that link road, I would have more money than I need and Naivasha will be denied the money that they need. I can see the spirit of wanting to have equitable or equal distribution of money. But when we put it within the law, it will be very difficult to reverse. I would like to persuade hon. Ethuro, knowing the terrain of the district where he comes from, and the need for money in those areas, not to deny those people that money by saying he should be given the same money as Kitale which, probably, does not require as much. Let us also be careful that we do not deny the people in the areas that are totally marginalised by distributing our money equally, even to areas that do not need.

I would like to persuade hon. Ethuro that this area can be captured within the subsidiary legislation in terms of how this will be done. But as of now, let us first of all, pass the money. It is a new thing. We have time to come back to this House and with the benefit of the Roads Committee, to look at the way it is being used and then we can get the law to address if there is any misuse. As of now, I would like to persuade, hon. Ethuro to withdraw the proposed amendment, so that we make progress.

**Ms. Karua:** Thank you, Mr. Temporary Deputy Chairman, Sir. I support the amendment about counterpart funding, *et cetera*. This is only 10 per cent. The other 22 per cent is going to the constituency, making a total of 32 per cent. The 68 per cent is at the disposal of the Government.

If the Government wishes to do affirmative action on it, there is enough money. If the Government has not, in the past, carried out any affirmative action on these funds, while we debate the best way to do it now that we hear intentions, that can be achieved by next year. Let us see how far we go with our rural roads with this kind of formula for this year.

**The Minister for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Thank you, Mr. Temporary Deputy Chairman, Sir. I stand to oppose the amendment. I would like to really convince my senior, hon. Ethuro, that this 10 per cent is what will really develop northern Kenya and, particularly, the constituency he comes from. If you want to check, there is a whole Roads Committee that can say what criteria has been used to allocate the money.

I want to persuade him that for the parts of this country that are not developed, if we continue dividing funds equally, we are not starting from the same point. We have already divided 22 per cent equally. In my view, take the Budget Stimulus Package, for instance, the secondary schools allocation was given equally to all parts of the country. But, really, there are some places which have no statistical significance to deserve an extra secondary school while in other places, it will change that area completely. If you want to continue this trend of dividing things equally instead of equitably; where it is needed most, I think we should---

**An hon. Member:** What is that?

**The Minister for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Hon. Members can decide, in my view, to check the criteria being used. We have Departmental Committees of the House whose job it is to check the

Executive. In my view, I would really like to persuade Mr. Ethuro to withdraw the amendment.

Thank you..

**The Temporary Deputy Chairman** (Prof. Kaloki): Should we put the question or should we continue to debate? Mr. Mbadi!

**Mr. Mbadi:** Mr. Temporary Deputy Chairman, Sir, I was almost giving up. I do not know what is happening!

Mr. Temporary Deputy Chairman, Sir, I think what we are trying to do is to divide the money equally, but the Ministry will still manage it. This idea of discretion and equitability which you are talking about has been there since Independence and we have never seen any change. I want to give you some examples: Recently, the Minister for Public Works who was the acting Minister for Roads even gave an approval that a section of a road in my constituency needed some funding. After that, a very junior officer in that Ministry refused to give me the money. Up to now, I have not even seen the money, yet it was very urgent. This kind of discretion is what we do not want. Give me my money, however little it is and let me use it in my constituency.

**The Temporary Deputy Chairman** (Prof. Kaloki): Okay. Should we put the question or should we continue to debate? We are at the Committee Stage and we can talk. Can we vote on this so that we can proceed?

**Hon. Members:** Put the Question!

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Githae!

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Thank you, Mr. Temporary Deputy Chairman, Sir. I think we need to be very clear that this proposed amendment by hon. Ethuro is actually going against the very principle he is trying to correct.

What this means is this; for the small constituencies like mine--- I do not mind this amendment because it actually favours my constituency. But I am looking at even his constituency. He is the one who is actually going to lose! We have said that when it comes to roads, they must be done per kilometer and when it comes to voting, per population. This is one of the things I was previously saying. For roads, it must be done per kilometer and not per population. I do not mind if---

**The Temporary Deputy Chairman** (Prof. Kaloki): Alright, let me put the question!

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

*( New Clause 74(b) as amended agreed to)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Ethuro, do you have further amendments to Clause 75?

*Clause 75*

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, there is a proposal. Do I move all of them or I move one at a time?

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, hon. Ethuro! First, I will propose Clause 75---

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, I needed your guidance. Do I do one at a time or all of them?

**The Temporary Deputy Chairman** (Prof. Kaloki): Do one at a time, since these things are technical. For the sake of the record, proceed with Clause 75, (17(A)(2).

*Clause 75, 17(A)(2)(d)2(e)*

**Mr. Ethuro:** Thank you, Mr. Temporary Deputy Chairman, Sir, for your guidance, I wish to move the following amendment:-

THAT, Subclauses 2(d) and 2(e) be deleted.

Mr. Temporary Deputy Chairman, Sir, the rationale here was that to ensure that the composition of these committees reflects the desire by the Deputy Prime Minister and Minister for Finance to look at these resources in terms of the Constituencies Development Fund (CDF) framework; that is a project managed by the community itself.

*(Question of the amendment proposed)*

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, to show my good faith, and I underline the words “good faith”, I agree to the proposal.

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

*(Subclauses 2(d) and 2(e) deleted)*

*New Clause 75(17A)(5)*

**Mr. Ethuro:** Mr. Temporary Deputy Chairman, Sir, after consulting the Minister, I wish to withdraw that particular amendment. I am withdrawing the amendment to (75 (17( A)(5) which had proposed to reduce the quorum from Chairman plus three other members of the Committee to Chairman plus two other members of the Committee. After consulting the Minister, his wisdom prevailed and we have no quarrel. At least, I am just demonstrating good faith again.

*(Laughter)*

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I accept the withdrawal for a good reason. If the quorum remains one and two, it means they are three people in the Committee. That would mean that the committee mentioned in Subclause 2(a) would meet without the secretariat.

*(Mr. Bett approached the Chair)*

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Minister in order to roam around like he does when the House is in business?

**The Temporary Deputy Chairman** (Prof. Kaloki): It is the Committee of the whole House. It is Committee Stage. That is okay.

**Mr. Ogindo:** Walking behind the Chair?

**The Temporary Deputy Chairman** (Prof. Kaloki): It is Committee Stage. It is all right. Hon Ethuro, can you approach the Chair?

*(Mr. Ethuro approached the Chair)*

Hon. Members amendment on Clause (17)(A)(5) has been withdrawn by hon. Ethuro.

*( Proposed amendment to New Clause 75(17(A)(5) withdrawn)*

*New Clause 75 (17)(2)(e)*

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

THAT New Clause 75(17) (2)(e) be amended by deleting the words “Provincial Commissioner” and inserting in place thereof “District Commissioner”.

The reason is that the District Commissioner is nearer to our constituencies and districts than the Provincial Commissioner.

**The Temporary Deputy Chairman** (Prof. Kaloki): Who is seconding that proposal?

**Ms. Karua:** I second the proposal

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out proposed)*

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

*( New Clause 75(17)(2)(e) as amended agreed to)*

*New Clause 75 (17)(3)*

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

THAT, Clause 75(17)(3) be amended by adding the words “and that any two members from Subclause 2(a) designated by the Committee and the Kenya Rural Roads Authority (KERRA) accountant shall be the signatories to the Constituency Roads Fund account established by the constituency” after the word, “respectively” .

Mr. Temporary Deputy Chairman, Sir, this is just to remain consistent with the earlier amendment by the Minister for Trade.



**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I second and agree to it.

*(Question, of the amendment proposed)*

*(Question, that the words to be added be added, proposed)*

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

Hon. Ethuro, I think you are through with your amendments.

*(New Clause 75(17)(3) as amended agreed to)*

*First Schedule:*

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, there is an amendment to the First Schedule by the Deputy Prime Minister and Minister for Finance.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the First Schedule to the Bill be amended in Part 1-

- (a) by deleting tariff numbers 2201.10.00 and 2201.90.00, and their respective descriptions and rates of duty appearing in item (1) and inserting the following new tariff numbers, descriptions and rates of excise duty in their proper numerical sequence –

Tariff No.	Goods Description	Rate of duty
2201.10.00	Mineral water including natural or artificial mineral and natural waters, not containing added sugar or the sweetening matter nor flavoured	Shs.6 per litre or 10%
2201.90.00	Ice and snow ; other natural or artificial mineral waters and aerated waters, not containing added sugar or the sweetening matter nor flavoured	Shs, 6 per litre or 10%

- (b) by inserting the following new item immediately after item 1.

- 1A. Delete the following tariff numbers, descriptions and the corresponding rates of excise duty.

Tariff No.	Goods Description	Rate of duty
2106.90.70	Concentrated beverages rendered ready for consumption by simple dilution with water (e.g syrups, cordials, squabbles etc)	10%
2204.10.00	Sparkling wine of fresh grapes, including fortified wines	Shs.70 per litre or 50%
2204.21.00	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 litres or less.	Shs.70 per litre or 50%
2204.29.00	Other wine, grape must with fermentation prevented or arrested	Shs.70 per litre

	by the addition of alcohol, or in containing of more than 2 litres	or 50%
2204.30.00	Other grape must wine	Shs.70 per litre or 50%
2205.10.00	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of 2 litres or less	Shs.70 per litre or 50%
2205.90.10	Vermouth and other wine of such fresh grapes flavoured with plants or aromatic substances, in containers of more than 2 litres	Shs.70 per litre or 50%
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher.	Shs.120 per litre or 65%
2208.20.00	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol. spirits obtained by distilling grape wine or grape mare.	Shs.120 per litre or 65%
2208.30.00	Whiskies.	Shs.120 per litre or 65%
2208.40.00	Rum and other spirits obtained by distilling fermented sugar cane products.	Shs.120 per litre or 65%
2208.50.00	Gin and Geneva	Shs.120 per litre or 65%
2208.60.00	Vodka	Shs.120 per litre or 65%
2208.90.10	Liqueurs and cordials.	Shs.120 per litre or 65%
2208.90.10	Distilled spirits (e.g. Konyagi, Uganda Waragi)	Shs.120 per litre or 65%
2208.90.90	Other spirits and other spirituous beverages	Shs.120 per litre or 65%

(c) by inserting the following new item immediately after item 2 -

2A. insert the following tariff numbers descriptions and the corresponding rates of excise duty.

<b>Tariff No.</b>	<b>Goods Description</b>	<b>Rate of duty</b>
2106.90.90	Other food preparations not elsewhere specified or included	7%
2204.10.00	Sparkling wine of fresh grapes, including fortified wines	Shs.70 per litre or 35%
2204.21.00	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of holding 2 litres or less.	Shs.70 per litre or 35%
2204.29.00	Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding more than 2 litres	Shs.70 per litre or 35%
2204.30.00	Other grape must	Shs.70 per litre or 35%
2205.10.00	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of holding 2 litres or less	Shs.70 per litre or 35%
2205.90.10	Vermouth and other wine of such fresh grapes flavoured with plants or aromatic substances, in containers holding more than 2	Shs.70 per litre or 35%

	litres	
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher.	Shs.120 per litre or 35%
2208.20.00	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol. spirits obtained by distilling grape wine or grape marc.	Shs.120 per litre or 35%
2208.30.00	Whiskies.	Shs.120 per litre or 35%
2208.40.00	Rum and other spirits obtained by distilling fermented sugar cane products.	Shs.120 per litre or 35%
2208.50.00	Gin and Geneva	Shs.120 per litre or 35%
2208.60.00	Vodka	Shs.120 per litre or 35%
2208.70.00	Liqueurs and cordials.	Shs.120 per litre or 35%
2208.90.10	Distilled spirits (e.g. Konyagi, Uganda Waragi)	Shs.120 per litre or 35%
2208.90.90	Other spirits and other spirituous beverages	Shs.120 per litre or 35%

*(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)*

*(The First Schedule as amended agreed to)*

### *Second Schedule*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule to the Bill be amended in Part A-

(a) by deleting paragraph 1 and substituting therefor the following new paragraph-  
1. Amend paragraph 6 by inserting the word "gazetted" immediately before the word "exports".

(b) by deleting paragraph 2 and substituting therefor the following new paragraph-

2. Amend paragraph 9 by inserting the words "and taxable supplies in respect of tea or coffee bought from the auction centres, provided the tea or coffee is for export" immediately after the words "the auction centres".

(c) in paragraph 3 by inserting the words “responsible” immediately after the word “Minister” appearing in the proposed paragraph 21.

(d) by inserting the following new paragraph immediately after paragraph 3-

4. Insert the following new paragraph immediately after paragraph 21-

22. The supply of taxable services to ships.

*(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)*

*(The Second Schedule as amended agreed to)*

*Clause 1*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, there is a typing error in part “b” which reads, “Section 6(b) and Section 6(c)”, the “(c)” should be “(d)”.

*(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 1 as amended agreed to)*

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

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

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

THE FINANCE BILL

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Finance Bill (2009) and approved the same with amendments.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Trade** (Mr. Kimunya) seconded.

*(Question proposed)*

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and thank the Deputy Prime Minister and Minister for Finance and the Minister for Roads for the extensive consultations they have had with Parliament. This, indeed, is the way forward. I would like to request my friend, Mr. Kimunya, to learn from that in future when he is appointed--- He can do it as well!

*(Laughter)*

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I also rise to commend the Departmental Committees that examine all the Bills before they come to the Floor of this House. You have seen that in spite of the numerous amendments, we have achieved a lot this evening because of the consultations between the Ministers and the Committees. I also take this opportunity to thank the Deputy Prime Minister and Minister for Finance. It is time to work now that we have passed the Appropriations Bill and the Finance Bill. We want money so that we can develop this country.

**The Minister for Roads** (Mr. Bett): Thank you, Mr. Temporary Deputy Speaker, Sir. I thank the Committees which consulted with us. I would like to inform hon. Members that we intend to move with speed as soon as the President assents to the Bill. We trust you, hon. Members. I urge you to use the funds now in your hands wisely for the benefit of your constituents, and by extension, the benefit of this country.

*(Question put and agreed)*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Finance Bill be now read the Third Time.

**The Minister for Roads** (Mr. Bett) seconded.

*(Question proposed)*

**The Minister for Trade** (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir. I believe it has been a very good afternoon. It is a culmination of a lot of discussion and I wish we could continue in the same spirit. I wish my old college mate could tone down his reactions out there so that we can make progress for the benefit of this nation. I believe there is enough money now for Mr. Ruto to use so that we can make progress in this country.

**The Assistant Minister for Industrialisation** (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, I merely want to add my voice to those who have said that the spirit of working, doing the right things and moving the country forward is what we should be doing. Of course, those of us from rather large constituencies will go home a bit worse off today but this is what the spirit of give and take is all about.

*(Question put and agreed to)*

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

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until Tuesday, 1<sup>st</sup> December, 2009, at 2.30 p.m.

The House rose at 7.40 p.m.