

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 18th July, 2002

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.284

UNDERSTAFFING IN RONGO SCHOOLS

Mr. Deputy Speaker: Is Mr. Ochilo-Ayacko not here? We will leave his Question until the end.

Question No.391

REGULARIZATION OF GOK/KNUT SALARY AGREEMENT

Mr. Khamasi asked the Minister for Education:-

- (a) if he could explain whether or not the agreement for salary increase entered into by the Government and the Kenya National Union of Teachers during the year 1997 was illegal.
- (b) what action he is taking to regularize the anomaly.

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

(a) The issue was not an illegality, but it was affected by the Government's inability to meet its financial obligations after the withdrawal of donor support in that year and in the subsequent years, up to this financial year.

(b) The Government, through harmonisation of salaries and terms of employment, is addressing this matter and some of the issues in that agreement have been addressed.

Mr. Khamasi: Mr. Deputy Speaker, Sir, the reason why the Government was unable to meet its obligations after this agreement as per the Secretary of the Teachers Service Commission (TSC) statement, was that it was an illegality. The Assistant Minister has now said that it was not. If it was not an illegality, why is the Government now getting into an arrangement where it will renegotiate the agreement with the Kenya National Union of Teachers (KNUT)?

Mr. Awori: Mr. Deputy Speaker, Sir, I am not aware that donors are negotiating with the KNUT. In fact, donors have got no legal right to negotiate with an organisation of the Government without negotiating with the Government directly.

Mr. Kihara: Mr. Deputy Speaker, Sir, teachers have been very reasonable with the Ministry and have asked the Ministry to put something on the table, which they can then discuss. Why is the Ministry not doing what the teachers have asked it to do, so that they can discuss the matter and come to some understanding instead of jeopardising our children's education?

Mr. Awori: Mr. Deputy Speaker, Sir, my Ministry is already negotiating with the teachers. In fact, it is doing exactly what the hon. Member has asked.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Government issued a Legal Notice stating that the agreement was in force. Once an issue has been put in a Legal Notice, it becomes legal. Why has the Government not implemented the agreement after putting it in a Legal Notice?

Mr. Awori: Mr. Deputy Speaker, Sir, I can only repeat what I have stated, that the donor community withdrew its support and the Government did not have the capacity to meet the teachers' requirements. As of now, we are negotiating with the KNUT, and KNUT is quite satisfied with the way negotiations are going.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, the Assistant Minister has accepted that the Government is

negotiating with the teachers on the issue of the teachers' salary increment. Could he tell the House whether they are negotiation within the framework of the previous agreement or outside it? If they are negotiating outside the previous agreement, what is the position of the previous agreement?

Mr. Awori: Mr. Deputy Speaker, Sir, I do not think that I need to bring in here, step by step, the negotiations we are having with the teachers. As I have stated, and this has been brought out even by [Mr. Awori] the media, teachers are quite happy with the negotiations. When we complete the negotiation process, the result will be announced and teachers will be quite satisfied since they are also part of the society of this country.

Mr. Katuku: Mr. Deputy Speaker, Sir, I am surprised to hear the Assistant Minister say that teachers are happy with the way negotiations are going. Teachers in Mwala Constituency are not happy, and I want to imagine that teachers in other constituencies are also not happy. The Assistant Minister has misled this House.

We understand that the first agreement between the Government and the KNUT was entered into under duress arising from the then approaching general election. Now we are also approaching a general election.

Mr. Deputy Speaker: Ask your question!

Mr. Katuku: Mr. Deputy Speaker, Sir, could the Assistant Minister now assure this House that whatever agreement the Government and the KNUT will come up with, the Government will honour it? If the Government will not honour the agreement, teachers will be bound to vote it out.

Mr. Awori: Mr. Deputy Speaker, Sir, the agreement that we will reach will depend entirely on our capacity to implement it, and once we agree on it, we will honour it.

Mr. Khamasi: Mr. Deputy Speaker, Sir, the Government acceded to the teachers request when we were just about to conduct a general election in 1997. Now that we are about to go to another general election, could the Assistant Minister confirm that, at least, there will be something to appease teachers in order for them to vote for the ruling party?

Mr. Awori: Mr. Deputy Speaker, Sir, we do not go in for bribery. We will accept what we can afford.

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

Question No.399

LOWERING OF MINIMUM QUALIFICATION
FOR TTC INTAKE

Mr. Deputy Speaker: Is Mr. Wambua is not here? We will come back to his Question.

Next Question, Mr. Otula!

Question No.407

SHORTAGE OF EDUCATION OFFICERS IN RACHUONYO

Mr. Otula asked the Minister for Education:-

(a) whether he is aware that there is a shortage of Assistant Education Officers (AEOs) in Rachuonyo District; and,

(b) what action he has taken to post more officers in the area.

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

(a) I am not aware that there is any shortage of Assistant Education Officers (AEOs) in Rachuonyo District.

In view of the above, (b) does not arise.

Mr. Otula: Mr. Deputy Speaker, Sir, in more than two meetings we have discussed the issue of examination results. We have been told---

Mr. Deputy Speaker: Which meetings?

Mr. Otula: These are the District Education Board (DEB) meetings. We have always been told that the poor performance in examinations by students in that particular district is due to under-staffing of AEOs. Could the Assistant Minister tell this House how many divisions we have in that particular district and how many qualified AEOs are there?

Mr. Karauri: Mr. Deputy Speaker, Sir, there are four divisions. The first division is Kasipul and the AEO is Ezra Bwana. The second division is Kabondo and the AEO is James Adero. The third division is East Karachuonyo and the AEO is Ong'eyo Jacob. The fourth division is West Karachuonyo and the AEO is Mr. Olwanga Absolom.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister has read the list of AEOs. Could he be kind and read the list of inspectors of schools in that given district? This is because even my constituency has a problem of these inspectors of schools. They are refusing to join the Ministry of Education, Science and Technology because they say that once they join it they lose some benefits that are due to them. Could you confirm that there is a problem and how are you going to sort it out?

Mr. Karauri: Mr. Deputy Speaker, Sir, the Question is about AEOs, but I admit there is a shortage of four inspectors of schools out of 18 zones.

Mr. Otula: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that two of these particular AEOs that he is talking about are not qualified and are acting as AEOs in the two divisions, that is Kasipul and East Karachuonyo?

Mr. Karauri: Mr. Deputy Speaker, Sir, we deploy in the divisions either AEOs or inspectors of schools and both of these people have qualified to be heads of divisions.

Mr. Otula: Mr. Deputy Speaker, Sir, when will these two AEOs be promoted to full AEOs in the divisions because at the moment they are acting?

Mr. Karauri: Mr. Deputy Speaker, Sir, I have explained that it is not a question of promotion. Inspectors of schools, even those at the same grade with AEOs, can manage education at the divisional level. Whether you are an inspector or an education officer you are deployed by the Teachers Service Commission (TSC).

Mr. Deputy Speaker: No! But if those officers are acting, then they are acting in a capacity slightly above their substantive positions. So he is asking you: Are they going to be promoted or asked to continue performing at that level?

Mr. Karauri: Mr. Deputy Speaker, Sir, to the best of my knowledge, none of these people are acting. They are substantive education officers in those divisions.

Mr. Deputy Speaker: Next Question, Dr. Ali!

Question No.397

UPGRADING OF EXCHANGES TO STD STATUS

Dr. Ali asked the Minister for Transport and Communications when he will upgrade Bute, Buna and Sololo manual exchanges to Subscriber Trunk Dialling (STD) facility status.

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

(a) A similar Question asked by the Member was responded to by my Ministry on 19th July, 2000. At that time, I had informed this House that there were no plans to upgrade the manual facilities at Bute and Buna. I further informed this House that the problem was compounded by lack of electricity in the area that would power the automatic facilities. At that time, Telkom Kenya Ltd. had installed additional batteries to boost power supplies to Bute and Buna exchanges.

This position has not changed. However, Telkom Kenya Ltd. in their Development Plan 2004/2006, have programmed for review Bute, Buna and Sololo manual exchanges with a view to upgrading these facilities to STD status. I would, however, reiterate that there is still low demand for telephone services in all the three manual exchanges.

Dr. Ali: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that people cannot subscribe or get more telephone numbers because everybody switches to a certain frequency on the Foreign Metre (FM) radios and whatever one says on the phone is heard all over that area? So, how does the Assistant Minister expect more people to get telephone lines when whatever they talk is heard? What does he intend to do about that?

Mr. Keah: Mr. Deputy Speaker, Sir, I was not aware of the fact that when they utilise the lines whatever they talk is heard by others. This is a matter that will be investigated by Telkom Kenya Ltd and addressed accordingly. However, the issue of low demand is very critical under these circumstances. This is because if I may just elaborate, for the last six months the total revenue collected was Kshs912,105 for these three stations. The total cost that is required to install STD facilities in these areas is a mammoth figure of Kshs640,650,184. Now, with that kind of costing and revenue, it is just simply not practicable to install the STD system at this point in time.

Dr. Ali: Mr. Deputy Speaker, Sir, the Assistant Minister is threatening me with that huge amount of money he is claiming is required to install those facilities while he knows very well that I stated that those few subscribers are going to withdraw because whatever they say is heard. The other issue is that those are security zones. Is the Assistant Minister going to think about the money that Telkom Kenya Ltd is going to get or he is going to think about the

benefits that the people of this country are going to get?

Mr. Keah: Mr. Deputy Speaker, Sir, we will think about both.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, communication and security are intertwined and I think the Ministry is very poor in terms of connecting Kenyans. Half of my constituency is cut off from communication because it does not have a single telephone booth. What is the policy of the Ministry in terms of making sure that Kenyans in the rural areas have access to telephones.

Mr. Keah: Mr. Deputy Speaker, Sir, which constituency is that?

Mr. Deputy Speaker: Taveta constituency!

Mr. Keah: Mr. Deputy Speaker, Sir, I am sorry I am shortsighted and I could not see hon. Mwalulu. I needed to know the constituency so that I can articulate my answer.

Mr. Deputy Speaker: Order! Answer the question now that you know his constituency!

Mr. Keah: Mr. Deputy Speaker, Sir, I now know that he comes from Taveta Constituency. The policy is very clear. The policy is that we concentrate first of all with district headquarters, district officers' offices and market centres. We have, in fact, programmed the entire country in a development programme as to where we are going to install what facilities up to the year 2006. That plan was tabled here when we had separated the three facilities, Telkom Kenya, Postal Corporation and Communications Commission of Kenya (CCK). So, that plan is available and I can get a copy for the hon. Member so that he can see where Taveta Constituency has been programmed. However, he can go to the Managing Director and pick up that programme. That would even be better, but every part of the country has been programmed for connection in terms of telephone facilities.

Mr. Nderitu: Thank you very much, Mr. Deputy Speaker, Sir. First, there is a lot of theft of telephone cables in the country. For instance, this morning, a lot of wires had been ripped off on Thika Road. When will the Ministry change the system to an underground one?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the hon. Member is properly dressed? He has no tie or coat!

(Mr. Nderitu stood up in his place)

Hon. Members: Could he come forward?

Mr. Deputy Speaker: Order! Order! I think for as long as Members wear that kind of tunic and it is buttoned up to their necks, that should be okay.

An hon. Member: He has no button!

Mr. Deputy Speaker: That notwithstanding, could his question now be answered?

Mr. Keah: With that disruption, may I, with respect, ask the Questioner to raise the question again.

Mr. Deputy Speaker: He talked about the theft of cables. When are you going to have underground cables?

Mr. Keah: Mr. Deputy Speaker, Sir, we in the Ministry and at Telkom appreciate the problem of continuous theft of cables. Even underground cables are being stolen these days. I think the issue is really one of asking the Kenyans to stop stealing these cables. But we are doing what we can to have underground cables and the Nairobi-Thika Road is one area which is in the pipeline. The biggest constraint is cost.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): On a point of order, Mr. Deputy Speaker, Sir. Probably, you cannot see very well from there. Mr. Nderitu has no tie on and he is wearing something that looks like a pullover and not a jacket.

Mr. Deputy Speaker: Mr. Nderitu, are you wearing a shirt with a collar?

(Mr. Nderitu stood up in his place)

Hon. Members: Table him!

Mr. Deputy Speaker: Order! Do you have a collar to your shirt?

Mr. Nderitu: Yes!

Mr. Deputy Speaker: Then you must have a tie. So, in those circumstances, go and wear one and come back or stay out. If you stay out, you stay out from the precincts of Parliament and not only the Chamber!

(Mr. Nderitu withdrew from the Chamber)

Mr. Parpai: Mr. Deputy Speaker, Sir, Wajir is in a security area. What is the Assistant Minister intending to do to ensure that telephone facilities are not only in these two or three trading centres, but are all over for ease of

communication? In case of anything, it would be very easy for people in Wajir and other areas in North Eastern to communicate to different centres.

Mr. Keah: Mr. Deputy Speaker, Sir, I appreciate the question. Earlier on, I said that the entire country has been programmed for connectivity in terms of telephones. This plan is available with the Managing Director of Telkom Kenya Limited and I would urge the hon. Member to get in touch with the corporation. It does help if a Member does communicate with the parastatal or the corporation to see clearly how his area has been programmed. But we do have a development plan for connectivity between now and 2006.

Dr. Ali: Mr. Deputy Speaker, Sir, I would like to make life easy for the Assistant Minister---

(Members consulted loudly)

Mr. Deputy Speaker: Order! Order! Proceed!

Dr. Ali: These three centres are all under Moyale Exchange which has got the STD facility. Could the Assistant Minister consider expanding the STD in Moyale and give these centres just lines? This will make life easier for him. He does not have to use Kshs640 million. He cannot use even Kshs10 million if he does that.

Mr. Keah: Mr. Deputy Speaker, Sir, much as I would want to say, yes, I can only give him realistic figures. I want to assure him that Sololo and Bute will be connected to Marsabit multi-access system at a cost of Kshs342 million. The other one, which is Buna, will be connected with the Wajir multi-access system at a cost of Kshs299 million. This cost is just prohibitive. These are the nearest centres or points to which connectivity can be facilitated.

Dr. Ali: Mr. Deputy Speaker, Sir, he can use the same line, the one for Moyale; 0185, for all the centres and just expand the STD facility at Moyale. He does not have to use that amount of money for that work. It is just a line.

Mr. Keah: Mr. Deputy Speaker, Sir, with due respect to the hon. Member, that option has been considered and the cheapest possible means is what I have given the House.

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

Question No.420

LICENSING OF CHARCOAL BURNERS IN KIKUYU FOREST

Mr. Kihara asked the Minister for Environment how many people have been licensed by the Forestry Department to burn charcoal in the Kikuyu Escarpment Forest Reserve near Kijabe.

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

There are no people licensed by the Forestry Department to burn charcoal in the Kikuyu Escarpment forest reserve near Kijabe. However, there was extensive illegal charcoal burning in this reserve during the year 2000 up to early 2002 when my Ministry intensified patrols to stamp out this activity. After investigation, it was established that some of the forest officers were involved in this illegal activity and have since been interdicted, pending disciplinary action. A new Forest Officer and a forest guard have been posted to the area. My Ministry has further established a new sub-forest station at the escarpment manned by the Forest Officer.

Further to this, my Ministry, in collaboration with the Provincial Administration, local communities and environmental groups have established a community surveillance group---

Mr. Deputy Speaker: Mr. Assistant Minister, which Question are you answering? You are now anticipating a supplementary question. This Question is: "How many people have been licensed by the Forestry Department to burn charcoal in the Kikuyu Escarpment forest reserve near Kijabe?"

The Assistant Minister (Mr. ole Ntutu): Nobody is licensed to burn charcoal, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you.

Mr. Kihara: Mr. Deputy Speaker, Sir, I am extremely disappointed by that answer from the Assistant Minister. I know the Assistant Minister is a regular traveller on that road and he must have seen lots of charcoal kilns smoking in that forest. All that is left of that forest now is shrubs and some trees of the cactus family, thereby threatening the water source for Mai Mahiu and Longonot locations. What the Assistant Minister is doing now is like closing the stable after the horse has bolted. There is no forest left there. Could the Assistant Minister first of all, sack the Conservator of Forests, the Divisional Forest Officer and other officers there and start replanting that forest straightaway before the water source for that area is completely ruined?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, as a Ministry we have taken some action because so far, about 159 people have been taken to court and charged with a similar offence. The Forester in charge of that area has already

been interdicted, including the Patrolman and the Forest Guard. So, we have taken some action.

Mr. Wamae: Mr. Deputy Speaker, Sir, this is a problem which is not only common in Naivasha but in many other parts of the country. The people who are really responsible for the destruction of forests are forest officers themselves. What will the Ministry do, as a general policy, to ensure that the message reaches every part of Kenya?

Mr. ole Ntutu: We are not only taking action on this side of Mai Mahiu, but we are acting all over the country. We are trying to identify all the forest officers who are corrupt so that we can terminate their services in the Ministry. It appears that most of them were involved in charcoal burning, but the Ministry has taken firm action and some of them have been sacked.

Mr. Gitonga: Mr. Deputy Speaker, Sir, this particular area falls within my constituency. I am glad that Mr. Kihara from Naivasha has raised this Question. I would like the Assistant Minister to confirm if he is ready to go to that area. As we sit here, charcoal is still being burnt in that area and you can see smoke all over that area. If the Assistant Minister were to go to that particular area now, he would witness the burning of this charcoal. Let me add that even the Provincial Administration that he is referring to---

Mr. Deputy Speaker: Ask your Question!

Mr. Gitonga: Mr. Deputy Speaker, Sir, is the Assistant Minister ready to go to that particular area now and witness this burning of charcoal in that particular area?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, as I said earlier on, we have already interdicted the Forester. We have another new Forester there with a new team. If charcoal burning is still going on, then I can carry out investigations through my Ministry to get the truth so that we can bring the culprits to book.

Mr. Deputy Speaker: While you are doing that investigation can you ask the hon. Member to come along with you?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, if it is necessary then I can organise with the hon. Member to go to this site.

Hon. Members: When!

Mr. Deputy Speaker: Could you tell them when?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, probably next week.

Mr. Deputy Speaker: Order, hon. Assistant Minister! From what these hon. Members are saying, that area is on your way home. When charcoal is being burned in the forest, you do not need the help of a helicopter to confirm that. You can see it from the road. Really, what am I to conclude; that hon. Members are not telling the truth or you are not telling the truth?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I have some other commitments. I am not going to Narok tomorrow. I am going to Isiolo.

Mr. Deputy Speaker: What about Tuesday next week?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, on Tuesday I will be in Kisumu for official duties. So, the best day will be on Friday, next week.

Mr. Deputy Speaker: Order, hon. Assistant Minister! Your first duty is to this Parliament. If Parliament wants you to go on that site today, you will have to go. So, give these hon. Members a date that also suits their convenience because they are Members of Parliament, like you are.

Mr. ole Ntutu: Thank you, Mr. Deputy Speaker, Sir. Friday next week, will be the best day for me.

Mr. Deputy Speaker: Very well.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, issues of the environment have really been taken seriously by this House. The Assistant Minister has told us that the place has been cleared and it is true that this has been done. What is the Assistant Minister doing in terms of reforestation?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, plans are being undertaken by my Ministry to address this situation. We are encouraging the *shamba* system so that we can plant more trees without great expenses.

Mr. Deputy Speaker: What species will you plant there?

Mr. ole Ntutu: We will plant suitable trees for that area.

Mr. Kihara: Mr. Deputy Speaker, Sir, the police have more or less established a permanent presence on that escarpment by building a kiosk there. One of the charcoal kilns is just behind that police kiosk. Could the Assistant Minister tell us whether the police have no powers to arrest people who are carrying out this activity because it is happening right under their noses in that permanent kiosk they have built on the escarpment?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I am not aware of the police presence. Anything concerning the police is not under our Ministry. That falls under the Office of the President.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that he is not aware that the police have got powers to arrest such offenders when a cognisable offence is being committed in

their presence?

Mr. ole Ntutu: I beg your pardon. Could you repeat that question?

Mr. Muchiri: What I am saying is this: Is the Assistant Minister in order to mislead this House that the police have no powers to arrest such offenders when destruction of forests is a cognisable offence under the Environment Act?

An hon. Member: He does not know what a cognisable offence is!

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I think that is a wrong impression because we have the forest guards whose responsibility is to protect the forests.

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister admit that he does not know what a cognisable offence is?

Mr. Deputy Speaker: Well, neither does the Chair.

(Laughter)

Mr. Deputy Speaker: Next Question!

Question No.406

BAN ON COMMERCIAL SAND
HARVESTING IN MWALA

Mr. Katuku asked the Minister for Environment:-

(a) whether he could consider imposing a ban on commercial sand harvesting in Mbiuni and Kathama locations in Mwala Constituency as the activity has resulted in serious environmental degradation;

(b) whether he is aware that the residents petitioned his office two years ago through a memorandum signed by over 80 per cent of the residents; and,

(c) what action he has taken in response to the memorandum.

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

(a) I could consider a ban on commercial sand harvesting in Mbiuni and Kathama locations in Mwala Constituency due to the poor methods used in commercial sand harvesting. But first, my Ministry is conducting an initial environmental impact assessment to quantify the amount of environmental degradation which has occurred in order to plan for mitigation.

(b) I am aware that two years ago the residents of Mbiuni and Kathama locations in Mwala Constituency, through a memorandum with 1,046 signatures, petitioned my office to stop commercial sand harvesting in that area. I am in the process of verifying whether the signatures represent over 80 per cent of the residents as alleged by the hon. Member.

(c) The action taken in respect to the memorandum includes:-

(i) The Machakos District Environmental Management Committee members visited Mbiuni Mwa Sand Harvesting Society which operates in Mwala Division.

(ii) The District Environment Committee members advised the society to take river bank protection seriously in order to avoid the environmental degradation that is evident along the rivers in parts of Kathama Location.

Now that the Environmental Management Co-ordination Act of 1999 is in force, the District Environment Committee has been directed to carry out the environmental impact assessment quantifying the damage and propose remedial measures. If the remedial measures are not implemented within three months' time, I shall ban the harvesting.

Mr. Wambua: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the road in question which Mr. Katuku is asking about connects to my road; from Kithimani to Ngueni? That road is impassable two years after it was murammed. Could he consider banning this sand harvesting because this is very serious and the Government is losing a lot of money on roads? It is bringing a lot of problems and mismanagement of the Government's money.

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I think I mentioned earlier on that after the outcome of the environmental impact assessment, then, if there are no remedial measures being taken, that is the time when we shall act very fast.

Mr. Kitonga: Mr. Deputy Speaker, Sir, first I am surprised because it has taken the Ministry two years to

investigate the 10,046 persons. The Assistant Minister says that within three months, he will come up with an answer. He is misleading this House. I would like to bring it to the knowledge of the Assistant Minister that most of these people who are harvesting sand there are led by the Chairman of the co-operative society who bribes the DOs and DCs so that they may continue to harvest this sand and bring it to Nairobi, particularly to Kikuyus and Indians. So, could he within this time stop or put a ban on that one?

Mr. Thirikwa: On a point of order, Mr. Deputy Speaker, Sir. Is Mr. Kitonga in order to imply that sand is harvested in Ukambani and brought here for Kikuyus in Nairobi? Nairobi is not only for Kikuyus!

(Laughter)

Mr. Deputy Speaker: Order! I am sorry. While Mr. Kitonga was asking his question, I was consulting with another hon. Member here. But if it will make you happy, I will allow him to say that it is being brought here for Luos!

(Laughter)

Mr. Khamasi: Mr. Deputy Speaker, Sir, I think the Assistant Minister needs to come clear on this one. Sand harvesting has an impact on the environment. In fact, it is going against the Environment Management Co-ordination Act. Why has the Assistant Minister allowed this to go on when they have not completed the environmental impact assessment exercise?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, my Ministry has already alerted the District Environmental Management Committee to take up the issue so that the Minister takes action after the recommendations of the District Environmental Management Committee.

Mr. Deputy Speaker: Yes, Mr. Katuku, the last one!

Mr. Katuku: Mr. Deputy Speaker, Sir, this is the first supplementary question that I am asking. You denied me the chance to ask the first question. But I will ask my supplementary question, whatever the case.

Mr. Deputy Speaker: Order, Mr. Katuku! This is your Question!

Mr. Katuku: Yes, Mr. Deputy Speaker, Sir. It was unprocedural. I do not know why you ignored me for the first time!

Mr. Deputy Speaker: Order, Mr. Katuku! This Question could not have been answered unless you asked it! You had the first shot! So, have your last one!!

Mr. Katuku: Mr. Deputy Speaker, Sir, I am talking about my first supplementary question; that is the issue that I was raising. The practice has been always that--

Mr. Deputy Speaker: Order, Mr. Katuku! I will go to the next Question!

Mr. Katuku: Mr. Deputy Speaker, Sir, the problem in this area is that sand harvesting has affected the residents of that area in so many ways. One, we have about eight bridges which have been swept away because sand is harvested just around the bridges. The eight bridges have been swept away. Rivers have dried up and there are so many other problems. I have taken this Committee you are talking about to the area. In fact, two years ago---

Mr. Deputy Speaker: Order! Ask the question now!

Mr. Katuku: Mr. Deputy Speaker, Sir, the problem is serious. My people are even threatening to sue---

Mr. Deputy Speaker: Order, Mr. Katuku! If you want to debate on that issue, move a Motion.

Mr. Katuku: Mr. Deputy Speaker, Sir, in view of what the Assistant Minister is promising to do, could he order a temporary ban awaiting the outcome of what he is telling me, because investigations have been going on for the last two years?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I think I will consider that.

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

Question No.390

REHABILITATION OF NYARAGO RIVER BRIDGE

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

(a) whether he is aware that the Nyarago River-Bridge on Road D211 was not rehabilitated under the *El-Nino* Project; and,

(b) whether he could inform the House when it will be rehabilitated so as to stop accidents occurring on the bridge.

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

(a) I am only aware that Nyarago River culvert and not bridge on road D211 was not rehabilitated under the *El Nino* project.

(b) The Nyarago culvert will be rehabilitated when the District Road Committee prioritizes it and puts the same for rehabilitation in the District Works Plan.

Mr. Omamba: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House now. It is most lamentable because Nyarago River is a permanent river with a low bridge and four pillars which have broken down. It is difficult to identify where to pass at all. In the year 2001, Mr. Nassir, the Minister in charge of the *El Nino* project toured the area and instead made the team going---

Mr. Deputy Speaker: Order, Mr. Omamba! Ask your question! **Mr. Omamba:** Mr. Deputy Speaker, Sir, I am just telling you how the answer is misleading. Mr. Nassir promised that---

Mr. Deputy Speaker: Order, Mr. Omamba! If you have no question to ask, I am afraid I am going to move to the next Question!

Mr. Omamba: Mr. Deputy Speaker, Sir, since the project is not under the District Roads Committee (DRC), how much money does it cost? Would he sincerely go to the ground and justify that it is not culvert work but it is the bridge? Could he do that?

Mr. Mokku: Mr. Deputy Speaker, Sir, as far as the Ministry of Roads and Public Works is concerned, this particular section is supposed to be under the DRC because it is classified under Road DE. Therefore, it might be true that Mr. Nassir visited the project, but he is in the Office of the President. As far as the road is concerned, it is the responsibility of the DRC.

Mr. Deputy Speaker: Order, Mr. Mokku! You are aware that all hon. Members of Parliament are part of the DRC and it is a fact that bridges do not fall under the DRC. They are considered nationally.

Mr. Mokku: Mr. Deputy Speaker, Sir, what I was referring to is a culvert on the River Nyarogo which is not a bridge.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, it is true that after the *El Nino*, bridges in almost all constituencies were washed away. In my constituency, there is Bagoret-Matanya Road where the bridge has been washed away. Could the Assistant Minister, as a matter of urgency set up an emergency response unit to go across the country and identify these bridges and allocate funds for the said purpose?

Mr. Mokku: Mr. Deputy Speaker, Sir, we visited Mr. Kiunjuri's area last Monday, as a team from the Ministry and we studied the area. As concerns the whole country, we have representatives at the district levels, for example, the District Roads Engineers and the District Works Officer. If there is such a project to be funded, we shall get a report from those officers.

Mr. Ngure: Mr. Deputy Speaker, Sir, I will go back to this question of culverts and bridges. Maybe there is lack of knowledge about the two. You can never put a culvert across a permanent river like River Nyarogo. Could the Assistant Minister tell us whether he is talking about the same crossing referred to in this Question?

Mr. Mokku: Mr. Deputy Speaker, Sir, I am referring to the same crossing that the hon. Member is also referring to.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Assistant Minister has asked the hon. Member to go and discuss the issue in the DRC. Is the Assistant Minister aware that although hon. Members of Parliament are supposed to facilitate in DRC deliberations, the DC, the District Roads Engineer and the District Works Officer have all taken over those functions and hon. Members of Parliament have been declared redundant for all practical purposes? Could the Assistant Minister ask all the DCs and DREs to allow hon. Members of Parliament their rightful place in the DRC?

(Mr. Nooru moved to the Civil Servants Bench)

Mr. Deputy Speaker: Order, Mr. Noor! If you want to consult extensively, you should do so at the back. Those are strangers in this House.

Proceed, Mr. Mokku!

Mr. Mokku: Mr. Deputy Speaker, Sir, hon. Members of Parliament are members of the DRC, while the DCs and the District Roads Engineer are also---

(Mr. Nooru moved to the Civil Servants Bench)

Mr. Kiunjuri: On a point of order, Mr. Deputy Speaker, Sir. Is Mr. Nooru in order to ignore your advice?

(Mr. Nooru withdrew from the Chamber)

Mr. Deputy Speaker: He has already withdrawn! Proceed, Mr. Mokku!

Mr. Mokku: Mr. Deputy Speaker, Sir, hon. Members of Parliament are members of the DRC including the District Roads Engineer and District Works Officer. As far as I know, it is the hon. Member of Parliament who should prepare the work plan of his area and present it to the DRC meeting, to be forwarded to the Kenya Roads Board for approval and funding. If there is any area where hon. Members are not fully involved, I think the Ministry would like to know so that we can take the necessary action.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, in my constituency where I have 12 permanent rivers, I have built several bridges through Harambee. Now that the Minister says that this bridge is under the DRC - which is not true - what happened with the 24 per cent from the Fuel Levy Fund meant for the District to take care of these bridges, because we are suffering a lot?

Mr. Mokku: Mr. Deputy Speaker, Sir, the Ministry handles the Fuel Levy Fund and disburses Kshs5.5 million to every constituency. As I am talking now, I am sure it has reached every constituency. If there is any constituency that has not received that money, they could come forward and we will know what to do. As far as the bridges are concerned, the sizes of the bridges also vary. If the bridge cannot be rehabilitated with the Kshs5.5 million we are giving, the Ministry will not leave the whole burden to the DRC.

Mr. Keriri: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that out of the Kshs5.5 million he is mentioning as constituency money, hon. Members of Parliament have spent that money on maintaining roads in categories A,B,C and D, instead of that money being used to maintain the other smaller roads, because the 24 per cent from the Fuel Levy Fund which is supposed to maintain those roads has not gone to any district?

Mr. Mokku: Mr. Deputy Speaker, Sir, I am not aware of that.

Mr. Omamba: Mr. Deputy Speaker, Sir, now that the Minister does not differentiate between culverts and bridges, could he go on the ground and verify for himself, because this is a permanent river? If you have to travel to Migori, you have to go through Rapogi and Awendo which is 20 kilometres away. If it is just a matter of a culvert, anybody could just walk there. The Assistant Minister is denying that fact and yet he has not been there. Could he go there and verify?

Mr. Mokku: Mr. Deputy Speaker, Sir, I would like to assure Mr. Omamba that I will visit the project with him any day he is ready.

Mr. Deputy Speaker: Next Question!

Question No.289

REHABILITATION OF SHAURI MOYO ROADS

Mr. Mwenje: Mr. Deputy Speaker, Sir, Mr. N. Nyagah informed me that they had agreed with the Chair that this Question will be answered on Tuesday next week, as he had some urgent matter to attend to, and that the Chair had agreed. It must have been put on the Order Paper by mistake.

Mr. Deputy Speaker: I will take your word for it, but if that is not the truth---

Mr. Mwenje: Mr. Deputy Speaker, Sir, I am the most honest person.

Mr. Deputy Speaker: Order! You are contradicting everybody here. The Question is deferred to Tuesday, next week. Your honesty has been confirmed.

(Question deferred)

Question No.403

DETERMINATION OF KERICHO LAND CASE

Mr. Deputy Speaker: Mr. Kimeto is not in? We will come back to that Question later!

Question No.284

UNDERSTAFFING IN RONGO SCHOOLS

Mr. Deputy Speaker: I understand from both the hon. Questioner and the Minister that this Question was in fact, answered before. So, it must have come here by mistake.

(Question dropped)

Mr. Deputy Speaker: Mr. Wambua's Question for the second time!

Mr. Wambua: Mr. Deputy Speaker, Sir, I beg to apologise for coming late.

Question No.399

LOWERING OF MINIMUM QUALIFICATION
FOR TTC INTAKE

Mr. Wambua asked the Minister for Education:-

(a) if he is aware that the minimum qualification for teacher training college intake of C+ (plus) in Mathematics disqualified many students from Ukambani and yet schools in the area are under-staffed; and,

(b) whether he could consider lowering the grade to C (plain).

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

(a) I am not aware that this year's teacher training intake of C+ (plus) in Mathematics has disqualified any students in Ukambani, because none of the teachers training programmes has a requirement for C+ (plus) score in Mathematics.

(b) The minimum academic qualifications for a P1 course is Grade C.

Mr. Wambua: Mr. Deputy Speaker, Sir, I would like to tell the House that this is what happened in the last recruitment exercise. Could the Assistant Minister assure this House that the correct criteria will be followed in the next recruitment exercise? We all know the minimum qualification is C-plus. A C-plus in Mathematics and English was not a requirement.

Mr. Karauri: Mr. Deputy Speaker, Sir, we would very much wish to recruit teachers who have qualified in Mathematics and English to improve the standards of those two subjects. But since many students do not have those qualifications, we accept a C-plain without the condition of a C-plus in Mathematics and English.

Mr. Katuku: Mr. Deputy Speaker, Sir, I would like---

Mr. Deputy Speaker: Order! Hon. Members, it helps the Chair considerably if hon. Members stick to one place one afternoon instead of constantly changing their positions. But more importantly, Mr. Karauri, hon. Ministers must deliver their answers from the Dispatch Box. Well, I do not think you have any choice in that ruling. So, you will comply with it.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister says this was not a condition. Yet, in Machakos District, it was a condition. Those who applied to join these colleges were supposed to have a minimum grade of C-plain. If he is not aware of that, now that he has been made aware, could he, therefore, order a repeat of this exercise in Machakos District?

Mr. Karauri: Mr. Deputy Speaker, Sir, there was no such a condition. If the DEO erroneously said a C-plus was a condition, then we will consider all those who had a minimum grade of C and above.

Mr. Muchiri: Mr. Deputy Speaker, Sir, have you heard what the Assistant Minister said? He says the officers acted contrary to the rules laid down by the Government. What disciplinary action will the Ministry take against those officers who have already made thousands of Kenyans not to join teachers training colleges?

Mr. Karauri: Mr. Deputy Speaker, Sir, I said "if a DEO did that." I am not aware of any place where this was done. We indicated that the requirement was C-plain and not C-plus.

Mr. Wambua: Mr. Deputy Speaker, Sir, the Assistant Minister is not taking this issue seriously. The reason why I filed this Question is because a grade of C-plus in Mathematics and English was a condition. Could the Assistant Minister investigate this matter? If they establish this was the case, he should tell us what action they will take against those officers who messed this exercise. Many students who qualified with minimum grade of C-plain in Ukambani will not join teachers training colleges.

Mr. Karauri: Mr. Deputy Speaker, Sir, we have not completed the exercise of taking these students to teachers training colleges. We will investigate and if these cases are as alleged by the hon. Member, we will rectify the

anomaly.

Mr. Deputy Speaker: Mr. Kimeto's Question, for the second time.

Question 403

DETERMINATION OF KERICHO LAND CASE

Mr. Deputy Speaker: If he is not here, then the Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

KILLING OF INNOCENT KENYANS BY POLICE

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

(a) Is the Minister aware that on Saturday, 8th June, 2002, a GK vehicle registration No.GK 085J carrying police officers from Keroka Police Station and Administration Police Officers from Magombo Camp hit Ms. Eunice Nyamoita Oginda, after which the officers opened fire and shot dead two students namely, Dennis Ombaye Mang'are, Duke Mochama and a tout, Mr. Tom Osinde?

(b) What action has he taken to have the driver of the GK vehicle charged with the killing of Ms. Oginda?

(c) What further action has he taken to charge the police officers with the killing of the three innocent Kenyans?

(d) What arrangements has he made to have the families of the victims compensated by the Government?

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

(a) Yes, I am aware.

(b) The investigation into the fatal accident is in progress and the results will be communicated on completion. Traffic Accident File (F) No.29/2002 was opened.

(c) The police are aware of the death of Dennis Ombaye Mong'are and an inquest file No.6/2002 has been opened and investigation are not yet completed.

(d) No arrangements have been made by the Government to compensate the families of the victims as the cases are being investigated and it has not yet been established who is to blame.

Mr. Anyona: Mr. Deputy Speaker, Sir, this another obvious case where the Office of the President is playing hide and seek, and a cat and mouse game with Parliament. When the Question first came up, about two weeks ago, the Minister read half-way through this answer and changed it. He said he had already given the instruction to the Commissioner of Police to arrest this officer. Then he asked for more time, particularly to get the inquest report and he was given one week. He came here last week on Thursday and he requested for another week because he had not received the inquest report. I did remind him that he had promised that some arrest would take place. So, today, we are back to square one. This is the same answer. This is a very serious matter where four people in one little market were gunned down by police officers. My people are very bitter. Since we want to follow the course of justice, we have asked this Question. Could the Chair order that by Tuesday, the Assistant Minister will not play hide and seek with Parliament. Instead, he will come to this Parliament to answer this Question and table the postmortem report.

Mr. Haji: Mr. Deputy Speaker, Sir, I think I have answered the Question to the best of my ability and knowledge of the circumstances leading to the fatal accident. But, perhaps, a little explanation will help. On 8th June, 2002, eight police officers were on mobile patrol within Magombo area---

Mr. Deputy Speaker: Order! Mr. Haji, all that preamble was dealt with when the Question was first asked and answered. We are now dealing with the subsequent replies to supplementary questions. Those require the Minister, among other things, to produce certain documents in this House or to make certain statements. That is what we are really interested in now. I want to give you until Tuesday. Go and read the HANSARD and see precisely what promises the Minister made. That is what we want. I want that brought here on Tuesday. If necessary, the two of you who have given these contradictory answers should be here, but preferably, the Minister himself.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. To what extent can this Assistant Minister be responsible for statements which were made by his Minister about arrests and other things? Could this Assistant Minister come here on Tuesday and---

Mr. Angwenyi: But the Assistant Minister did---

Mr. Anyona: Mr. Deputy Speaker, Sir, the Minister himself came and---

Mr. Deputy Speaker: Order! I have already made a ruling that this Question should be answered on Tuesday afternoon!

Mr. Haji: Mr. Deputy Speaker, Sir, could I finish what I was reading?

Mr. Deputy Speaker: No! That is not what I want! I want a commitment to produce---

Mr. Haji: Mr. Deputy Speaker, Sir, it is unfair for---

Mr. Deputy Speaker: Order! Order! Hon. Members, you must really control your language. There is no need whatsoever to use inflammatory language in the Chamber. Mr. Assistant Minister, let us do what is necessary in order for us to give honour to this House. Every hon. Member who makes a commitment to this House, must honour it.

(Question deferred)

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

Mr. Deputy Speaker: Order! Let us move on to the next Question!

ELEPHANT MENACE IN MARMANET LOCATION

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

(a) Is the Minister aware that jumbos (elephants) within Marmanet Forest have continuously terrorised the residents of Marmanet Location of Rumuruti Division, Laikipia West Constituency?

(b) Is he further aware that the one jumbo nick-named "John the Killer" has killed five people in the area including Ms. Esther Njeri?

(c) What action is he taking to compensate their families and also ensure security and safety of the residents from rogue elephants?

Mr. Deputy Speaker: Is Mr. Mbitiru not here? He is not here! His Question is dropped!

(Question dropped)

DOUBLE REGISTRATION OF VOTERS

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

(a) Is the Attorney-General aware that the Electoral Commission of Kenya (ECK) has registered over 266,000 voters twice?

(b) What action is he taking to ensure that their names are deleted from the voters' registers?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Attorney-General is aware that some voters have been registered twice by the ECK. It is true that the Commission reported that there were 266,000 double or multiple registered voters. However, after the error was corrected, this figure has been drastically reduced to 55,410. The exercise of clarifying the issue is continuous.

(b) There are mechanisms to ensure that such voters are excluded from voting. Although their names may appear on the voters' registers, they will not appear on the poll registers which are used for actual voting purposes.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, this issue was raised by the Chairman of the ECK. He was quoted both in the print and the electronic media threatening those who had registered twice that they would be taken to court. Now, the Attorney-General has said that there were 266,000 voters who were registered twice. Could we know the actual position? Were there 266,000 voters who were registered twice or, that was an error? If it was an error, what kind of error was it?

Mr. Wako: Mr. Deputy Speaker, Sir, the information I have is that there was an error, and after it was corrected, this figure was reduced to 55,410. It is, indeed, true that it is an offense under Section 5 of the National Assembly and Presidential Elections Act to register more than once. However, the ECK is the complainant and they are still double-checking the registers to confirm these errors. When this exercise is complete, I am sure they will instruct the police or the Attorney-General to prosecute. But as of now, I am yet to be approached or instructed by the ECK to prosecute.

Mr. Obwocha: Thank you, Mr. Deputy Speaker, Sir. Now that the Attorney-General has said that 55,410

voters registered twice, what is the position on the continuous registration law which this House recently passed through the Statute Law (Miscellaneous Amendment) Bill? What is the current position? Have they started implementing this law or not?

Mr. Wako: Mr. Deputy Speaker, Sir, although the question does not directly arise out of this, I would like to say that it is now law that there should be a continuous registration of voters and the ECK is preparing to do that.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I was privileged recently to scrutinise the voters' register and I found that in one district, about 100 people claimed to have been born on 1st January. I was wondering whether this was a computer error. But more astonishing, I came across a district that had about 20 people who were more than 100 years old. My question is---

Mr. Deputy Speaker: Dr. Ochuodho, your question is not complete! You have said 1st of January of which year?

Dr. Ochuodho: Mr. Deputy Speaker, there was a particular year but I cannot remember it. The year was not wrong but the fact that there was a coincidence of so many voters being born on the same day. The point I am developing is that it seems that there are some ghost voters in the voters' register. Does the Attorney-General have a mechanism to ensure that people who have died are removed automatically from the voters' register?

Mr. Wako: Mr. Deputy Speaker, Sir, if there is a district where people are aged 100 years plus, personally, I would like to know what they eat and how they live so that I can also attain that grand old age of 100 years. But as to the question raised by the hon. Member, during the verification exercise of the register, I hope that the hon. Member and members of the public could identify any person who may have been registered and has died so that the register is corrected and adjusted accordingly. That is the purpose of that period of the register being made available for public scrutiny.

Mr. Wamalwa: Thank you, Mr. Deputy Speaker, Sir. When the Attorney-General was responding to the supplementary question by Mr. Obwocha, he said that there is a law in place allowing for continuous registration of voters. We, the lawyers know that law and practice can be two different things altogether. We appreciate that the law is in place, but what Mr. Obwocha, I am sure, wanted to know is whether it is being implemented or people are actually registering all the time now.

Mr. Wako: Mr. Deputy Speaker, Sir, I think I answered that question by saying that the law was passed recently and the ECK is now in the process of putting in place the mechanism for continuous voter registration.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, all of us know that this might be an election year and we hope it will be an election year. I would like to point out that 266,000 voters is a big number which can determine the outcome of an election. We also know that the President can call for elections any time from now. According to the Constitution, the President has power to call for elections any time he wants. Could the Attorney-General, other than telling us that this was an error, come out clearly and tell us who the 266,000 voters who were purported to have been registered twice are? We want to know who those people are so that we can know whether what the Attorney-General is saying is true or not. We have an interest in the next Government.

Hon. Members: Table the list containing the names of those people!

Mr. Wako: Mr. Deputy Speaker, Sir, I do not have a list to table here indicating who these people are. The exercise is still going on. But as I have assured this House, even if the elections are called tomorrow, the names of the people who have been identified as having been registered twice or multiple times will not appear on the poll register, which is used for the actual voting purpose.

REMUNERATION OF CKRC MEMBERS

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

(a) In view of the serious allegations and counter-allegations about the reasons for requesting extension of the Constitution of Kenya Review Commission term, a matter that threatens the completion of the review process as scheduled, could the Attorney-General table the earnings of the members of the Commission inclusive of salary, allowances and benefits?

(b) How much of this has been contributed by donors?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I hereby table the earnings of the members of the Commission, showing their salaries and allowances.

(Mr. Wako laid the document on the Table)

(b) Donors have not contributed anything towards the payment of the said earnings by the Commissioners.

Mr. Mwenje: Mr. Deputy Speaker, Sir, looking at the paper that the Attorney-General has tabled, you will note that the salary of the Chairman of the Commission is Kshs1.240 million per month while the allowances for the Vice-chairmen, total to about Kshs690,000. That is three times the salary of a Member of Parliament. An ordinary Commissioner receives allowances amounting to Kshs580,000 which is much higher than that of any Member of Parliament, including Ministers! I am not against anyone getting good salaries. But who decided on those salaries? Is that not the reason why the Commission is not able to complete its work on time?

Mr. Deputy Speaker: Order, Mr. Mwenje! You asked a question as to who authorised those payments. Do not dilute it by making another statement!

Mr. Wako: Mr. Deputy Speaker, Sir, I would like to correct what Mr. Mwenje has said. It is not true that the Chairman, the Vice-Chairman or Members of the Commission are earning salaries as stated by Mr. Mwenje. The basic salary of the Chairman is Kshs800,000; the basic salary of the First Vice-chairperson is Kshs350,000; the basic salary of the other vice-chairmen and all other Commissioners, is Kshs300,000. But when you add house allowance, responsibility allowance and sitting allowance--- In sitting allowance, the total amount mentioned by the hon. Member may or may not be there depending on how many sittings they have had in a week. The figures here show the maximum amount that can be earned if they sit everyday in a month. The sitting allowance for the Chairman is Kshs10,000 while that of the vice-chairmen is Kshs7,500 per day. The sitting allowance for all other Commissioners is Kshs5,000 per day. When they talk about sitting allowance of Kshs240,000, it pre-supposes that they have sat for a maximum of six days in a week but they do not do that. So, the figures are bound to differ from time to time. As to who fixed those emoluments, it is explicitly stated in the Act that the emoluments of the Commissioners are fixed in consultation with the Committee of Parliament dealing with the constitutional review process.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I hope the reporters from the *Nation* newspapers heard those figures correctly. How could this Government allow a Commissioner who is working half the time, to earn ten times more than the President of Kenya? Could the Attorney-General tell us whether those exorbitant emoluments have contributed to the slow work of the Commission?

Mr. Wako: Mr. Deputy Speaker, Sir, with regard to the salaries, if the Commission Chairman sits six days a week, he will be earning Kshs1.2 million. We must take into account what he was earning before. The Chairman of the Commission was one of the highest paid professors in the world before he came here. He was earning at least US\$40,000 a month, which is equivalent to Kshs3.5 million plus other benefits and consultancies. Therefore, we have to thank him for having sacrificed to come and Chair the Constitution of Kenya Review Commission at Kshs1.2 million. As to whether it has contributed to the delay, I do not think so. That aspect of the matter should be dealt with when the House will be discussing the Report of the Parliamentary Select Committee which has already been tabled, seeking for extension of time for the Ghai-led Commission.

Mr. Muite: Mr. Deputy Speaker, Sir, the Attorney-General has correctly said that the Act states that it is the Parliamentary Select Committee, that should fix those emoluments, including the budget of the Commission. I have not seen any Minutes of the Parliamentary Select Committee, either fixing the budget of the Ghai Commission or those emoluments. Could the Attorney-General table the Minutes where these salaries were fixed by the Committee, including their budget?

Mr. Wako: Mr. Deputy Speaker, Sir, I believe, and I stand to be corrected that the Questioner is a Member of that Committee. I can also say that the Attorney-General is not a member of that Committee. Could the Questioner please, ensure that his Committee tables those figures?

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Attorney-General in order to respond to the supplementary question asked by Mr. Muite, by dismissing himself from duty and off-loading that duty to hon. Muite? Is that in order? A Cabinet Minister is supposed to be responsible.

Mr. Deputy Speaker: The Report of the Select Committee, appointed by this Parliament has already been tabled in the House. The issue of whether there are Minutes to indicate that the Committee had agreed on the remuneration for the members of the Commission or not, amounts to anticipating debate. If I will be in the Chair when that Report comes up for discussion, I will allow Mr. Muite to raise that issue.

Mr. Anyona: Mr. Deputy Speaker, Sir, while the Commission was already in operation, there was no agreed structure of remuneration for the Commissioners. I think the Clerk was paying them whatever he could afford. There was an argument between the Committee and the Commission as to who should fix remuneration for the Commissioners. Some Commissioners said they should fix their own remuneration. But the Committee, of which I was a member, resolved that such remuneration must be done by Parliament. In the Report that has been tabled by the Committee, there are Minutes which show that they determined the remuneration. The only thing I do not know is whether it is these particular ones or others before this. But in those Minutes, there is a record.

Mr. Deputy Speaker: So, if the law states that it is the House which must fix remuneration for the Commissioners, then it is the House. If the law states that it is the Select Committee of Parliament, then it must be the Select Committee which must report to the House!

Mr. Wako: Mr. Deputy Speaker, Sir, I think the position is that the Minister for Finance, in consultation with the Committee should come up with the figures. On this particular issue, I do know that the Committee recommended these figures and the Minister for Finance accepted them.

Mr. Mwenje: Mr. Deputy Speaker, Sir, now that these figures raise doubts as to whether the Commission would want to complete its work on time, because I am sure they would want to be given an extension so that they could earn more money. Could the Attorney-General confirm to the House that the Commission will be able to complete its work on time, and in accordance with the Act, bring the new Constitution to this House for deliberations so that we can go for elections with a new Constitution?

Mr. Wako: Mr. Deputy Speaker, Sir, I think that is what will be debated when their request for an extension of time is being discussed by this Parliament. But I can say that the Commission is focused, it is now visiting constituencies and they are about to complete the exercise of visiting constituencies. I believe most hon. Members will appreciate the role the Commission has done played, particularly when visiting the constituencies. Hon. Members would have appreciated the amount of work that is being done throughout the country. So, the Commission is focused, united and it is working very diligently. I can confirm that fact.

I can also say that there ought to be a bit of more understanding on the part of the public, because we did give the Commission 24 months from 4th October, 2000, to do the work. But as you know, they never began doing their work until after the necessary consultations, and merger with the Ufungamano initiative were concluded. That "ate" into the time when they ought to have been going round the constituencies collecting views. So, there was that time element which hon. Members must appreciate.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is the Attorney-General in order to try and justify why there should be an extension? Could he simply answer my question which was: Are they going to complete their work on time or not? Does he want to continue paying them these enormous figures?

Mr. Deputy Speaker: Mr. Mwenje, you have a copy of the Select Committee's Report, which indicates to you what the Commission requires, and what that Select Committee has recommended. So, you must not ask a question whose answer is in a public document!

Mr. Mwenje: Let the Attorney-General tell us whether---

Mr. Deputy Speaker: No, you have got a copy of the report.

This marks the end of Question Time.

Next Order!

POINTS OF ORDER

UNAVAILABILITY OF MINISTERIAL STATEMENTS

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. We raised several requests for Ministerial Statements. I know that with the Committee of Supply procedure, we tend to have problems. But on a day like this one here today, we expected that we would have some responses from Ministers. I did seek a Ministerial Statement from the Office of the President with regard to the so-called demonstrations outside Parliament. I also asked for a Ministerial Statement from the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports, about the Manga Children Rehabilitation Centre. However, nothing seems to be forthcoming!

Mr. Deputy Speaker: Is anybody here from the Office of the President? Where is the Leader of Government Business or his Deputy? I saw the Deputy Leader of Government Business here, a while ago?

SHOOTING OF PEOPLE AT KAKUMA

Mr. Munyes: On a point of order, Mr. Deputy Speaker, Sir. I wish to request for a Ministerial Statement from the Office of the President over police brutality. This is in connection with the shooting of three people in Kakuma, that ended in the death of an old woman; and further the shooting of an Assistant Minister and myself.

Mr. Deputy Speaker: Shooting up or shooting?

Mr. Munyes: They shot at us!

Mr. Deputy Speaker: Okay.

Mr. Munyes: I would like to be given a Ministerial Statement over that incident.

Mr. Deputy Speaker: Is anybody here from the Office of the President?

An hon. Member: They are in Sotik now!

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Ministers, at least, this House expects a Minister to stand up on behalf of the Office of the President, and say that they will take the responsibility to transmit this information or request to them. Messrs. Ngala, Kalweo and Wako, you cannot take that collective responsibility?

The Minister for Mineral Exploration (Mr. Kalweo): Mr. Deputy Speaker, Sir, we will direct this matter to the Office of the President and report back.

Mr. Deputy Speaker: You should also do the same on other matters which are outstanding!

The Minister for Mineral Exploration (Mr. Kalweo): Of course, Mr. Deputy Speaker, Sir.

Mr. Munyes: Mr. Deputy Speaker, Sir, I want to know when I will get the Ministerial statement!

Mr. Deputy Speaker: That can be given by the Deputy Leader of Government Business.

The Minister for Mineral Exploration (Mr. Kalweo): He will, Mr. Deputy Speaker, Sir.

Mr. Munyes: When?

The Minister for Mineral Exploration (Mr. Kalweo): Mr. Deputy Speaker, Sir, I will report this matter today to the Office of the President, and I think by next week, this report will be here in the House. To be more accurate, maybe, it will be here on Thursday.

Mr. Deputy Speaker: If Tuesday and Wednesdays are Allotted Days, they better come in advance and advise us that they have changed the schedule so that we can terminate other businesses, before we go to the Committee of Supply.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. Is it really in order for Mr. Kalweo, now to answer that question when the Deputy Leader of Government Business is here in the House?

Mr. Deputy Speaker: Order! Order, hon. Members! The Chair is not responsible for the way the Government is managed or mismanaged!

(Applause)

SECURITY SITUATION IN GUSILAND

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. For the second time, I stand to seek a Ministerial Statement from the Office of the President regarding security in Gusiiland. If the Chair can recall, yesterday, the Minister promised to come and give a response on that issue today. I hope I will get that statement today.

Mr. Deputy Speaker: Thank you.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE WATER BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9,
10, 11, 12, 13, and 14 agreed to)*

Clause 15

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, Clause 15 be amended in sub-clause (5) by deleting the words "river water users

associations" and substituting therefor the words "water resources users association".

Mr. Temporary Deputy Chairman, Sir, I am proposing so because water users associations can cover rivers, lakes, dams, underground water, boreholes and the rest of the resources. So, we intend to substitute the words "river water users associations" with "water resources users associations".

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: I am seeking clarification from the Minister. Could he explain to the House, first, whether there exist "river water users associations" in this Republic and, what is the significance of introducing the "water resources users associations"? If so, could he tell this House whether the water resources users associations exist in this country? I am sorry for jumping the gun. But before we approve the amendment that is proposed by the Assistant Minister, I would like to seek clarification from him. What is the significance for substituting River Water Users Association with Water Resources Users Association? First of all, does those associations exist and, if so, what is the significance of the latter association and the importance of including it in the Clause other than the previous one? What is the rationale? I know that he will say water resources cover a wider category other than rivers, but do such associations exist in this Republic? What is their status with regard to the management and use of water resources?

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, the River Water Users Associations exist in some areas at the moment, despite the fact that they are not legalised because the Ministry of Water Development was the sole supplier of water to the population in this nation. However, the Water Resources Users Associations that we are trying to put in place will take over the management of water in the communities. If we have to do so, they must have an entity that is uniform, whether they will use rivers, boreholes, dams and so on. We have to give a specific name to those associations.

Mr. Wamae: Mr. Temporary Deputy Chairman, Sir, already, there are many river water users associations. What is going to happen to them if we change now?

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I think we have to change river water users associations to water resources users associations, so that they are uniform.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, in that regard, we will have to go to Clause 2 and put in the interpretation what we mean by water resources users association. Otherwise, it will appear in Clause 15 and as Mr. Wamae has said, it will not be very clear whether the river water users associations are thereby being suppressed or not recognised. That category must be defined.

The Temporary Deputy Chairman (Mr. Musila): But, Prof. Anyang'-Nyong'o, we have already approved Clause 2 as it is!

Prof. Anyang'-Nyong'o: Then we are in a lacuna! If we have approved Clause 2 and we have not defined in Clause 2 what this new amendment is, then we are definitely in a problem.

The Temporary Deputy Chairman (Mr. Musila): We have approved it as it is and so, we cannot go back to Clause 2. What is done is done, unless you bring a future amendment.

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

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

(Clause 15 as amended agreed to)

Mr. Sambu: On a point of order, Mr. Temporary Deputy Chairman, Sir. There was no response!

The Temporary Deputy Chairman (Mr. Musila): There was! Maybe, you were not listening! The Chair was very alert and the response was in the positive!

Clause 16

The Assistant Minister for Energy and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be amended in subclause (3)(b) by inserting the words "and local authorities"

immediately after the words "regional development authorities".

That amendment was proposed from the Floor of the House and the relevant Departmental Committee of the House agreed that we should include local authorities which have already been managing water in some areas. They should not be shut out but they should participate in the management of water in their respective areas of jurisdiction. Therefore, we need to include local authorities after the regional development authorities by inserting the proposed words.

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

(Clauses 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 agreed to)

Clause 46

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, before we make all those clauses to be part of the Bill, I have a very serious question with regard to Clause 46. I do not understand why the Assistant Minister has not brought an amendment to this clause, especially following some objections from Members. Clause 46 refers to the establishment of a regulatory board and Clause 46 (3) reads:

"The Regulatory Board shall consist of-

- (a) a Chairman, who shall be appointed by the President; and,
- (b) ten other members, who shall be appointed by the Minister."

In other words, the appointment of that Board will be between two persons; the President and his Minister. There is no provision or terms of reference given to the Minister that he should appoint two from the disabled, two from women, two from water users associations and so on. The whole thing is just left with a blank cheque. I am wondering why the Assistant Minister thinks it is a democratic way of dealing with citizens of the Republic of Kenya.

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Acting Chairman, Sir, on this Clause, apart from the Chairman who should be appointed by the President, the Minister has to consult the relevant stakeholders in that important sector. I would like to assure the House that there will be balance in aspects of gender, interested parties and other stakeholders. All those aspects will be put into consideration.

The Temporary Deputy Chairman (Mr. Musila): I think Prof. Anyang'-Nyong'o has a point. You cannot just give an undertaking in the law. It should be written. I think that is what the hon. Member is asking.

Prof. Anyang'-Nyong'o: Mr. Temporary Acting Chairman, Sir, if that is the way we are going to make laws in this country, we shall have many problems because the goodwill exists in the head of the Minister and not in the written word. I think that provision should be put in a schedule to the Bill, and it should explain how that should be done or else, it becomes substantive in the law. We may pass this Bill into law, but it would be unfair to the people of Kenya in the final analysis.

The Temporary Deputy Chairman (Mr. Musila): But again, even after saying that, you realise that we had no notice of proposed amendment. Therefore, the Chair is not in a position to assist in this case because I do not have any proposal from anyone; either from the Minister or the hon. Member. You have made your point and I believe there were discussions in the Committee about that issue. I can see your point but I do not think there is anything we can do because the Minister did not give notice of an intended amendment. No Member also gave any notice of an amendment. I do not think it is possible at this juncture.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, you are correct in your interpretation of the state of affairs. I think what we are doing is recording our serious sentiments. That was recorded during the debate on the Bill. I would have thought that the Minister would have taken that debate seriously and seen the rationality of hon. Members' points of view. That having been said, we can move ahead.

The Temporary Deputy Chairman (Mr. Musila): That notwithstanding, if at this point in time, the Assistant Minister wishes to propose any amendment, the Chair will accept it. Mr. Nooru, would you like to move an amendment?

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, we are not ready to move an amendment now. However, if you look at the First Schedule of this Bill, you will realise that this issue has been adequately addressed.

The Temporary Deputy Chairman (Mr. Musila): Could you give us the specific part you are referring to in

the First Schedule. It is good to see it. On what page is it?

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, it is on page 382.

The Temporary Deputy Chairman (Mr. Musila): Mr. Assistant Minister, would you like to elaborate further on this Schedule? If you are not ready, I will not push you. So, let us go by the sentiments expressed by Prof. Anyang'-Nyong'o and leave it at that.

*(Clauses 35, 36, 37, 38, 39, 40, 41, 42, 43, 44,
45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 agreed to)*

Clause 55

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 55 be amended-

(a) in sub-clause (1) by deleting the words "by an agent, to be known as a water service provider" and substituting therefor the words "by one or more agents, to be known as water service providers"

(b) by deleting sub-clause (5) and substitute therefor the following new sub-clause:-

(5) The water services board may enter into agreements with more than one water service provider in respect of its area of supply.

(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 55 as amended agreed to)

*(Clauses 56, 57, 58, 59, 60, 61, 62,
63, 64, 65 and 66 agreed to)*

Clause 67

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 67 be amended in sub-clause (1) by deleting the fullstop at the end thereof and adding the words "with the assistance of the National Water Conservation and Pipeline Corporation referred to in Section 22(4)"

(Question of the amendment proposed)

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

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

(Clause 67 as amended agreed to)

*(Clauses 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78,
79, 80, 81, 82, 83 and 84 agreed to)*

*(Clauses 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95,
96, 97, 98, 99, 100, 101, 102, 103, 104,
105, 106, 107, 108, and 109 agreed to)*

Clause 110

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 110 be amended in sub-clause (2) by re-numbering paragraphs (l), (m) and (n) as paragraphs (m), (n) and (o) respectively and inserting the following new paragraph (l)-
(l) the provision of bottled or mineral waters.

(Question of the amendment proposed)

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

(Clause 110 as amended agreed to)

(Clauses 111, 112 and 113 agreed to)

(First, Second and Third Schedules agreed to)

Fourth Schedule

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Fourth Schedule be amended in paragraph 2 (1) by deleting the fullstop at the end thereof and adding the following words:-
"and shall comply with such requirements as may be imposed by the Authority".

(Question of the amendment proposed)

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

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

(Fourth Schedule as amended agreed to)

(Fifth Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Water Bill, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

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

THE WATER BILL

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered The Water Bill and approved the same with amendments.

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport and Communications (Mr. Mudavadi) seconded.

(Question proposed)

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, while I support that the House should agree with the Report as passed in the Committee of the Whole House, I would like to urge the Assistant Minister to bring an expeditious amendment to Clause 46 of the Bill as we have discussed today during the Committee of the Whole House.

This is extremely important. It has to do with the composition of the Water Board. Powers have only been given to the President to appoint the Chairman and to the Minister to appoint all members of the Board without any reference to an interest group, or a particular constituency that has a stake in the water environment and resources. This is extremely important and I hope that the Government will take our point of view into consideration.

(Question put and agreed to)

The Assistant Minister for Environment and Natural Resources (Mr. Nooru): Mr. Deputy Speaker, Sir, I beg to move that The Water Bill be now read the Third Time.

The Minister for Transport and Communications (Mr. Mudavadi) seconded.

(Question proposed)

Mr. Muite: Mr. Deputy Speaker, Sir, now that we are enacting, as a House, this important Bill to be part of the laws of Kenya, I would like to ask the Ministry, when formulating and implementing the national policy in terms of the strategy for the management of water resources as stipulated in Clause 11, to bear in mind that if we are to have harmonious use of water resources, it must strike a balance between the needs of urban consumers and those of the rural people, where most of these resources are located.

I will give you an example of Kikuyu Springs and Ondiri Swamp. These two water sources have been supplying water to Nairobi since the year 1903, yet nobody in Kabete Constituency benefits from that water. This is inequitable. Where water resources are located in the rural areas, you must come up with a way of providing that water to the community where the asset is located. This is because it is an asset although we are now vesting those powers in the Minister. If you want harmony, you must look after the rural communities. Alternatively, since Nairobi and other urban centres are selling this water, then the Minister when formulating this policy, should come up with a formula so that Kikuyu Town Council is paid some money because that money is paid for by the consumers in town. So, we, in Kabete Constituency will wait to see formulation and implementation of this policy. However, I want to give notice that if you do not give water to the people of Kabete from Ondiri Swamps and Kikuyu Springs or alternatively get the Nairobi City Council to divide the income they derive from the sale of that water to the people of Nairobi, then the people of Kabete Constituency are definitely going to disconnect the water.

Thank you.

(Question put and agreed to)

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

Mr. Deputy Speaker: Next Order!

BILLS

Second Reading

THE DOMESTIC VIOLENCE BILL

(The Attorney-General on 24.4.2002)

(Resumption of Debate interrupted on 2.5.2002)

Mr. Deputy Speaker: Hon. Ms. Karua was on the floor. Since she is not here, Prof. Anyang'-Nyong'o can take the floor.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I take this opportunity to contribute to this extremely important Bill - the Domestic Violence Bill. If there is any Bill that has been long overdue in this Republic, then it is this particular Bill. I want to refer to two important aspects of domestic violence. One, we have domestic violence in our homes and also domestic violence in institutions that have historically, in this Republic, taken the place of homes for young children. I am referring to boarding schools.

Mr. Deputy Speaker, Sir, in our homes, historically, children and women have been the subordinate partners in family relations. This is, first, because our societies have largely been patriarchal societies - societies that first and foremost recognise the male as the most important species in the home and then recognise the women as workers in the home and reproducers of life and children as more or less support staff in the home. This status of children, women and males in the home has resulted in a lot of violence - violence in the first instance of what I call psychological violence, where although women may keep quiet, obey and be subservient, a lot of things that are done to them or they are meant to do, are done without their consent. Those acts are committed without thinking of their human dignity and without full recognition of them as full members of the family, and that leads to a lot of psychological violence over time. We may not notice it, but it expresses itself in various ways. I think one of the most important aspects of this Bill is that it seeks to establish some amount of healthy relationships among members of the families so as to remove this status relationship that deals in institutional violence in the family.

Mr. Deputy Speaker, Sir, I do not think that this kind of problem can be dealt with purely by passing a Bill, but it is something that should be looked at in terms of the culture of society. Indeed, if the culture of our various societies continues to reproduce this patriarchal relationship and this status relationship in the family that leads to structural violence within the families, we are going to have a lot of problems in our society in terms of having healthy human beings. A lot of this has been exposed, written about and discussed in psychology documents and journals. It has also been reproduced particularly, in the work of Franz Fanon in analysing the psychology of the oppressed mainly, in the developing and third world.

Mr. Deputy Speaker, Sir, I think apart from passing the Bill, the Government should understand that it is important to develop a political, social and economic culture in this country which seeks to liberate families from this kind of structural psychological violence in the family. It is this kind of structural violence that leads to all kinds of practices in the family, whereby when a kid makes a mistake, the mother or the father feels that very extreme punishment should be metted on the kid and nothing will happen. We have known of cases where kids have had their hands put in some little basket and tied up and then the basket is put on fire and the hands burn. One wonders how a father or a mother can burn the hands of a kid who has stolen five cents, Kshs10, a loaf of bread or something like that. It is because of this structural psychological violence that exists in families that fathers and mothers feel that they can inflict this kind of very extreme punishment on their children and they do not feel anything about it. So, I am glad that the kind of punishment that has been put in this Bill with regard to mothers and fathers who exhibit this kind of violence to their children will reduce this violence in families.

Mr. Deputy Speaker, Sir, however, there is another form of violence in families that is extremely horrible. This is the sexual molestation of children within families. You read very frequently in our newspapers that a father slept with his daughter or sodomised the son and all these things and one wonders how these things do happen in the Republic of Kenya. I have known of cases where this kind of thing has happened; it has been reported to the police station and the police simply say: "That is a family affair. You go and sort it out in the family". Because it is known that family affairs do not come under the rubric of the law, this thing has gone on and it has been reported in the newspapers and nothing is done. I am glad that in this particular Bill, these kinds of practices are not going to be tolerated as purely family matters. They are matters that relate to the morality of society, psychological health of

families and to the human rights of women, rights of children and women and I am glad that in this Bill, this issue has been looked into carefully. We must thank the Federation of Women Lawyers in Kenya (FIDA) which did a lot of research on this issue and brought it to the attention of both the Attorney-General and the Ministry of Home Affairs, National Heritage and Sports that deals with this issue.

Mr. Deputy Speaker, Sir, let me go to the other aspect that I want to deal with and that is institutions that have taken the place of homes in our Republic and they are boarding schools. It became very fashionable in this country for parents to send their kids to boarding schools in primary school from the age of six. In the old days when some of us were in primary school, it might have made sense for somebody to go to boarding school in primary school because in those days people started primary school, perhaps, at the age of 12 when they were old enough to be away from their families. These days, children go to primary school at the age of six and to take a six year old to a boarding school is the worst form of violence. I heard a story over this weekend where a 36 year old woman was recounting a story that when she was six she was taken to a boarding school by the father and the mother but she resisted. She cried and the mother and father said: "No! It is good for you". The kid went through boarding schools in primary school, high school and so on and finally graduated from college and got married. However, she never forgave her parents for having sent her to boarding school at the age of six. She felt that it was a rejection that the mother and father did not love her, so that she could stay at home with them and go to a day school and that she was more or less being exiled to another place so as to miss the love and care of the parents.

Mr. Deputy Speaker, Sir, I think it is important that, apart from looking at this Domestic Violence Bill that we are talking about, we look at the kind of psychological terror and violence that we are visiting on our children by sending them to primary boarding schools when they are so young. I know that it was a practice in England; Tom Brown School days, but we should not inherit lock, stock and barrel practices from our colonial masters and bring them here. I think the African family is a very warm institution and a child should not be deprived the care of the family so early by being taken to boarding school. The violence being visited to the boy child and the girl child in this society is very serious because of boarding schools. I think there is more violence to the boy child than the girl child in our society. If you go to the girls boarding schools, be they primary or high school, they are much better run in this Republic than boys boarding schools. In girls boarding schools, the teachers are very strict with the girls. The girls are not allowed to go out of the school every now and then. But in boys boarding schools, there is a lot of freedom. The boys do all kinds of things in schools. The kind of cultural practices that begin appearing in boys schools, precisely, because they are secluded from their families so early, quite frequently, distort their psychological make-up.

Mr. Deputy Speaker, Sir, drug taking and sexual pervasion are on the increase in boys boarding schools. So, the boy child in our Republic is not leading, what we might call, a normal life, a life of family love and care. Further, our teachers in boarding schools unlike in our days when we went to school, are not as well trained, caring and as teacher-like as in our days. In our days, a teacher was a teacher!

(Mr. J. Nyagah consulted loudly with other Members)

Mr. Deputy Speaker, Sir, could you protect me from Mr. J. Nyagah, who knows the value of family life and care? He should listen to what I am saying because it relates to him directly.

Mr. Deputy Speaker: Yes, I agree!

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the violence being visited to our boy child in this Republic is very serious because the teacher is no longer the teacher we used to know. In our days, the teacher was somebody who was worth emulating. He was properly dressed, he brushed his teeth and combed his hair. If he wore a beard, it was like mine and not like yours! So, the teacher was properly dressed. But these days, there is laxity. To get the boy child in the care of this kind of teachers in boarding schools is a very serious thing. A lot of domestic violence is taking place in boarding schools and not families, because the boarding school has become the domestic place for the boy child.

(Mr. Nooru consulted loudly with other Members)

Mr. Deputy Speaker: Order! Order! Mr. Nooru, you have finished debating your Bill and Members listened to you very carefully! You should reciprocate!

Prof. Anyang'-Nyong'o: So, the boy child is in a domestic place which is replacing the family. This is very serious. I do hope that the Government will take a serious study of the foundations that our citizens are getting in boarding schools. Boarding schools have substituted the home and the family in our Republic in many ways. Worse still, when our elite send their young children to boarding schools in foreign countries like England, it is assumed that education there is better. But education there is only better if the child goes there at a mature age, after they are 16.

They are not going to do higher certificate. They are going to go to college. When they go to high school - the cultural uprooting of the child and the fact that the child misses that home institution that the parents may not realise its importance because we grew up in a different era--- When I was growing up, even if my parents were not there in the village, I had surrogate mothers. My aunt immediately stepped in with all the love, care, attention and the sense of authority that was even better than my mother. When my grandmother came, she even had better resources of love than the mother. Given that the rural areas no longer function that way and the urban areas are even worse, and then you take this child to a foreign culture and put it into a boarding school away from home, the psychological terror we are visiting to our children is enormous. This is why I think this Bill is so important and it should be looked at in a much more holistic sense. Why is it that there has been increasing domestic violence in our nation? To what extent is this domestic violence externalised in other institutions which are not necessarily covered by the Bill? These other institutions are exhibiting much more violence to the boy child and the girl child in our country than we do realise.

Mr. Deputy Speaker, Sir, I also witnessed during the weekend in the landmark forum that I attended, people testifying as to why they are the way they are today. These are people who are 36 and 40 years old and they now look back to explain why they are the way they are. There was a young man who is now 38, and he is an insurance executive, who said that in primary school, he wanted to be a doctor. In Std IV, one day, he wrote on the cover of his exercise book "Dr. So and So." When the teacher got the book, he asked him why he was calling himself "Dr. So and So." He said: "Because I want to be a doctor." The teacher told him: "You are so damn stupid, you can never be a doctor!" That kind of statement to a boy who was not yet 10 years, so categorical from somebody of authority completely depressed and distorted his sense of perception. So, his whole ambition was therefore violated and the boy grew up doubting his words. Worst still because he came from a poor family, during parade, the teacher would pick him out and ask him: "Did you brush your teeth? Did you wash your body?" That was an elite school. Then the teacher would ask him to undress to see whether he had washed as other students. That completely undermined his sense of self-worth. So, he grew up with a sense of inadequacy. Eventually, he never became a doctor. He became an insurance executive. But he always felt that there was something subtracted from him. These are the kind of people if they get positions of responsibility, because of that kind of early violence in their lives, they begin externalising this violence by being very rough and discourteous to their colleagues. As it were, in university language, you say they do not have common room culture. In a common room culture, you expect people to share a certain amount of civility. But you find that our people may not be performing public positions because of this kind of violence they have in school. I think it is very important that we pay attention to this kind of thing. We are not going to have development in the nation unless people have some foundation from which they get values, which, first and foremost, give them a sense of self-worth. We call ourselves citizens because there are certain values that we share. There are certain forms of civility that are inculcated in us in primary schools and because of the ways in which our teachers relate to us, it becomes very serious.

It is those two forms of domestic violence that I wanted to draw the attention of the Ministry to. Whereas the Bill is definitely a very good idea, it should be seen in the context of the whole culture in our society in which domestic violence does not just occur in the family. It is also occurring in institutions that have taken the place of the home in our society, particularly the boarding schools. I do hope that the Ministry of Education, Science and Technology will begin looking seriously at the whole philosophy of boarding schools and from what age children should be confined in those detention camps. To me, sending a child to a boarding school at the age of six is the same as sending him to a detention camp because they really do not have a choice. When I sat for my Kenya Preliminary Examination, I filled a form indicating which secondary school I wanted to go to. Schools like Alliance, Maseno and Kakamega high schools were the only ones worth talking about in those days as opposed to the others where people like the Member for Matuga went to.

(Laughter)

At least at that point in time, I was aware and making a choice because I was 15 years of age. These days, you will find a child of six years from Embu being sent to a boarding school in Busia called St. Peters. This is tantamount to sending that child to a detention camp! Although those schools may be having good results in KCPE, if you subsequently follow the lives of the children who graduate from there, you will find that they have all kinds of stories to tell. I think the whole thing should be revised.

Let me move to another area which is also in the Bill. The Bill says that there will be special police stations and courts to deal with domestic violence. In police stations it is envisaged that there will be a section that deals with women so that when a woman goes to a police station, she can go to a particular police officer who has been trained to deal with domestic violence. I think this is a very positive move because - and I am sorry to say this - the police force was trained with a very strong patriarchal culture which says that you must have masculine strength to defend yourself

against all kinds of oddities and ravages in society. Should you fall victim to any of the oddities and ravages, you must first prove that you are not in the wrong.

I will give you an example from a real story. Somewhere in Voi, a woman was raped. She went to report this to a police station around there and the police officers asked her: "Where were you raped?" She replied: "In our home." They asked her: "Who is suspected of the rape?" She replied: "An uncle." The police told her that it was a family affair. They said that if her in-laws could not protect her from a rapist uncle, then she should go away and sort that issue out in the family setting. Of course, in rural areas a lady like that has nowhere to turn to because the highest authority around is the police force. She is quite sure that if she went to a DO or a chief, she would receive the same kind of treatment. It is important that in this kind of culture, we train special police officers in police stations, such that when a child from a primary school comes and says that a teacher beat her unfairly, they will know how to investigate the case, question the child and get at the root cause of the complaint. The complainant must be taken to have a case until all the facts are examined and the police prove otherwise. The police should not transfer the responsibility to protect the complainant against the kind of violence visited on him or her on the relatives. I strongly support the training of special police officers and specially trained policemen to deal with cases of domestic violence.

The other issue is on our law courts. We should have special courts and judges trained to deal with domestic violence. If you have been to our law courts and have listened to how judges and magistrates receive evidence and question people over issues of domestic violence, you will note two things. One, we must recognise that some of these issues should not be heard in an open court. This is because of the kind of cultural and social stigma that is associated with forms of domestic violence. Sometimes, the victims are stigmatized after such things are made public. One of the things that happen when a woman goes to court and has to give evidence regarding the violence metted out to her by a man is that, society expects women to be less open about sex and sexual practices. When a woman speaks openly about sexual practices, there is a stigma attached to her to the effect that she either invited what happened to her or that, she is loose. You might also find that after that there is a tag on her that since she was sexually violated, she is no longer worthy of heterosexual relationships in society.

Very few men have ever gone to court to give evidence that they were raped, by women. Although quite a number of them are raped by women, because of the male pride and the patriarchal nature of our society, you will hardly find a man going to court to file a complaint that he has been raped. Even if they are raped you will never find the evidence. Maybe some of us have been threatened, but it never succeeded. I do not want to be taken to court to give evidence. Nonetheless, if these matters are heard in an open court, I think it is extremely hurting to women at this stage of our cultural understanding.

I would strongly support the proposal that we have special courts and judges that deal with cases of domestic violence. I think evidence should be received in an environment that is not intimidating to the complainant, particularly when the complainant is a woman. This evidence should be given in camera; out of public purview. I think this gives both the magistrates, lawyers and complainants substantial confidentiality and freedom to ensure that, as much as possible, they go into the issue. These are some of the very important issues that I wanted to bring forth and to underline the two aspects of the Bill related to special treatment in police stations and special courts and judges to deal with domestic violence.

Finally, I think it is important that when we have a law related to the penalty that is given to anybody convicted of rape, that penalty should be applied impartially. We have seen cases in this country where somebody who has stolen a loaf of bread or Kshs1,000 is imprisoned for ten years, whereas somebody who has stolen millions of shillings goes in for three months or so. Rape is an extremely serious offence. There are certain countries where you are hanged if you are convicted of rape. Maybe, that is too extreme, but I think that in order to deter rape as an offence, a maximum penalty should be given. I am against the death penalty, so I would not subscribe to that, but I would seriously say that the kind of penalty that is being proposed in our new Bill be respected and implemented in our law courts, so that it acts as a deterrent measure to would-be rapists in our society because it is a terrible violence on our children, be they girls or boys. It is an offence that should be severely punished.

Mr. Deputy Speaker, Sir, I beg to support the Bill.

Mr. Khamasi: Thank you very much, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this very important Bill. From the outset, I would like to say that I support this Bill.

Before I open my remarks, because I will be very brief, I want to take issue with the Mover of this Bill. When the Bill was moved, we had a lot of contributions from both sides of the House. But what perturbs me most is the sort of response that we got from the Government side. This is because literally, everybody who stood up from the Government side was opposing this Bill. One wonders how a Government-sponsored Bill brought to this House would have so many hon. Members from the Government side - the ruling party - opposing it? What did they have in mind? Where had they gone to be given a lecture that a Bill sponsored by the Government can come here and be opposed by hon. Members from the ruling party? I think you can cheat up to a certain level, but you can never cheat all the time.

Something that we do not know happened. Perhaps, somebody who was there will let us know what happened.

In fact, even Ministers and Assistant Ministers were here, pretending that they do not know what they want to say about this Bill. But by the end of the day, they were saying that they do not support this Bill. This Bill is long overdue. For any civilised community, it is necessary that you must have an Act in place to tame people who unleash out domestic violence to others, whether women, or men; it is important. Domestic violence is mainly unleashed out to women and children, particularly the girl-child. Of course, it is also unleashed out to men, but very little is heard about the violence that is unleashed out to them. It is necessary that we must put an Act in place to contain this situation.

This Bill protects the marginalised members of the family. It protects the child and woman, and it is necessary that we all support it. The Bill prescribes the right penalties for the offenders. I am not satisfied with the sort of penalties which are prescribed in the Bill. I think they must be stiffer, particularly for rapists, as Prof. Anyang'-Nyong'o said. They should never get away with it. For that, the special institutions which have been put in place, particularly the courts, need to be supported because, more often than not, you will hardly find people coming out and speaking their minds about the ordeals that they have gone through when they have been violently mistreated in their families. So, we need special institutions which could specialise and train people to be able to deal with those cases.

Majority of culprits who unleash out domestic violence are none other than men. I wish you were on that Chair and listened to Mr. Munyasia speak about who his hero is. He talked of a man with 12 wives, hundreds of children and thousands of grand-children who only if he coughs, everybody goes under the bed. That was Mr. Munyasia's hero. You may not see anything wrong with it, but it was very sad indeed; how he was saying it and demonstrating it here; how he would just slap a woman and she runs under the bed. You cannot say that man is a hero.

Mr. Deputy Speaker: I know of one who has 45 wives and he slaps all of them!

Mr. Khamasi: Mr. Deputy Speaker, Sir, I hope you do not want to be like Mr. Munyasia's hero. I am trying to say that let us give everybody in the family the treatment that they deserve. Let us treat everybody in the family with respect that they deserve. As an hon. Member said, the provisions in the Bill, particularly the penalties, will tame these male chauvinists who think that, being a man you have got the liberty and licence to behave and treat each and everybody as you deserve. Our women and children require respect, and in that regard, I would like to support this Bill; I know the mood of the House.

With those few remarks, I beg to support.

Mr. Deputy Speaker: Well, if there is no hon. Member who would like to contribute, I will now call upon the Mover to reply.

The Minister for Transport and Communications (Mr. Mudavadi): Thank you, Mr. Deputy Speaker, Sir. I believe that this Bill has been discussed fairly exhaustively by a number of hon. Members and, at the same time, several suggestions have been put across which will be tackled at the Committee Stage of this Bill. I just want to assure Mr. Munyasia that it is important that hon. Members from the ruling party also have an opportunity to air their views, as they wish, once they are in this House. Sometimes they definitely differ and that is healthy.

Taking into account that we will have an opportunity to discuss the Bill further at the Committee Stage, I beg to reply.

(Question put and agreed to)

(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)

Second Reading

THE PETROLEUM BILL

Mr. Deputy Speaker: Hon. Members, we will have to stand over this Bill because the Minister who was supposed to move it is out of the country on official business. So, we shall proceed to the next order.

(Second Reading deferred)

Second Reading

THE TRAFFIC (AMENDMENT) BILL

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to

move that the Traffic (Amendment) Bill 2002---

*(Dr. Kituyi consulted loudly with
Mrs. Ngilu, Ms Karua and Mrs. Mugo)*

Mr. Deputy Speaker: Order, Dr. Kituyi! We agreed that you should treat them fairly, but from a fairly close distance.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to move that this Bill be discussed. It is an Act of Parliament which is intended to amend the Traffic Act (Cap. 403) of the laws of Kenya.

Basically, it aims at establishing the Kenya Roads Safety Authority and also to improve the management of traffic and ensuring that the issues of road safety are given more attention in this country.

Road safety is a matter of major concern to everybody - the Government and public. Indeed, many people have lost their lives. Some have been maimed and have suffered and the economy also suffers greatly because it is quite clear that over the years, the issue of road safety has become a matter of great concern to Kenyans. I think it will be useful for me to give some statistics which will be used to emphasize the gravity of this problem.

Mr. Deputy Speaker, Sir, for instance, according to the records, we have indications that about 3,000 deaths are reported occurring annually from road accidents. It is also important to note that some of the deaths may not be reported, but generally, we are talking of 3,000 people dying every year as a result of road accidents, and this translates to about nine deaths per day. This amounts to the highest in the world, given that Kenya has a low motorization rate of only 19 vehicles per 1,000 people.

In terms of financial loss, it is estimated that the economy loses a lot of resources through the manpower, and a good example here would be the estimated loss that is experienced on an annual basis by the insurance industry. This is estimated at about Kshs6 billion on an annual basis as a result of road accidents. Here we are talking of nothing else, but just resources that could be diverted or used for other purposes. This, of course, does not touch on the issues of the death and also the trauma that affects the families that end up losing their members.

Mr. Deputy Speaker, Sir, since 1992, as an example, because the Ministry has been going back to look at what has been happening, we have records which I would like to make available to the House at the end my contribution. If I may just quote as an example, in the year 2000, there were 13,900 accidents, 2,820 were fatal accidents and people died, 9,659 were serious, and those that had slight injuries were about 16,500. So, in total, in 2000, the country recorded over 26,000 road accidents. In the year 2001, there were 13,400 accidents, 2,790 of them fatal, 10,500 were very serious, 16,000 had slight injuries, and the total was 29,400 accidents.

Mr. Deputy Speaker, Sir, in the first six months of this year, there have been 3,407 accidents, 604 people have already died, and 2,325 have been seriously injured. One thing always tends to go unnoticed. When there is an aeroplane crash for instance, a plane would normally have a capacity of 200 or 300 people, and once the death occurs, there is a lot of publicity and anxiety that so many people have died. The mere fact that many die in one go is what then becomes magnified. But people tend to forget that our roads have actually been taking more lives than any aeroplane accidents. Even what happened in Abidjan - I am not saying that it is something that we would like to remember that often - we know that about 200 people were on that aircraft, but in six months, Kenya has already lost 600 people through road accidents.

In Tanzania when the train accident occurred, they lost about 281 people and our roads in six months have taken 600 people. This means that by the end of the year, when they take away 3,000 people, it is something which must be taken very seriously. We need to start tackling this problem extremely seriously.

Mr. Deputy Speaker, Sir, the causes of these accidents include overspeeding, careless or reckless driving, defective and aged vehicles which ply our roads, careless pedestrians and cyclists, unqualified drivers who sometimes find their way onto the roads, weak law enforcement by those who are supposed to enforce the law---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. It is not right that Mr. Mudavadi, a very able Minister and a prospective presidential candidate should move these important amendments in the absence of a quorum.

Mr. Deputy Speaker: Order, Mr. Muite! You have not yet raised the issue of absence of quorum. You have to sit down and do it properly.

QUORUM

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the House has got a quorum?

Mr. Deputy Speaker: Order, Mr. Muite! If you want to draw the attention of Mr. Speaker that there is no

quorum, you stand up and tell him so, and he will respond properly. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: We have a quorum now. You may proceed, Mr. Mudavadi.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I was saying that there are several causes for the untold carnage on our roads. I had itemised the aspect of over-speeding as well as reckless and careless driving. We have defective and aged vehicles, careless pedestrians, cyclists and unqualified drivers. Weak law enforcement is also a major contributor to road carnage in this country. There is also the issue of poorly trained drivers because of poorly equipped driving schools. The revised or proposed amendments seek to address some of these causes. This Bill is intended to enhance traffic rules and create an atmosphere where people will start changing their attitudes towards road problems, and hopefully, we can attain better compliance.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the Bill also seeks to enhance the penalties that will be instituted against any offenders. This is important because all of us know that, right now, the reason why there are a lot of impunities on our roads is because the fines for any traffic offences are still very modest. All of us have experienced a situation where you are blocked by either *matatu* or truck drivers or any driver because he knows, at the end of the day, even if he goes to court, the fine or penalty that he will face will be very modest. Therefore, they do not seem to take these things seriously.

Mr. Temporary Deputy Speaker, Sir, under Clause 13, for instance, if somebody drives recklessly and causes an accident, instead of being fined Kshs5,000, we are proposing in this Bill that they should be fined Kshs50,000. These are some of the proposals that are in this Bill.

We also know that, in certain instances where death occurs due to dangerous driving, drivers are only jailed for a short term and they come back and within a very short time, they are back on the road, driving. Again, under Clause 12, we are proposing stiffer penalties.

Mr. Temporary Deputy Speaker, Sir, I want members of the public and hon. Members to know that this Bill was published, in fact, almost two years ago. But there has been a very strong lobby of transporters who have tried to push and agitate for the non-debate of this Bill. This is particularly crucial because we know that they have been enjoying the flouting of traffic rules at whim. This is a signal that the Government intends to start bringing discipline back onto our roads.

This Bill proposes, therefore, to have an autonomous Road Safety Authority. It also---

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister said there has been a lot of lobbying for this Bill not to be brought on the Floor of the House. Could he substantiate that allegation because it seems there is fixing of Bills which come to this House? It is a very serious allegation. Could he tell us who is lobbying for Bills not to be tabled here?

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I said it is the transporters. Indeed, these are things that we have heard and experienced even within the Ministry with representation coming that this Bill should be deferred and should not be debated. I am stating this from experience within the Ministry directly.

Mr. Temporary Deputy Speaker, Sir, this Bill is important if we have to save the lives of Kenyans. I wish the hon. Member was here when I was making my opening remarks. I said that we lose 3,000 people every year on roads. I have got statistics here dating back to 1992 showing, on annual basis, how many people we are losing. We cannot continue burying our heads in the sand; we have to start addressing the issue of road safety. We know the Traffic Act as it is currently constituted, has not been a major deterrent in ensuring that road safety becomes a matter of high priority for all people in Kenya.

Mr. Temporary Deputy Speaker, Sir, this Authority will bring together organisations such as Automobile Association of Kenya (AAK). We intend to draw from organisations like that. The major thrust will be for this Authority to eventually supervise and control the training and testing of drivers. It will also provide road safety education and create public awareness to support road safety policies. We expect it to advise the Government on matters relating to traffic law enforcement and transport policy with regard to public service vehicles. They will also co-ordinate the activities of all sectors and matters relating to road safety. This Authority is also expected to conduct

and co-ordinate research activities in the field of road safety.

Mr. Temporary Deputy Speaker, Sir, earlier on, there was what was known as the Road Safety Council. It was a council that served no purpose because it did not have adequate funding. Therefore, it had very limited capacity to enforce good traffic regulations. So, we intend to create a Road Safety Fund which can then be funded through the Registrar of Motor Vehicles. This will be done through the licensing of vehicles or payment of insurance premiums. Also, initially, it can be funded through budgetary support to be able to create an Authority which would be professional in guiding aspects of road safety. Indeed, this again, is not a unique issue about road safety in this country because, in other countries, there are authorities that enforce this. Australia is a good example where there is a very effective road safety authority. That particular Authority has, in fact, gone beyond just the aspect of looking at the issue of drivers. It also ensures that traffic lights are working and that road signs are available in the appropriate places. Here, we know very well that the issue of traffic lights is within the purview of the City Council today. Whether they are working or not, nobody penalises the City Council since there is nobody to ensure that traffic lights are working and functional at all times. These are some of the areas that we hope the Road Safety Authority will now take up with earnest.

Mr. Temporary Deputy Speaker, Sir, we also know that the whole aspect of enforcement of road signs in this country is not effective. Even the element of co-ordination between the Ministry of Roads and Public Works, the Traffic Police Department and sometimes the Ministry of Transport and Communications is not very effective. We have to acknowledge that sometimes, the co-ordination is not good enough because you do know when you will find bumps in an area where they did not exist. Sometimes, the signs that are supposed to be on the road to warn motorists in advance that there is a danger ahead are usually taken away or non-existent. That means there is a lot of negligence and we need an institution that can do nothing else, but focus on ensuring that there is road safety so that the people can be safeguarded. This is the only way we can stop the loss of so many people on an annual basis on our roads.

Mr. Temporary Deputy Speaker, Sir, this Bill also hopes to establish an inspectorate unit for dealers. It is quite clear now that nobody really bothers to know the kind of vehicles that come onto the roads. There is a lot of negligence and this is one of the things I call "weak law enforcement". We should establish an inspectorate unit which will ensure that the dealers comply with the Traffic Act. When I speak about dealers, I mean garages, manufacturers, repairers and people who do body building.

A few days ago, a very vital Question was raised in this House. The Question was about body builders of public service vehicles, mainly buses who have forgotten that all buses must have emergency exits. We should have a more professional outfit which can now consolidate and start looking at some of these issues so that any lapses in the enforcement of the law will be detected quickly, or in fact, they should not exist at all. This is the reason why I urge this House that it supports this particular Bill.

The Bill is also introducing clear parameters on how to deal with drunken drivers. In other countries, we all know that if you partake to alcohol, you have to be extremely careful because if you overdrink, you are likely to land into trouble very first. There are breath tests which are being proposed within this Bill so that one can be very clear that there are certain levels or contents of alcohol, which if you have taken, you should not be anywhere behind a wheel because you will endanger the lives of so many people. We believe that this Bill is fairly comprehensive and I would like hon. Members to look at it very carefully and systematically. Let the hon. Members look at the Clauses of this Bill. I would like to plead that this time, the hon. Members support us so that we bring in a more effective Traffic Act.

I did say that there has been a strong lobby group out there to try and derail the process of ensuring that we have more stringent traffic rules. I would like the hon. Members to look at this Bill very carefully. Let us face the reality. Many transporters out there would like to avoid spending money on their vehicles and so, they hire people at a throw-away fee. They hire young Kenyan *Matatu* drivers and conductors at a pittance fee or salary and expect them to deliver so much money overnight. Because these young men and women, indeed, want to survive, they end up being reckless because they want to make as much money as possible in order to satisfy the requirements of their employers. These are issues, which I believe we must start tackling now on a very serious note.

Mr. Temporary Deputy Speaker, Sir, we know very well that in Nairobi now, one of the biggest problems in terms of traffic congestion, apart from the narrow roads is that everybody has decided to be a law unto himself; nobody wants to follow the traffic laws. This attitude should stop. This attitude can only stop if people would realise that the laws are more stringent. We also know that the process of people going through courts, and handling traffic cases--- We are also proposing in this Bill some ways of speeding up the process of dealing with traffic cases, so that they can be heard expeditiously rather than the way they are dealt with at this point in time.

We also know that transporters bear a very high risk or cost when vehicles are not in good shape. Transporters are likely to incur a lot of cost when their vehicles are in bad shape because insurance premiums become extremely high or punitive. Insurance premiums in this country are very high compared to other countries, especially

for motor vehicle insurance. Today, we all know that there are very few underwriters who would like to touch what we call "public transport vehicles". Perhaps out of the 40 or so insurance companies in this country, you maybe find about three or four companies which are willing to provide insurance covers for public service vehicles. This is an extremely unfortunate situation, and it arises because nobody wants to dare carry the risk of reckless drivers; nobody wants to carry the risk of all these people who are a menace to our roads because they do not want to observe proper traffic laws.

So, while moving this Bill, I would just like to reiterate that about 3,000 people lose their lives and about 10,000 people are maimed for life on an annual basis. This is something that we should now address seriously.

With these few remarks, I would like to urge the hon. Members to support this Bill. Again, we will look at it clause by clause and liaise further with the relevant Departmental Committee for any subsequent amendments which will arise out of the debate by this House.

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

The Minister for Lands and Settlement (Mr. Ngala): Ahsante sana Bw. Naibu Spika wa Muda kwa kunipatia nafasi hii. Ninasimama kuafiki Mswada huu ambao ni muhimu sana. Kwanza, ningependa kuishukuru Wizara hii kwa kufikiria kwamba ni vizuri kufanya marekebisho ya sheria za barabarani. Ni vizuri kujikosoia wenyewe. Wizara hii imeonelea ni vizuri ijikoseo kwa sababu sheria za barabarani ambazo zinatunika kwa wakati huu ziko na ulegefu fulani. Kwa hivyo, ninaishukuru Wizara hii kwa kazi nzuri ambayo imefanya ya kuleta Mswada huu hapa.

Maisha ya kila Mkenya ni muhimu sana. Si jambo nzuri kusikia Waziri akisema kwamba karibu watu 3,000 wanapoteza maisha yao kutokana na ajali za barabarani. Maisha ya kila Mkenya ni muhimu na ni lazima yalindwe kwa kupunguza ajali za barabarani. Usafirishaji katika barabara zetu umekuwa muhimu sana. Kwa hivyo, ni lazima tuhakikishe kwamba usafirishaji katika barabara zetu ni wa hali ya juu, ili tulinde maisha ya wananchi. Kuna msemo usemao kwamba "Usipoziba ufa, utajenga ukuta." Tumeleta Mswada katika Bunge hili, ili tujaribu kuziba ufa na tusiendelee kupoteza maisha ya watu wetu katika ajali za barabarani.

Watu wengi wa Kenya wenye vyeo na raia wa kawaida wamepoteza maisha yao kutokana na ajali za barabarani. Nina hakika kwamba katika miji mingi, kuna makaburi mengi ya watu ambao walikufa kutokana na ajali za barabarani. Ni lazima tulipinge jambo hili. Usafiri barabarani ni jambo la muhimu sana katika nchi yetu na ni lazima tuangalie kwamba sheria za barabara zinarekebisha kabisa, hili tulinde raia wanaotumia barabara hizo.

Bw. Naibu Spika wa Muda, watu wengi husafiri wakienda likizo kila wakati. Kuna wakati wa kusafiri kwa watu wengi, na imekuwa ni shida kuweza kuamini kwamba ukianza safari kutoka pahali fulani, utaweza kufika kule unakoenda kwa sababu ya hajali barabarani. Kwa hivyo, imekuwa vigumu sana kwa watu kuamini kwamba jamii zao wanaosafiri watafika salama, kwa sababu ya hali ilivyo barabarani. Kwa hivyo, ni vizuri tuhakikishe ya kwamba sheria za barabara zinawekwa maanani, hili watu wetu wasafiri salama barabarani. Nchi yetu imepata jina mbaya kwa sababu hata watalii wamefariki kwenye barabara zetu. Hatutaki mtu yeyote apoteze maisha yake, awe mweuzi au mweupe. Wote ni vinadamu. Lakini tunataka kuhakikisha ya kwamba visa kama hivi vinavyotokea kwa sababu ya kutokuwa wanalififu vinakoma. Waziri ameeleza ni nini chanzo ya visa hivi vinavyotokea kwenye barabara zetu. Visa hivi vinaletwa kwa sababu ya kuendesha magari kwa kazi; kutojali sheria na kutotekeleza sheria kwa wale wanaohitajika kutekeleza sheria. Mambo haya yanaongeza ajali za barabarani katika nchi hii. Haya mambo hayapendezi. Si vizuri tuwe tukitoa ilani wakati wa siku kuu au siku za kitaifa kwamba madereva waendeshe magari vizuri. Ingekuwa ni jambo la lazima kwa watu wote kuendesha magari yao kwa uangalifu kila wakati. Waziri amesema ya kwamba watu wetu hawafuati sheria zilizowekwa kuhusu usafiri barabarani. Tumefanya mambo mengi, hata tukaweka miuniko barabarani, lakini kwa maoni yangu, ikiwa madereva hawatageuza mioyo yao na kufuata sheria, tutakuwa tumefanya kazi ya bure. Tunafanya hivyo hili tuhifadhi maisha barabarani, hili barabara zetu ziwe zinaaminika. Ni lazima tujenge imani kwa wale wanaotumia barabara zetu. Watu hawana imani kabisa na barabara zetu.

Kwa hivyo, huu ni Mswada muhimu kwa maisha ya binadamu. Inafaa tupitishie Mswada huu, hili tuhakikishe ya kwamba watu wetu wanalindwa kwenye

mambo ya utumizi wa barabara. Kwa hivyo, sheria na zile adhabu zitakazotumiwa ziwe za kutosha. Mapendekezo katika Mswada huu kwamba wale watakosea barabarani watatozwa faini kubwa, kupokonywa leseni zao kwa muda na kufanyiwa marekebisho fulani hili waweze kutupu na kujirekebisha ni mambo muhimu. Ikiwa hawataweza kujirekebisha, Wizara itaendelea kuangalia na kuhakikisha kwamba mambo haya yote yanafanyika kwa njia iliyo sawa. Kwa hivyo, huu ni Mswada unaoeleweka, na Waziri ameeleza vizuri. Watu wetu wanakufa kwenye ajali za barabara zaidi ya wale wanaokufa kwenye ajali za ndege au gari la moshi. Haya si mambo mazuri.

Bw. Naibu Spika wa Muda, karibu Wabunge wote ni madereva. Tuna magari ambayo tunaendesha kwenye barabara zetu na tunaona jinsi mambo yanafanyika. Kila mara, gari inaweza kukupita kwenye barabara na inatoa moshi wa kuziba barabara yote, na gari hilo limepita kwenye ukaguzi wa polisi. Magari mengine yanaendeshwa bila mataa ya kutosha au bila vionyesho vya kutosha. Mambo haya yote yanaongeza ajali kwenye barabara zetu. Kwa hivyo ni

lazima tukubaliane ya kwamba ni lazima turekebishe sheria za barabarani, hili ziweze kuwa na nguvu na kulinda wenye kupeleka magari na wenye kuyatumia.

Bw. Naibu Spika wa Muda, kuna watumizi wa barabara, hasa wenye baiskeli. Kwa maoni yangu, baiskeli zimeongezeka sana humu nchini. Mara nyingi utapata ya kwamba wenye baiskeli hawana alama za kujionyesha, ama taa za kujionyesha. Kwa hivyo mara nyingi, madereva wanashukia na kugonga watu wa baiskeli kwa sababu hawana alama za kujionyesha. Kwa sababu baiskeli zimeanza kuwa vyombo vya usafiri kwa watu wengi, ingefaa ziwe na alama nzuri, hili ziweze kuonekana wakati wote, iwe mchana ama usiku, hili wazigongwe na gari. Tukiambia watu wetu wanaoendesha baiskeli wawe na alama za kuonekana, itasaidia. Mswada huu ni muhimu kwa sababu umeletwa kwa wakati unaofaa. Magari mengi yameongezeka katika nchi hii kwa sababu yanaagizwa kutoka kila mahali ulimwenguni na yanatumia barabara zetu ambazo ni pana kwa sehemu zingine na zingine ni nyembamba. Kwa hivyo, tunahitaji tuwe waangalifu sana kwa kulinda watu wetu. Kwa hivyo, wakati kama huu ni wakati tunastahili kuwa na fikira moja, hili tuhakikishe sheria za barabara zinawekwa vizuri na wale watapewa mamlaka ya kufanya mambo haya, wafanye kwa njia iliyo sawa.

Kwa hivyo, sitaongeza zaidi ya vile Waziri wa Uchuguzi na Mawasiliano alivyosema. Mswada huu ni muhimu na yetu ni kujaribu kuhakikisha ya kwamba sheria za barabarani zinarekebisha. Tuzipokuwa waangalifu, tutaendelea kupoteza watu wengi na itakuwa ni hasara. Tutakuwa na mayatima wengi na viwete wengi kwa sababu ya ukosefu za sheria zinazofaa.

Kwa haya machache naomba kuafiki.

(Question proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is of course, a matter of great sadness and concern that we are talking about statistics of 3,000 innocent lives being lost in road accidents. The Minister was talking about the lives lost on our roads. In fact, the statistics of the people who are maimed, some of them permanently, and some confined to wheel chairs as result of traffic accidents, is probably three or four times more than those who are killed. Out of every person who is killed through a road accident, there are several others who sustain severe body injuries. It is a matter of great concern and sadness.

Of course, we are going to support this Bill. But I want to say that a good piece of legislation is one that is very clear about the "evil" which the legislation seeks to eradicate, or one which is very clear about a particular "good" it intends to promote in society. So, one can see that the Traffic (Amendment) Bill is trying to address the "evil" of the loss of lives and injuries. One can see that the Traffic (Amendment) Bill is trying to address the evil of the loss of lives and injuries sustained on our roads. The question which arises is whether that objective is going to be achieved by the enactment of this Bill.

Mr. Temporary Deputy Speaker, Sir, I support the Bill but I have reservations as to whether, even if we enact it, it will achieve the intended purpose of reducing or containing, the loss of lives in our roads? The question is whether it will reduce the loss of lives or have any impact?

Mr. Temporary Deputy Speaker, Sir, we enacted a law in this House that all criminals involved in robbery with violence be hanged. We even gave powers to magistrates to try those who are caught indulging in robbery with violence and give them death sentence. I am now asking the Chair whether the crime of robbery with violence has gone down as a result of enactment of that legislation? Have we deterred criminals from indulging in the crime of robbery with violence? The answer is "no"; it has got no impact! People are being robbed on a daily basis. You can hardly drive around or walk in the streets of Nairobi and use your mobile phone without it being snatched. The legislation has had no impact! So, we need to address our minds deeper into what is wrong in society. Unless we answer that question, then we will be indulging in fantasies, thinking that enacting this piece of legislation is somehow going to make Kenyans, just because they are on our roads, better Kenyans than the rest of the Kenyans! I doubt whether that is going to happen.

What has happened in this society is that, we have thrown out the law in terms of sharing morality, respecting the law or being governed by laws, that has been thrown to the dogs. We are living on the verge of a state of anarchy, and that is the basic problem. So, unless there is a complete overhaul and a new respect for the enforcement of law; shared morality and values, we must not expect that any sector of our lives is going to operate in isolation as Angels. After all, when we enact this law, who are we going to leave its enforcement to? Are we going to import police officers from our neighbouring countries or from Europe? We are going to rely on the same traffic policemen, on the same policemen and women who are trained at Kiganjo; and we know them!

Mr. Temporary Deputy Speaker, Sir, while travelling along the road these days, you find the *matatus*, lorries, buses and other public vehicles drivers handing over bribes openly and nobody actually even bothers. It is normal and, therefore, I am saying that even with the enhancement of the fine to Kshs50,000, what the Minister is doing, is actually

increasing the negotiating and bargaining power for the traffic police officers. This is because currently, the police officer knows that if he does not get anything, the fine is only Kshs2,000. Now, he will tell the drivers of these public vehicles; well---

Mr. Kamolleh: If he does not give something, he will pay more when he is taken ahead!

Mr. Muite: This is what is going to happen because the police officer knows that the fine is Kshs50,000. So, he will negotiate for a considerably bigger sum for himself so that he does not take the violator to court. We know these things!

In fact, there was a magistrate, somewhere in Nakuru, whose clerk was the one who was collecting the money. So, even the traffic courts need to be "straightened out". I am saying, "yes, we support this good effort made by the Minister but, unless we look at the overall situation, this will end up being an exercise in futility. We have got to look even to the other branches of the Government. The Minister was very clear in narrating causes of accidents, lack of respect of the traffic rules; I agree with him, nobody respects traffic rules these days.

In fact, I was in Europe the other day, and somebody was asking me what side of the road we drive on in Kenya? I told him I do not know. In Kenya, wherever you find a space, you get into that space. Truly, you cannot know whether you are driving on the left or on the right-hand side of the road. If you look at the way we drive on our roads, wherever there is a space, somebody drives the vehicle in, be it a bus, *matatu* or any other vehicle! The traffic lights do not work. So, how do we obey traffic lights which do not work? The state of our roads is so bad.

I invite the Minister to accept that one of the other major contributing factors to road accidents are potholes. Some of the potholes are so huge that, even the big oil tankers try to avoid the potholes and in the process, they cause accidents. So, the same Government which is now talking about enforcing the Highway Code is the same Government which is not repairing the roads. The only place where we have a smooth road, we have got speed bumps, some of which are constructed very badly. They contribute to the cause of accidents and the damage of cars.

So, I support this Bill and we are going to enact it, but I invite the Government to take a wider view of this matter, and not to expect that the passage of this Act, without retraining our police officers, without coming up with a master plan on how we can restore shared values and morality, and respect for the law in this country; unless we do that, we should not expect that the enactment of this legislation is going to work.

Finally, I find that the Minister is losing this opportunity of exempting the Presidential Motorcade from the Traffic Highway Code. There is nothing in the law today which exempts the Presidential Motorcade from the Highway Code. They do not drive on the left, they drive all over the road at high speed! I do not know what is wrong! When we talk about respect for the law it is when everybody is actually obeying that law. Symbolically, if the Presidential Motorcade is not respecting the Highway Code, how do you expect the *matatu* driver to respect the Highway Code? So, if the Minister wants us to begin respecting the law, then he should exempt the Presidential Motorcade from the traffic laws so that everybody knows that they are exempted! But why breach the law, and when there is a little accident, they pounce on the innocent Kenyans?

The other day, at the Museum Roundabout, the Presidential Motorcade was driving on the right-hand side of the road, and they were negotiating the roundabout on the right-hand side. My poor constituent, who, as the Minister was saying, has to earn a particular amount of money everyday and, therefore, he has to make many trips, and had to speed up, perhaps, he was over speeding a little in order to earn a living--- But it was the Presidential Motorcade that was driving on the wrong side of the road. There was an accident and who got arrested, beaten up, thrown into the boot of the car, driven in the boot of the car to State House and beaten up to 1.00 a.m. It was the *matatu* driver. So, Mr. Minister, through the Chair, I am saying that you should seize on the opportunity when we come to the Committee Stage, to move amendments, so that you exempt the Presidential Motorcade from the provisions of the Traffic Act. We are not just talking about the current President. Mr. Minister, you could be the President tomorrow. The Member for Kabete could be the President tomorrow and I want to observe the law. So, bring that amendment.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): No one wants to make any contribution!

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir. We have had legislation upon legislation and the only unfortunate thing is actually following the legislation that we put in place. I would want to imagine that, what is more important at this point in time, is moral uprightness of Kenyans. When we talk about moral uprightness, we are talking about respect to the rule of law and the social co-existence of Kenyans, where if it means a yellow light, it means you have got to hold or be ready to take off and red light should not mean green to the *matatu* drivers! We have something like that in the law today, that is supposed to be followed.

When you look at the construction of our roads and the cause of accidents, the poor road network, poor road signs--- If I take an example of the Lang'ata Road, there is a roundabout joining the road to Mbagathi Road. That roundabout has got no marks and you do not know when you are going straight or which lane to follow. The roundabout is poorly done. So, it is a sickly matter that does not necessarily mean changing the law, but also those

people associated with activities along the roads, including contractors. We are saying that if all of us were responsible as Kenyans and the moral uprightness of Kenyans is observed and a contractor constructs a road to expectations without cutting corners--- The unfortunate thing is that the roundabout at Nairobi West and Madaraka is so sharp that you do not even know at what speed you should be moving at when you are approaching that roundabout. More often than not, I have seen drivers driving through the roundabout instead of going round it. That has got to do with the moral uprightness of Kenyans. How do we respect the law? How do we look at the issues that are going to affect fellow road users. It calls upon us to look at the moral uprightness of Kenyans before putting the legislation in place.

Mr. Temporary Deputy Speaker, Sir, Clause 4(c)(d) of the Bill talks about the Government being advised on how to implement some road activities. The Board is to advise the Government on the transport policy to be followed with regard to public service vehicles. It is unfortunate that we have a law under Cap. 403 of the Traffic Act that is so explicit that all public vehicles must have emergency doors. We had that debate here and a Question was referred back to the Ministry five times! Even on the fifth time, vehicles were plying our roads without emergency doors. Even today, they are on the roads against the traffic laws. We have the examples of Buscar and the like. We are talking about a Board that is going to, perhaps, use some magic. I believe that the Traffic Act as it stands today, could be having more powers than what we are empowering the Board to do. But what happens? We watch the law being abused. We have created the wrongs in our systems, including what Mr. Muite said; that of "driver number one", His Excellency the President doing the wrong things on the roads. I think if you want to be a good leader, you must lead by example.

Mr. Kamolleh: Wewe!

Mr. Omingo: I know Mr. Kamolleh is very careful with my remarks but again, it is a question of what your conscience leads you to say or do that counts. We are saying: "Can we also be role models?" There is nothing wrong with the President being seen by his fellow Kenyans driving at a speed that Mr. Omingo Magara is driving at, so that we can also have a glimpse of the President. There are some people who, for 24 years, have never seen the President at close range! That is because the law is discriminatively applied and the taller you are, the more privilege you get and, sometimes, it is also unfortunate that the President breaks the law when he is supposed to be the custodian of the law and the Constitution. Again, we are supposed to act as role models and be morally upright. Again, moral uprightness is not restrictive. We are talking about the role of the Board.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Omingo, is it the President who breaks the law or his driver?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, it is the driver who breaks the law, but being the driver of His Excellency the President, I do not think it would be possible to attempt to arrest the driver of the President! Again, your driver is under you. So, if you are conscious of what the law talks about, I believe you will be able to do the right thing. The Chairman of the Board is an appointee of the President. Here, we have a bit of mix-up and you will find anybody being an appointee. In the current system, you may have to play into the hands of the Executive. Otherwise, you are shown the door. I would suggest a situation where the Minister is going to bring an amendment to that particular appointment of the executive Board that Parliament has a hand, in terms of vetting the people to be appointed. Again, we also need to look at that person who is supposed to be in that Board and see whether he has a driving licence of 10 to 25 years without causing an accident. We have such drivers who have driven for more than 20 years with a clean driving licence. The quality of members in that Board needs to be vetted by Parliament, with specific guidelines as the Minister may present to this House for passing during the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, the cause of accidents stems from issuing driving licences to the drivers on our roads. One of the responsibilities of that Board is to advise on examination of drivers. I do not know what magic the Minister will put in place to seal off the loopholes that exist in the current system, where you find duplicated licences being issued on River Road and they pass. So, I will expect the Minister to also tell this House the approach that Board is going to use to curb those kind of evils in our society. Suffice it to say, it is also important that we do not belabour ourselves in legislations upon legislations, if the same are not being used appropriately.

With those few remarks, I beg to support.

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the Bill. Firstly, I would like to speak about the quality of driving in this country, especially the *matatu* phenomena, that has been a bad influence. I always wonder, and I must say this one; whether it is people racing on our roads because they want to make more money in the *matatu* business, or whether they have not made enough money, so that they can start using our roads in a responsible way! I have seen vehicles queuing up one kilometre on a road in the morning or even in the evening, and you see a *matatu* driver with a full driving licence, with no endorsement on the driving licence - saying it is a clean driving licence - take to the right of the road and drive for the next one kilometre until a vehicle emerges in front of him and he stops, as he has nowhere to go! Other drivers, outraged by what has happened, stay put. The *matatu* driver also remains put, and the vehicles that are supposed to have the highway open to

them have nowhere to pass. It is the right of every Kenyan to use the highway at any particular time. Even if you are stationary behind a queue, you are using that road. Indeed, if a motorist who is going in the opposite direction is stopped from going about his business by one particular motorist, I propose that criminal prosecution be preferred against the offender. But the question is who is going to enforce the law.

Mr. Temporary Deputy Speaker, Sir, in England, you will be told that it is the right of her majesty to have the highway open at all times. You cannot go and demonstrate on a highway and close it. You cannot go and put your vehicle, or horse, on it and block it. That is what is happening on our roads everyday. It is being done by *matatu* drivers in a way that is very offensive. *Matatu* drivers do not have more business to attend to than a Government Minister who could be rushing to his office to attend to national business.

You find that a *Matatu* driver, because he has a portfolio of about Kshs150 in the vehicle he is driving, he decides to drive on the wrong side of the road, thereby violating the highway code. It is, therefore, important that the highway code is enforced. The first victims should be *matatu* drivers. They have a right to use the road responsibly, but not to block other motorists from using it and abuse them, or kind of tell everybody else that they have no other business to do except to wait for him to get out of the road.

Mr. Temporary Deputy Speaker, Sir, on Road A2, which leads to Nyeri, between Sagana and Nairobi, there are more than 13 road blocks. What do they do there? Are they centres for illegal taxation? Whenever I leave Nairobi at about 6.30 p.m., I know that it will take me more than four hours to cover 150 kilometres because, on the way, I am stopped 13 times. Every time I am stopped, I am directed by an armed policeman to stop my car on the roadside. The law is being enforced against law-abiding citizens, especially motorists who pursue their business so that they can pay tax to the Government. Motorists who drive between Nyeri and Nairobi between 6.00 p.m. and 10 p.m. are stopped 13 times.

This is outrageous. What do the policemen at the 13 road blocks look for? What are their instructions from the Minister? Surely, they must have instructions from the Minister. I do not believe that it is their respective Officers Commanding Police Divisions (OCPDs) who tell them to mount road blocks everyday. In fact, some of them even damage the roads. Just go and look at the places where they mount their road blocks. You will find road marks of vehicles which try to negotiate around road blocks, especially between Kenol in Muranga and Thika. You will find road marks in certain sections of that road, which have now become other obstacles to motorists. They are just too many. It is as if this is a decision which has been made elsewhere. This is only justified in a situation where somebody is looking for armaments or weapons. But there can be no commercial justification for having so many road blocks within a distance of only 100 kilometres.

So, Mr. Minister, I think this is very important. Road blocks are a permanent feature on that road. I think a good reason should be given for enforcing the law at the dead of the night. It is not about the MOT. It cannot be about insurance. The policemen go to the road blocks without even lights. They do not have spotlights; the only thing they have is an AK 47 rifle. I sometimes feel very intimidated when I travel back to Nairobi from Nyeri. That are times I travel alone in the vehicle. I could be stopped by somebody who is not a genuine policeman. Many of the police road blocks are the *jua kali* type. We do not know when a *jua kali* inventor is going to decide to put a road block himself. Although policemen put on uniforms, they sometimes commit crime. This has happened. The other day, we had a case in Mwea, where a pick-up ferrying *miraa* was stopped at a makeshift road block and robbed.

Therefore, road blocks should be mounted at the border points. They should be taken to Liboi, Moyale, Malava and Namanga, if they are necessary. That is where inspection of motor vehicles should be carried out. But the road blocks we have, especially on that road, have become an impediment to trade. You find that people who ferry produce between Sagana and Nairobi in the evening, have got money at the ready. When you are stopped, the first command that is given to you is: "Bring your driving licence". As soon as your driving licence is taken, you are supposed to go to the back of the vehicle and negotiate for it. It is important that the Minister liaises with the Commissioner of Police on this very important aspect. The road blocks are such a permanent feature that they have left road marks on various parts of the roads; they have become corruption points. This is a known fact, and there is absolutely nothing to hide about it.

Mr. Temporary Deputy Speaker, Sir, a long time ago, the Kenyan driving licence used to be a gateway to employment. When I went to the United Kingdom (UK) about 20 years ago, my Kenyan driving licence was recognised. Today, if you go to the UK and produce a Kenyan driving licence, the (DSTV?) in Wales will ask you: "Is this a genuine Kenyan driving licence or not?" He will tell you: "We cannot give you a British driving licence until we write to the Registrar of Motor Vehicles in Kenya and ask him whether, indeed, he has issued a driving licence of this description." What I am saying is that there are just too many driving licences on the loose. How much does such a driving licence cost nowadays? Does it not cost you Kshs2,000, or Kshs3,000, or Kshs5,000, to get a driving licence without being a qualified driver?

This has become an outrageous practice. We used to have good drivers in this country. Nowadays, because of

lack of enforcement of the law governing the issuance of driving licences, this matter has become an outrage. It needs to be investigated. We need genuine Kenyan driving licences to be issued to qualified drivers. It should not be as is the case in the issuance of Kenyan passports, which I understand are issued corruptly. I emphasise this matter because a holder of a fake driving licence should not have a right to get onto the Kenyan highway when he cannot drive competently. If you get onto the road when you are not competent, you pose a danger to yourself, other road users, as well as livestock. A vehicle is a weapon. It should only be in the hands of a responsible driver, who holds a genuine driving licence.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kihoro, I have to ask you to continue on Tuesday, next week. It is now 6.30. As you know, today being a Thursday, it is now Zero Hour Time. I have one application from Mr. Muchiri, directed to the Minister for Education.

MEMBERS-HALF-HOUR STATEMENTS

EVICION NOTICE TO KAMAE RESIDENTS

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Minister for Education. Kenyatta University has issued an eviction notice to the residents of Kamae from land they were given by His Excellency the President on 17th October, 2000. The notice is dated 9th July, 2002. The seven days quit notice that the residents were given has expired.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I will ask the Minister to respond to the issue on Thursday, next week.

ADJOURNMENT

Mr. Temporary Deputy Speaker (Mr. Imanyara): On that note, we have no other application for Zero Hour. The House is, therefore, adjourned until Tuesday, 23rd July, at 2.30 p.m.

The House rose at 6.35 p.m.