

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 18th November, 1999

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.589

DESTRUCTION OF KAKAMEGA FOREST

Mr. Khamasi asked the Minister for Environment:-

- (a) whether he is aware that, the only surviving tropical rain forest in this country (Kakamega Forest), is threatened by extinction through illegal harvesting of forest products; and,
- (b) what the Ministry is doing to curb the menace in order to save this special heritage.

The Minister for Environment (Mr. Nyenze): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Kakamega Forest is threatened by extinction through illegal harvesting of forest products. My Ministry has not licensed anybody for saw-milling, or any exploitation of the natural forest. So, milling and fuel wood extraction is allowed on plantation forest, according to the Forest Department Management Plan.

(b) The Ministry carries out joint patrols with the Kenya Wildlife Services (KWS) personnel to protect the forest against illegal exploitation and encroachment. The Nyayo Tea Zone Belt has been established between the natural forest and the adjacent communities to stop any illegal encroachment.

Mr. Khamasi: Mr. Deputy Speaker, Sir, I was expecting the answer that the Minister is not aware. But the fact is that there is a lot of illegal harvesting going on in the natural forest in Kakamega. That forest is getting extinct. Could the Minister tell us how many people have been licensed to harvest the Kakamega Forest? How many of them originate from Kakamega District?

Mr. Nyenze: Mr. Deputy Speaker, Sir, in 1995, there were seven licensed saw-millers. In 1996 there were three licensed saw-millers. In 1999, there are still three licensed saw-millers. But as I said earlier, it is not on the natural forest. We have put in place a forest policy. As late as 17th of this month, we did place a ban on timber harvesting.

Dr. Kituyi: Mr. Deputy Speaker, Sir, early this year, I accompanied hon. Khamasi, the Councillor representing the area adjacent to Kakamega Forest and the British High Commissioner on a tour of Kakamega Forest. I remember distinctly the local Councillor shedding tears because of the level of destruction of indigenous trees in the natural tropical forest of Kakamega. We were able to see, from a vantage point, how much destruction has been done on that forest. Among the culprits, like anybody will tell you in Kakamega, is the District Forest Officer, who has allowed people to log in the forest at night. The Minister has said that he is not aware. But, now that I have made him aware of the objective reality on the ground, could he declare that, if what I have said is true, he is going to take certain specific measures, and announce which measures they will be?

Mr. Nyenze: Mr. Deputy Speaker, Sir, as I have said, I am not aware. But now that I have got the message, I will investigate. If I find that the natural forest is getting extinct, through illegal exploitation, I will take measures to curb that. The measures that we have already put in place are: We have not licensed anybody to harvest the natural forest. Secondly, we have stopped all harvesting, and we have liaised with the KWS to monitor the situation.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. Dr. Kituyi has asked what measures will the Minister put in place. The Question has talked of illegal harvesting. So, what other measures is he going to take, on top of the question of licensing or not licensing the people who are destroying the forest?

Mr. Nyenze: Mr. Deputy Speaker, Sir, we are trying to do so many changes at the moment, to curtail the habit of harvesting. That is why I have said that as late as 17th of this month, we have slapped a ban on tree harvesting. For Kakamega

Forest in particular, we have liaised with the KWS to monitor any harvesting. If any harvesting is brought to my attention, I will check that. If it is found that the forest is getting extinct through exploitation, we will take appropriate action.

Dr. Kulundu: Mr. Deputy Speaker, Sir, it is very true that the Kakamega Forest is being destroyed beyond repair, the way the adjacent Bunyala Forest was destroyed in 1974, by a former Provincial Commission, the late Mr. Mburu. Does the Minister know that, right now, the little that remains of Bunyala Forest, which is quite adjacent to Kakamega Forest, is being destroyed by an Assistant Forest Officer?

Mr. Nyenze: I am not aware of that. But I am saying that, if for any reason, you know you have those facts, give them to me. You can be assured that we will take appropriate action on all forests.

Mr. Khamasi: Mr. Deputy Speaker, Sir, I do hope the Minister knows that, there was a venture between the Governments of Kenya and Finland, for the purpose of protecting the Kakamega Forest; and doing afforestation of the areas which were illegally destroyed. Could the Minister tell this House what happened to that venture, and whether he has got plans in place to make sure that we have got a donor who can come and assist in the protection and afforestation of that particular forest?

Mr. Nyenze: Mr. Deputy Speaker, Sir, I can assure the House that my Ministry is taking the necessary action to rejuvenate it so that we can do the projects that we were doing before.

Question No.215

ALLOCATION OF MALINDI DISTRICT HOSPITAL LAND

Mr. Deputy Speaker: Mr. Kombe is not here? We will come to that Question later. Next Question, Mr. Mwiraria!

Question No.536

SCHEME OF SERVICE FOR GRADUATE NURSES

Mr. Mwiraria asked the Minister for Medical Services:-

(a) whether the Ministry has a scheme of service for graduate nurses; and,

(b) why the Ministry has failed to appoint Mr. Henry Gitonga Mugambi, P/No.168035, who returned from the U.S.A with a degree in Nursing from the City University of Los Angeles.

The Assistant Minister for Health (Mr. Mukangu): Mr. Deputy Speaker, I beg to reply.

(a) The Ministry of Health has a scheme of service for nurses and graduate nurses who enter the Civil Service at Job Group "K".

(b) Mr. Henry Gitonga Mugambi is currently employed by the Ministry as a tutor at the Meru Medical Training College.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, the reason for asking this Question is that Mr. Gitonga Mugambi left Kenya as an Enroled Nurse. He spent five years in the U.S.A and obtained a degree in nursing. He came back and he is still employed as an Enroled Nurse. Why is he not employed as a graduate?

Mr. Mukangu: Mr. Deputy Speaker, Sir, we are not denying that Mr. Gitonga went to the U.S.A for further studies. However, when he applied for registration as a Kenya Registered Community Nurse, it was found that there were some aspects which he had not fulfilled. It was found out that he did not do family planning and midwifery which are prerequisites for one to be registered.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, the Assistant Minister has deliberately refused to answer my Question. Mr. Gitonga may not be qualified to be registered as a nurse but he is a graduate and you have employed him as a tutor. Why can you not pay him a graduate salary?

Mr. Mukangu: Mr. Deputy Speaker, Sir, what the hon. Member is saying is that there is a specific scheme of service for graduates. In this case, there is no specific scheme for graduates. However, we have made a draft of the same to the Directorate of Personnel Management for application. When that scheme will be in place, we are going to do something with regard to Mr. Gitonga.

Mr. N.M. Nyagah: Mr. Deputy Speaker, Sir, it is very evident from the answer given by the Assistant Minister that they do recognize the special qualifications that Mr. Gitonga has. Bearing that in mind, when do you think that Mr. Gitonga will be put into this grade?

Mr. Mukangu: Mr. Deputy Speaker, Sir, I do sympathise with Mr. Gitonga who is currently a tutor at Meru

Medical Training College, but we cannot come up with a scheme of service for a single person. We have got so many graduates locally who have graduated with BSC(N). That is why we are saying that we have made a draft scheme of service for these people to the Directorate of Personnel Management. When this takes place, we are going to rectify the situation.

Dr. Kulundu: Can the Assistant Minister tell us whether his Ministry recognizes the City University of Los Angeles as an institution? Nursing

is a very specific course. A nurse does not have to study family planning to be recognized as a nurse. He can be recognized as a general nurse, a community registered nurse and so on. One does not have to study family planning, NCH training in order to be a registered nurse in this country. Can you tell us whether that is a new requirement in the Ministry?

Mr. Mukangu: Mr. Deputy Speaker, Sir, going to Los Angeles or anywhere in the world does not matter, what matters more is the qualification. We have got our own laid down procedures on how people qualify for specific jobs in this country.

Mr. Deputy Speaker: Order, Mr. Mukangu! The Question was: Do you recognize the City University of Los Angeles as an institution that produces graduates for your purposes?

Mr. Mukangu: Mr. Deputy Speaker, Sir, we have got no quarrel with recognizing the City University of Los Angeles. The fact is that in 1994, Mr. Gitonga applied to be registered as a community nurse. Secondly, he was registered as a Kenya Registered Community Nurse, General. When he was told to produce his certificate transcripts, they were found wanting. There are some things which he did not do in the U.S.A., in which case he has to do them here.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, the Assistant Minister is either deliberately refusing to answer the Question or he does not understand what we are asking. Let me repeat the Question to him. Mr. Gitonga left Kenya as an Enroled Nurse and went for further studies in the U.S.A and got other nursing qualifications before he became a qualified graduate nurse. He worked in hospitals in the U.S.A for three years as a nurse. So, at least, the Americans considered him to be a qualified nurse. The Assistant Minister has said they have refused to register him as a Registered Nurse because he did not do midwifery and other things. Here is a graduate who has studied outside the country and qualified and the Ministry recognizes that he is better than an Enroled Nurse, otherwise, they would not have employed him as a tutor. All tutors in the medical training colleges are fully qualified nurses. So, what has stopped the Ministry from recognizing the degree which Mr. Gitonga has and employ him as a graduate? Graduates from all other fields are paid a common salary!

Mr. Mukangu: Mr. Deputy Speaker, Sir, we have got a laid-down procedure for one to qualify to be registered as Kenya Registered Community Nurse. The prerequisite are midwifery and family planning. Without those two, that cannot happen.

Dr. Kulundu: On a point of order, Mr. Deputy Speaker, Sir. Nursing has got three basic components; there is midwifery, public health and nursing. The Nursing Council is talking about recognizing those three elements of nursing. If someone has progressed upto the degree level in any one of those three basic components of nursing, he should be registered. What is your Ministry doing to register Mr. Gitonga as a nurse, whether as a general nurse, a public health nurse or what he wants to be?

Mr. Mukangu: Mr. Deputy Speaker, Sir, until we change the Nursing Council of Kenya rules, I am sorry to say that this will not be easy.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The meaning, as I understand it, is that the Ministry is deliberately exercising discriminatory policies against Kenyans. He says he did not say this when in practice it is a different thing. So, in which case, there are rules which are discriminatory. Is it in order to expect that this Parliament can accept a situation where the Ministry is operating a discriminatory practice against Kenyans?

Mr. Mukangu: Mr. Deputy Speaker, Sir, I cannot go out of the laid-down procedure to solve the case. What I have said clearly here is that we are talking of a Bachelor of Science Graduate Nurse. I have said earlier that we have already indicated to the Directorate of Personnel Management (DPM) for some directions. Until such a time, there is nothing we can do as a Ministry.

Question No.602

CONVERSION OF KICC GROUNDS INTO CAR PARK

Mr. Kihoro asked the Minister for Local Government:-

(a) whether he is aware that the only green open space in Central Nairobi, which is opposite Parliament Buildings, was paved and converted into a car park after the Comesatex exhibition;

(b) whether he is further aware that this is the only remaining planned open space which could be used as a stop by visiting upcountry people, especially children for rest and rehearsals during festivals; and,

(c) if he could intervene and restore the space to its former use.

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

(a) Yes, I am aware that the only green open space in Central Nairobi which is opposite Parliament Buildings, was paved and converted into a car park after the Comesatex exhibition.

(b) I am not aware that this is the only remaining planned open space which could be used as a stop by visiting upcountry people, especially children for rest and rehearsals during festivals.

(c) I wish to inform the hon. Member that the open space in Central Nairobi which is opposite Parliament Buildings and was used for Comesatex exhibition is private property, and the Ministry has no control on the use it is put to by its owners.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The hon. Assistant Minister for Local Government is also my friend and colleague from Nyamira District. So, when I raise an issue, I do not want it to appear as if it is Nyamira or Kisii politics at all. However, the issue I want to raise is this: This Question was deferred precisely because that answer which the Assistant Minister has read, which is exactly the same answer he read here, was considered unsatisfactory. In fact, when you were deferring the Question, the HANSARD says you were deferring it because the answer is not satisfactory. That is the ruling of the Chair and that is why it was deferred. The Assistant Minister has come back with exactly the same answer, word for word. So, why did it take him this long to come back and say exactly the same thing? This is what I was saying the other day, that our Ministers are in trouble because the Civil Service is asleep. They draft the same answer and they tell the Assistant Minister to come and answer it here. It is the same problem with that Question of the Civil Servants Union. What are you going to do about this?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, if the answer is based on facts, even if I were given a whole year, the facts would not change. What we are saying is that the property does not belong to Nairobi City Council or the Ministry of Local Government and, therefore, we are unable to assist because we cannot interfere.

Mr. Kihoro: Mr. Deputy Speaker, Sir, I think it is very difficult for me to be able to articulate my position in light of the answer that has been given and the ruling that you have made. Now that the Ministry has not added anything to the reply, I can see the way they are playing a game. How comes that they have ignored your ruling in this particular aspect and they are still talking about a private person who is actually nameless?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, I am informed the private "person" who owns the property is KANU.

Mr. Maore: Mr. Deputy Speaker, Sir, this KICC is the outcome of the budget of 1968/69 financial year through to 1991/92. Every financial year, there has been a budget allocation for the KICC grounds. Can the Assistant Minister explain under what law the trustees of KANU, namely hon. Joseph Kamotho, hon. Ndolo Ayah and Japheth Lijoodi got an allocation for the KICC grounds? Actually this would be a form of grabbing that is sanctioned by the President; to have a title deed for the grounds on which KICC stands, occupy a public property, collect money and not remit it to the Exchequer. If you want to fight corruption, start by KANU surrendering that space and all the money they have ever collected.

Mr. Kiangoi: Mr. Deputy Speaker, Sir, I stand to seek your guidance because I interpret the question which has just been asked as a matter that cannot be dealt with by the Ministry of Local Government. The acquisition of a title deed, certainly, is not within our jurisdiction.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, can the hon. Assistant Minister tell us under what circumstances this land was allocated to KANU and when? Can he further assure the House that Parliament itself and the land on which it is built does not belong to KANU?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, I would not know under what circumstances this land was allocated to KANU. That is what I have just said. The people who can answer this Question is the relevant Ministry. I have said that it does not belong to us as a Ministry and the Nairobi City Council and, therefore I am not in a position to answer your question.

Mr. Deputy Speaker: Order, hon. Assistant Minister. One of the reasons why this Question was deferred was that in your answer to part "b" then, you said you are not aware. Now, the City Council is the planning authority in Nairobi City Council area. Now, if you are not aware that this is the only remaining open space, Members want to

know then, which other open space exists within the City area. That is one of the reasons why this Question was deferred. So, would you like to address that supplementary question?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, I do understand that you are asking: "Which other open spaces are available?" However, we are dealing with this specific area. We have not been asked specifically which other open spaces exist because I would then say there is City Park from common knowledge. However, what I am saying is that it does not belong to the Nairobi City Council. I can, therefore, not be called upon to answer a question which belongs elsewhere. Perhaps, it can be referred to the relevant Ministry.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister is evading a very important question of the ownership of the plot when we know very well that all plots in this City are under the trustee of Nairobi City Council. Could he be courageous enough to tell us when this plot was given out to KANU, how and when?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, all plots in Nairobi do not belong to the Nairobi City Council. There are plots in Nairobi that belong to individuals in perpetuity. However, I have said, I repeat it again, and I am not trying to evade the Question. Allocation is not within my jurisdiction. Can the relevant Ministry be asked to answer it?

Hon. Members: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: We must move on and I will recognise hon. Ngenye Kariuki.

Mr. Kariuki: Mr. Deputy Speaker, Sir, from the answer we got, there was an indication that, that plot belonged to KANU. If it belongs to KANU, could the Assistant Minister tell us what consideration KANU paid for that plot and the building on it so that Kenyans can know whether they got it for free or for some consideration?

Mr. Kiangoi: I would not know.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. On that account, and as far as I am concerned, if this country is what it is and if this Parliament is what it is, there is no way you can give this plot in front of Parliament to a private developer! It does not make sense!

Mr. Deputy Speaker, Sir, KANU is not in private business, it is in the business of governing Kenya! That is what I thought. So, what business do they have to grab a plot right opposite Parliament? Next time, whether it is KANU, or whoever takes over the Government, is going to grab this Parliament!

Mr. Deputy Speaker, Sir, could I propose that this Question be deferred? This is because, Parliament bought Continental House which was a property of Parliament, at a very exorbitant price. We are going to do the same, because I am sure with an independent Parliament, we are going to require that space.

I propose that this Question is deferred and the matter be brought before a Committee of Parliament; if need be, a Select Committee of Parliament should be set up to go into this matter and make a law that, no party, ruling or not ruling or otherwise, will go into private business and that, they will govern the country either from that side or from this side. Would I be in order?

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order, hon. Members! Of course, there is no problem referring this matter to the relevant Committee of the House; but this matter has been the subject of the report by the Controller and Auditor-General and it has appeared in the Public Accounts Committee Report. So, it is already before a Committee of the House. But if hon. Members wish it to be investigated further, then it should go to the relevant House Committee. But I think, this Assistant Minister is not being fair to himself. He is being asked questions which he knows he cannot answer. He should have referred this Question to the relevant Ministry. So, Mr. Assistant Minister, do not stand up to answer Questions if you do not have the answers. So, you should sit down.

Next Question, Mr. Mutua Katuku!

Question No.592

APPOINTMENT OF LAND BOARD
FOR YATHUI DIVISION

Mr. Katuku asked the Minister for Lands and Settlement:

- (a) whether he could inform the House what has delayed survey works in Kalaasa Location in Yathui Division and when the said works will be completed; and,
- (b) when he will appoint a Land Board for Yathui Division in Mwala Constituency.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Deputy Speaker, Sir, I would like to apologize, on behalf of the Ministry, because I was expecting hon. Tarar to come in and he may come in when the Question is called for the second time.

Mr. Deputy Speaker: Well, we will pass over that Question and we will return to it later to see if the hon. Assistant Minister responsible will be there.

Next Question, Mr. Muchiri!

Question No.619

ALLOCATION OF LAND TO NIKITI
& ROMEKO LIMITED

Mr. Muchiri asked the Minister for Lands and Settlement:

- (a) why the land LR.209/12527, Nairobi, which was originally meant for use by a widow and orphans group, was allocated to Nikiti & Romeko Estate and Nikiti Investment and Lands Investment Limited of P.O. Box 30955; and
- (b) what action he is taking to ensure that all public utility land that is irregularly allocated is reverted to public use.

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

(a) The land LR209/12527, Nairobi, was allocated to Nikiti Investment, Romeko Enterprises Limited and Wanga Investments of P.O. Box 30955, Nairobi because the land, according to the records in the Ministry, was shown to be vacant and uncommitted.

(b) Mr. Deputy Speaker, Sir, following the launching of the Physical Planning Act of 1996, which was launched last year, public utility land is now safe from possible encroachment by developers. The Act provides for the residents of an area who are aggrieved by any proposed development in their area to object to the Minister to such a proposal.

Unfortunately, the public utility land which was allocated earlier, especially the ones which have since been registered, cannot be salvaged.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir. In the first instance, the Assistant Minister is misleading this House. The plan of that plot indicates that, it was meant for orphans and widows. Now the companies which the Assistant Minister has referred to as having been allocated the plots, according to the Registrar of Companies, are nowhere to be traced. The Assistant Minister says that there is nothing he can do to revoke the allocation of public utility land. In Kasarani alone, the Commissioner of Lands has allocated over 100 public utility plots and this is a problem countrywide. Could the Assistant Minister tell this House when they will retire the Commissioner of Lands; Mr. Gachanja? The Assistant Minister should tell this House when they will terminate his services or whether he is waiting for him to retire in the year 2002, when His Excellency the President is also going to retire?

Mr. Keah: Mr. Deputy Speaker, Sir, that second part of the question is a matter of DPM and I am not in a position to inform the House when we are going to retire or terminate Mr. Gachanja's services; if he deserves such termination of service or retirement.

Mr. Raila: Mr. Deputy Speaker, Sir, the Question which the hon. Member is asking is very specific. This is because this case is in my constituency, Langata. This is a case of clear grabbing of public land! We want the Assistant Minister to tell the House whether the Government is in a position to reverse an illegal action which has been done to deprive the public of its utility land. Is the Government in a position to do so?

Mr. Keah: Mr. Deputy Speaker, Sir, I sympathise. We do have the Registered Lands Act, (Cap.300), which in its sections thereof, like Section 27, states that, when a piece of land has been registered, the Government has no powers to repossess that land unless the matter is taken to court. So, the only remedy available in this particular respect is for the aggrieved party to go to court. When the court directs the Ministry to do so, the Ministry will oblige.

Mr. Gitonga: On a point of order, Mr. Deputy Speaker, Sir. Since it is public knowledge that the Commissioner of Lands is the one who is helping grabbers to grab public utility land, when is the Ministry going to sack this Commissioner of Lands? Further, this---

Mr. Deputy Speaker: Order! Order! Mr. Philip Gitonga, you know better than that! You have asked the

Assistant Minister to tell this House when they are going to sack him!

Mr. Gitonga: Mr. Deputy Speaker, Sir, I wanted to add something else.

Mr. Deputy Speaker: No! Not now!

Mr. Keah: Mr. Deputy Speaker, Sir, that question is very similar to the one asked earlier on. I have no knowledge as to when we will sack him if--

Mr. Raila: Mr. Deputy Speaker, Sir, the Assistant Minister is making a very, very fundamental statement to this House. He is telling the House that, if somebody acquires public land illegally and then gets the land registered in his name; the Government is powerless to reverse that activity and that the affected parties must therefore, go to court. What about if Government land itself is grabbed, must the Government then also go to court? Is that the correct legal position, that the Government cannot cancel an illegal allocation?

Mr. Keah: Mr. Deputy Speaker, Sir, that is why I have made reference to the courts. When it comes to a matter of interpreting the law, then it is the courts who interpret the law. We do have Cap.300 - the Registered Lands Act, which does, in fact, say that once a piece of land has been registered and a title deed issued, the Government cannot repossess that land unless so forced by the court.

Mr. Michuki: Mr. Deputy Speaker, Sir, according to the hon. Questioner, this land belonged to widows and orphans. I presume the Widows and Orphans Pensions Scheme. Can the Assistant Minister now confirm that having allocated the land to widows and orphans, taking it from them and giving it to somebody else is contrary to Section 75 of the Constitution of this Republic which protects deprivation without compensation? Does he agree that, that is deprivation of a right of ownership?

Mr. Keah: I am happy the hon. Michuki has assisted me in the answer to the Question. Precisely, when land has been allocated, registered and a title deed given, the Government has no power to revoke it. In this respect, the Ministry had not offered this land nor allocated it to widows and orphans group. We have no knowledge whatsoever in our records at the Ministry regarding widows and orphans group.

Mr. Kihoro: Mr. Deputy Speaker, Sir, the law is very clear that the Commissioner of Lands has got the power to allocate land on behalf of the President of the Republic of Kenya. If a wrong allocation has been done, the Commissioner also should be able to look at the situation and cancel a wrongfully issued land allocation. That is the legal position. Section 75 also is very clear that the Commissioner does not have the power to grab. He should allocate land after proper deliberations. A wrongful issuance of title should be cancelled automatically by the Commissioner.

Mr. Deputy Speaker: Well, that is not a question really.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, the Assistant Minister stated that the Government is helpless when land has already been registered in the name of an individual. We know very well that the State has a right to compulsorily acquire land and revert it to public use. Could the Assistant Minister consider acquiring the land in question compulsorily so that it can be reverted to public use?

Mr. Keah: The Ministry has no funds. In any case, that land was already sold by the allottee and it has been developed, as far as I understand, or it is in the process of being developed. At this juncture, it is not possible to do what he is suggesting.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir. In the first instance, the Assistant Minister has misled the House because that group was taken to the site and shown the land. They were told to wait for allotment letters. Could the Government or the Ministry consider offering that group an alternative site on humanitarian grounds?

Mr. Keah: That second alternative is perhaps possible but I have no idea whether there is any alternative piece of land available. If the group can identify an alternative piece of land, I am sure the Commissioner will duly oblige.

Mr. Deputy Speaker: Next Question, Mr. Achola.

Question No.296

RECARPETING OF AHERO-KISII ROAD

Mr. Achola asked the Minister for Roads and Public Works when the recarpeting of the Ahero-Kisii Road will be completed.

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

The Ahero-Kisii section of the road which is under rehabilitation is expected to be completed within this financial year, 1999/2000.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I am grateful that hon. Achola has come up with this Question. We have a similar Question No.391 on the same road which was deferred last week with broader terms than this. I wanted to know whether we can deal with the issue in this Question or we shall still have the other Question.

Mr. Deputy Speaker: Well, if the Questions have been properly put, the Minister will have to suffer answering them twice. Proceed, Mr. Achola.

Mr. Achola: Thank you, Mr. Deputy Speaker, Sir. This Question has been asked three times earlier on and no action is actually taking place. Could the Assistant Minister be specific and inform the House exactly when work is going to start on this road? That is number one. Secondly---

Mr. Deputy Speaker: Order! Order!

Eng. Rotich: Mr. Deputy Speaker, Sir, the actual work will start before the end of this calendar year, that is before the end of December.

Mr. Achola: Could the Assistant Minister explain where he is going to get this money from in the Printed Estimates because I have been told the same story many times before and nothing has happened?

Eng. Rotich: Mr. Deputy Speaker, Sir, we are getting money from the Fuel Levy Fund.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, this road has brought a lot of animosity between the two neighbouring communities, that is the Luos and Kisiis, because it ended right at the border. Can the Assistant Minister tell us how much money has been put aside for this year's completion of the works?

Eng. Rotich: Mr. Deputy Speaker, Sir, when the works stopped, we had a balance of Kshs29 million which we are paying before the end of the year and the balance of the work will cost Kshs45 million.

Mr. Deputy Speaker: How much money has been made available?

Eng. Rotich: Kshs45 million has been made available, Mr. Deputy Speaker, Sir.

Mr. Anyona: Mr. Deputy Speaker, Sir, without anticipating an answer to my own Question, the Assistant Minister should be courteous enough to tell us why he stopped the road at the border after coming all the way from Ahero more than a year ago? Tell us what happened instead of telling us that the road will start in December; which is just next week?

Eng. Rotich: Mr. Deputy Speaker, Sir, the road stopped because of certain problems within the financier, African Development Bank (ADB). There was a payment problem from the ADB. After that payment problem was sorted out, there was another problem in 1998. There was a slight problem between the Government and ADB which was sorted out and the balance of the money, which is Kshs45 million, was taken over by the Government. But the ADB component has been exhausted.

Mr. Ojode: Thank you, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell us what is the Government policy on existing roads which are wearing off? There are roads which need recarpeting and there are roads which have developed excessive potholes. There is this road from Katito to Kendu Bay, it is impassable as we are talking now. Could the Assistant Minister tell us what he is going to do as a policy?

Eng. Rotich: Mr. Deputy Speaker, Sir, I can only say what the policy is but on the action to be taken on that particular road, I have no information now. But the policy is to reseal the road every five years.

Mr. Achola: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister try to find some money from whatever source? He has just said that the road has currently been allocated Kshs29 million, yet Kshs45 million is required to complete it. Could he, kindly, try to source the balance of the money from whatever source, so that the construction of this road can be completed before the end of the current financial year?

Eng. Kiptoon: Mr. Deputy Speaker, Sir, I thought I said that the balance we need is Kshs45 million plus the outstanding payments of Kshs29 million.

Mr. Deputy Question: Very well, let us go to Mr. Githiomi's Question.

Question No.577

TARMACKING OF NJABINI - OL KALOU ROAD

Mr. Githiomi is not here?

(Question deferred)

Let us go to Mr. Kombe's Question for the second time.

Question No.215

ALLOCATION OF MALINDI DISTRICT HOSPITAL LAND

Mr. Kombe is not here? The Question is dropped.

(Question dropped)

Let us go to Mr. Katuku's Question for the second time.

Question No.592

APPOINTMENT OF LAND BOARD
FOR YATHUI DIVISION

The Minister responsible for this Question is not here and so the Question is deferred. So, we go to Questions by Private Notice.

Mr. Katuku: On point of order, Mr. Deputy Speaker, Sir. I have the written answer to the Question with me here. Although the responsible Assistant Minister is not here, his counterpart is here. So, I do not see why we should defer the Question.

Mr. Deputy Speaker: Mr. Katuku, the Assistant Minister who is here is not prepared for this particular Question. Now, would you rather have the Question answered unsatisfactorily by this Assistant Minister, or would you wait for the one responsible to answer it satisfactorily? So, I am deferring the Question.

Mr. Katuku: On point of order, Mr. Deputy Speaker, Sir. The Assistant Minister should be serious. I am here to ask the Question, but he is not here to answer it.

Mr. Deputy Speaker: I cannot agree with you more.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

PROVISION OF MOBILE TELEPHONE SERVICES

Eng. Muriuki: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Information, Transport and Communication the following Question by Private Notice.

(a) In view of the outcry over the many firms being denied a chance to provide mobile telephone services, could he table the list of all firms that applied to provide mobile telephone services to the Communications Commission of Kenya?

(b) Could he specify which firms had their applications accepted, and which were rejected and the criteria used to accept or reject the application?

Mr. Deputy Speaker, Sir, before the Minister answers the Question, I would like to request for your indulgence; I do not have a written answer. Perhaps the Minister can explain why the written answer to the Question is not available?

The Assistant Minister for Information, Transport and Communication (Mr. Lengees): Mr. Deputy Speaker, Sir, I would like to, kindly, take this opportunity to ask the Chair to defer this Question as the answer to it is not yet ready.

Mr. Deputy Speaker: Eng. Muriuki, is that okay with you?

Eng. Muriuki: Mr. Deputy Speaker, Sir, the Assistant Minister has not given a reason why the answer is not ready. Maybe, he can tell us why the answer is not ready, and when he it will be ready?

The Assistant Minister for Information, Transport and Communication (Mr. Lengees): Mr. Deputy Speaker, Sir, I kindly asked for the Question to be deferred because the Communication Commission of Kenya (CCK) is not yet ready to give the answer today. So, I would like the Question deferred until Tuesday, next week.

Mr. Deputy Speaker: Very well, the Question is deferred.

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. According to the rules of this House, Questions by Private Notice should be answered within 48 hours. What reason is the Assistant Minister giving---

Mr. Deputy Speaker: Order! That is not a point of order, Mr. Murathe.

Mr. Murathe: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to say that he is not ready to answer the Question now?

Mr. Deputy Speaker: Mr. Murathe, by asking whether the Assistant Minister is in order to say that he is not ready to answer the Question does not make yours a point of order.

(Laughter)

Mr. Assistant Minister, this Question should be answered on Tuesday afternoon. As far as this House is concerned, this Question is being answered by you and not by the CCK, the Postal Services or anybody else outside this House.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. We are flouting the rules of this House. This Question by Private Notice was asked by hon. Muriuki two weeks ago. Now, the Assistant Minister is saying that the CCK is not ready to give an answer. We know the CCK is not ready to give an answer because of the corruption that was involved in awarding this tender.

Mr. Deputy Speaker: Order! There is no point in pressing this point further when the Assistant Minister is not able to answer the Question.

(Question deferred)

TERMS OF LOAN AGREEMENT
BETWEEN KTDA/EIB/CDC

Mr. Anyona: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is he aware that the Kenya Tea Development Authority (KTDA) is forcing tea farmers from Tombe, Nyankoba, Nyansionga, Kebirigo and Sanganyi Tea Factories in Nyamira District to make contributions for the construction of the new Gianchore Tea Factory?

(b) What are the terms and conditions of the loan guarantee agreement between the KTDA and the European Investment Bank and the Commonwealth Development Corporation in respect of the Gianchore and other new tea factories in the country?

(c) Will he ensure that the KTDA does not make any deductions from the 1998/99 bonus payments to tea farmers in respect of Gianchore and other new tea factories?

The Minister for Agriculture (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the KTDA is forcing tea farmers anywhere to make contributions for construction of the proposed Gianchore Tea Factory. However, I am aware that the tea growers from respective tea factories resolved to contribute towards construction of the proposed Gianchore Tea Factory in Nyamira District following consultative meetings between the tea growers and their elected tea factory directors. A total of Kshs58,995,184.30 has been contributed by the five tea factories in Nyamira District. Construction of the new tea factory in the district will go a long way in easing congestion in the five tea factories.

(b) The European Investment Bank has agreed to finance 70 per cent of the total cost of construction of the following four factories out of the proposed nine new factories: Nduti and Gacharage Tea Factories in Maragwa District, Weru Tea Factory in Meru South District, and Chemalui Tea Factory in Kericho District. Tea growers in the affected areas are required to raise a minimum of 30 per cent of the total project cost as equity contribution. The loan will be repaid over a period of eighty years at an interest rate of eight per cent per annum, with a two-year grace period. The KDTA is expected to guarantee repayment of the loans. The Commonwealth Development Corporation will not finance the construction of any of the nine proposed tea factories following major policy changes in its development programmes.

(c) As resolved by the growers of the respective tea factories, deductions towards the construction of the proposed nine tea factories have already been effected by the KTDA from the 1998/99 tea bonus payments. The Government acknowledges that inadequate processing capacity is the major constraint to the expansion of tea output. The Government will, therefore, support any initiative by growers to increase the processing capacity to enable the country to meet its production targets.

Mr. Anyona: Mr. Deputy Speaker, Sir, once again, I would like to say that no personal, party or community politics, should be read into my exchanges with the Minister. He is a friend of mine and a colleague. However, even before I go to the fundamentals of this Question, we are talking about deducting farmers' money. The Minister is fully aware that there is a big war in Kisii and Kericho Districts from the farmers about the deduction of this money, yet he says that the farmers agreed through consultations that their money should be deducted. Then, why should they be up in arms against the deduction of the same? Could the Minister lay on the Table of this House, evidence to show that the farmers, indeed, agreed to those deductions? Also, he should tell us whether farmers do not have a right to change their mind about it?

Mr. Obure: Mr. Deputy Speaker, Sir, I do not believe that there is any war in Kisii over deductions of the money for the construction of the new tea factories. I have the authority here, which is signed by the representative of the farmers. These signatures have been appended to the authority after due consultations with the farmers themselves. Therefore, I think that this is a worthy project; it should go on to ease congestion at the various tea factories.

Mr. Deputy Speaker: Mr. Minister, could you lay those documents on the Table?

Mr. Obure: I am most obliged, Mr. Deputy Speaker, Sir.

(Mr. Obure laid the document on the Table)

I would like to stress that this is exactly the same way through which all the tea factories in the country have been developed.

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir. The people of Kitutu Chache Constituency who are members of Tombe Tea Factory passed a resolution at Marani Division that they cannot be deducted a single cent for the construction of Gianchore Tea Factory, but they have now been deducted some money. Who gave the Minister or the KTDA the mandate to deduct them some money when they had passed that resolution?

Mr. Obure: Mr. Deputy Speaker, Sir, I am not aware of the resolution passed by tea farmers of Kitutu Chache Constituency. But I would like to say that I have here authority given by directors of Tombe Tea Factory, which encompasses Kitutu Chache Constituency. I can read out the resolution if you want, but I have already laid it on the Table.

Mr. Obwocha: Mr. Deputy Speaker, Sir, this is a very important Question. Tombe Tea Factory produces 15 million kilograms of processed tea, Nyankoba Tea Factory - 12 million kilograms, Nyansiongo Tea Factory - 12 million kilograms, Kebirigo - 14 million kilograms and Sang'anyi Tea Factory - 16 million kilograms of tea. This gives a total of 69 million kilograms of processed tea produced last year. That area needs another tea factory. What we are asking the Minister is: Did they follow the right procedure in deducting this money? If they did, when will the construction of the new tea factory start? That is what I am interested in.

Mr. Obure: Mr. Deputy Speaker, Sir, I am glad that the hon. Member for Mugirango West Constituency agrees that there is need for the construction of a new tea factory in that place, and I fully concur with him on that issue. All these tea factory companies are registered under the Companies Act, and there is provision for election of directors in each one of them. It is presumed that if the directors are elected by the farmers, then they have the mandate of the farmers. Therefore, if the directors pass a resolution, it is presumed that the resolution is passed on behalf of those farmers. That is the basis on which this has been carried out, and we, as the Ministry, have encouraged these directors to ensure that they have carried out adequate consultations with respective farmers.

Mr. Anyona: Mr. Deputy Speaker, Sir, as hon. Members of Parliament from Gusii, in spite of any other difference that we might have, there is absolutely no difference amongst us as to whether this factory is necessary or not. In fact, there is another tea factory in Gucha, which is the Minister's area, which should have come up but it has not. We also want another one in Kitutu Masaba Constituency. So, there is no disagreement as to whether this factory is necessary or not. All we are saying, as hon. Obwocha has asked: How does the KTDA use the directors and arm-twisting, wining and dining to deduct money from farmers without even under the Companies Act; the ultimate authority is the annual general meeting of farmers? That is what we are asking. We are not asking for some conspiracy between the directors and the KTDA. We want a resolution of an annual general meeting of each one of these five factories which approved that payment. But in any case, this programme was guaranteed by Parliament as Sessional Paper No.1 of 1988. The terms are set out here! If the Minister says that those terms have changed, then Parliament has guaranteed a sham. If terms changed, you would have come back and sought a new guarantee.

Mr. Deputy Speaker: Order! Put your question!

Mr. Anyona: Mr. Deputy Speaker, Sir, could the Minister table in this House a resolution of an annual general meeting of farmers from these factories? Could he also tell us whether the guarantee that Parliament passed has changed and under what arrangements he is now financing this programme?

Mr. Obure: Mr. Deputy Speaker, Sir, what hon. Anyona has raised is the question of whether those directors had powers to pass this resolution on behalf of their farmers or not. That depends on the specific Articles of Association of the respective companies. I believe that they have authority to do so, and they have done that through a resolution which they have provided to us. I have laid it on the Table. I would like to assure this House that these deductions have been effected and the money is available. In fact, that is what was delaying this project. I would like to respond to hon. Obwocha's question by saying that the construction of this factory will start as soon as possible, now that the money is available. I would like to inform this House that I will ensure that, that is done because I know that this is the wish of the people, particularly in the area hon. Anyona is talking about.

Mr. Murathe: Mr. Deputy Speaker, Sir, the hon. Minister is misleading this House. The KTDA has been deducting Kshs1 million per leaf base, where the factories are constructed. It has also been deducting farmers some money to pay for the construction of these tea factories. Yesterday, a report of the Committee of this House was tabled, and the KTDA order scrapped the word "KTDA". Effective from 1st January, 2000, there will be a company called "Kenya Tea Development Agency" which will be a managing agent for tea factories. We will not have the KTDA, as is the case today. Therefore, how can the KTDA continue guaranteeing the construction of tea factories, and what will be the Government's policy from now on in terms of Government guarantee for the construction of new tea factory?

Mr. Obure: Mr. Deputy Speaker, Sir, hon. Murathe is a Member of the Agriculture Committee of this House. He knows that there is debate due in this House in respect of the matters which he has raised. Is he in order to anticipate debate?

Mr. Deputy Speaker: He is not in order!

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. That document of the KTDA is now the property of this House. Secondly, the KTDA Revocation Order was laid here in June this year. How can a body that ceases to exist continue to guarantee the construction of tea factory?

Mr. Obure: Mr. Deputy Speaker, Sir, in the forthcoming Tea Amendment Act all that is provided for. Hon. Murathe knows very well that the construction of this factory will not be affected by the changes that we are proposing. All that has been catered for.

Mr. Anyona: I raised a question which the Minister avoided to answer. The question was that this programme was guaranteed by this Parliament as Sessional Paper No.1 of 1988 which I have here. The programme consisted of 15 factories in Kisii, Kericho and all the other areas. It was supposed to be in three phases. The financial arrangements are on page two. It does not talk about the farmers. It talks about KTDA bank loans before they can deduct money from the farmers when they deliver tea. That programme is being operated under this Sessional Paper. That is the authority of this Parliament. He is now saying that there are only nine factories and that the Commonwealth Development Corporation has pulled out. Under what legal authority are we doing it if this Sessional Paper has not been amended or updated?

Mr. Obure: Mr. Deputy Speaker, Sir, I am sure that all these are being done, taking into full account the existing legal framework. I am sure that we are not going to contravene any provisions at all.

EVICITION OF QUARRY LIMITED SHAREHOLDERS

Mr. Raila: Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlements the following Question by Private Notice.

(a) Is the Minister aware that over 2,000 members/shareholders of Quarry Limited, proprietors of Njiru Quarry Land (L.R. Nos8469, 8479, 8480, 8481 and 11344) in Kasarani, Nairobi are in the process of being evicted from their land by the directors of Mukinye Enterprises who have grabbed the said land?

(b) Could he take immediate action to reconstitute ownership to Quarry Limited in order to avert imminent suffering and disaster?

The Assistant Minister for Lands and Settlement (Mr. Opore): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of the said eviction of 2,000 shareholders of the Quarry Limited nor am I aware of the said grabbing of the land parcels by the directors of Mukinye enterprises.

(b) As the answer to "a" above is in the negative, no further action is intended by the Ministry.

Mr. Raila: Mr. Deputy Speaker, Sir, I am surprised that the Minister is saying that he is not aware yet the Government has been asked this Question more than twice in the past. This is a very clear case of grabbing. The original sin was committed way back in 1970 when the then President decided to take part of the land which is a private property and give it, on behalf of the Government, to one Jane Wambui Kenyatta. The other beneficiary was Peter Kenyatta. This was done despite the fact that this was a private property which had been allocated to a company

known as Quarry Limited in 1954 by the then Government and there was a title deed already existing. Other title deeds were issued. Peter Kenyatta then went on to sell his portion of the land to Mukinye Enterprises---

Mr. Deputy Speaker: Hon. Raila, that is all very well, but you have laid your foundation. Ask your question now.

Mr. Raila: Mr. Deputy Speaker, Sir, now that I have made the Minister aware that there is a clear case of land grabbing here and that 2,000 innocent Kenyans are now landless and they are being referred to as "squatters" in the land on which their forefathers have lived since 1902, can he tell this House what the Government intends to do to make sure that these people are not rendered completely landless?

Mr. Opo: Mr. Deputy Speaker, Sir, the hon. Member has stated that this Question has been here in the past. I am surprised that he is still bringing it without stating why he is not satisfied. However, if---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I do not know whether I heard the hon. Assistant Minister right when he said that the Question was brought before and that we should give a reason why it is being brought here again. The only rule which prohibits us bringing Questions is the six months rule. If this Question came up in 1995 it can come again ten times over. Is he in order?

Mr. Deputy Speaker: He is not!

Mr. Opo: Maybe, hon. Anyona never understood me. They have not come out clearly on what they want to know. However, given that he has stated that the said evicted members have been there since 1902, the law states that if somebody has been in a place for more than 12 years, he has the right to go ahead and claim that land. My Ministry is there and if he brings the proper documentation, we will go ahead and do the registration.

Mr. N. M. Nyagah: Mr. Deputy Speaker, Sir, is the Assistant Minister saying therefore, that the Government is going to show magnanimity by allocating land to these 2,000 people, in which case all Kenyans will be satisfied so that we have no bad blood because we have heard of the previous ownership? Is the Government going to give land to the entire 2,000 people as requested for in this Question by hon. Raila?

Mr. Opo: These 2,000 members whom he is referring to as "squatters" are there on Government land. From the documentation we have, they are known. If these squatters are on private land we cannot interfere with private property. However, if these 2,000 members whom we are referring to as "squatters" are on a piece of land they say was transferred to them, then they have a right to make sure that proper procedures are followed for them to be given a title deed. Apparently, the seller---

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. You can obviously see that hon. Opo, who is a very good friend of mine, is begging for mercy. Find a way of assisting him. If you listen to what he has said, the first half is a direct reverse of the second half and none of those is related to the Question before him. Can you find an excuse to get him off this problem he has created for himself?

(Laughter)

Mr. Deputy Speaker: Let me hear from Mr. Muchiri because he is from that area.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir. This issue affects Kasarani and Embakasi Constituencies. It is true that there are more than 2,000 people on that land who came there in 1901. They are still on that land despite the fact that the land has been sub-divided into some plots and that is where Kasarani Ward is today. When the Government allocated that land they knew very well that there were squatters in occupation of that land who have been there for more than 50 years. Since this Question has been brought to this Parliament more than two times, can the Government find an alternative site for these squatters so that they can move out of other people's property?

Mr. Opo: Mr. Deputy Speaker, Sir, as I said earlier, the Questioners are not clear on what they actually want. Going by their Question, they state that 2,000 shareholders of Quarry Limited who are the proprietors of Njiru Quarry Limited are being evicted by the directors of Mukinye Enterprises. That is a private property owned by Mukinye Enterprises who must have submitted documents to the Ministry of Lands and they were therefore, legally registered. In that case, the Ministry has no---

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. Arising from what hon. Muchiri has said which appears to be the case admitted by the Assistant Minister that these 2,000 people came to the land in 1901, is it in order---

Mr. Deputy Speaker: Order! I think I should have listened to hon. Dr. Kituyi's plea. This Question has appeared in the House several times in the past. It would appear that the Minister is not aware of the answers that were given. To be fair to him and to this House, he should be given time to go and refer to those answers so that he is consistent with what we have been told before. Otherwise he is going to be contradicting his own Ministers. I will defer this Question to Tuesday next week.

(Question deferred)

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. I was raising a point which, in fact, might require your guidance. We are told by hon. Muchiri that, the 2,000 people settled on that land in 1901 and the Assistant Minister agrees to that. If they are living up to now, then they must be very old. What do we believe in this case?

Mr. Deputy Speaker: Order! Hon. Michuki, the land you live on in Kangema was not occupied for the first time by you, but you still claim it as yours. It was occupied by your great grand-father and this is the same to the great grand-children of those people in Kasarani.

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. You have ruled that the Assistant Minister should go back, so that the answer he brings is consistent with the previous one. Suppose the Assistant Minister has unearthed new facts and, therefore, he is able to give a different answer?

Mr. Deputy Speaker: I will deal with it when it arises.

Next Question, Dr. Kulundu.

MEASURES TO BAN USE OF RADIOACTIVE MATERIALS

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

(a) What measures has the Ministry taken to ensure that no radioactive materials are used for construction purposes?

(b) How many people were exposed to radioactive Thorium in Kwale District during the construction of Kiwegu-Jego Road in Majoreni Sub-location and how will the victims be compensated?

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

(a) Our existing standard specifications at the moment, only call for physical and chemical tests for construction materials. However, arising from the experience of the Kiwegu-Jego Road, we have already sent a team to the site to carry out investigations, alongside the Ministry of Health, the Radiation Protection Board and the University of Nairobi. Based on their findings, and after due consultations with the experts, we will prepare a special specification, covering radiographical tests to be included in each road contract.

(b) The number of people affected has not been established because a team of experts from the Ministry of Health, the Radiation Protection Board, the University of Nairobi and this Ministry, are currently on site. The number of people affected and the issue of compensation, will be evaluated when the team submits its report.

(c) The measures to be taken are as outlined in "a" above.

Dr. Kulundu: Mr. Deputy Speaker, Sir, for the comfort of the Assistant Minister, let me assure him that my Question had only two parts. There was no part "c". Having said that, radioactive materials are of great public health concern to Kenyans, because they are associated with the cancer of blood and child abnormalities, among other things. Radio-active materials have not only been found in Msambweni area in Kwale District, but also in such areas as Homa Bay, Nanyuki, Kitui and Kerio Valley. So, these radio-active materials are widely spread in Kenya. It is disgusting to learn that until now, this Ministry, which is supposed to have experts, does not even have a radiation unit. This means that, Kenyans have been exposed for a long time, to radioactive materials without their knowledge. Could the Assistant Minister assure this House that, in fact, if these levels of radiation are found to be injurious to health, the Ministry will take the responsibility and compensate the affected victims?

Eng. Rotich: Mr. Deputy Speaker, Sir, I cannot assure this House that we shall take responsibility. This is the first case that we have discovered and we are doing something about it. As soon as the experts submit their report, we shall define our specifications to look after the problem.

Mr. Nguni: Mr. Deputy Speaker, Sir, if I heard the Assistant Minister right, he said the Ministry is involved in revising specifications to include tests of radioactive materials. What is the Ministry planning to do, to buildings and constructions where radioactive materials have been used to protect Kenyans?

Eng. Rotich: Mr. Deputy Speaker, Sir, I am not able to deal with that question. But as soon as we complete our investigations, we shall taken corrective action.

Mr. Kombo: Mr. Deputy Speaker, Sir, very senior health officers like Dr. Khama Rogo have said that, we do not have enough expertise to deal with the radio-activity problem in this country. If that is the case, could the Ministry consider asking for help from international experts to deal with the situation?

Eng. Rotich: Mr. Deputy Speaker, Sir, I am not an expert in that area. But I presume the Ministry of Health has enough expertise to take care of the problem.

Mr. Raila: Mr. Deputy Speaker, Sir, exposure to radioactive materials is something that is very harmful to human health. I know for a fact that, it interferes with the reproductive organs of human beings. That is the reason why other countries have put very stringent specifications for materials that are used for construction. It is unfortunate that, the Assistant Minister has admitted that they only do physical tests, but not chemical tests on all materials that are used for construction. If the Government now admits liability that they have been negligent in terms of provision of adequate specifications, what kind of compensation will they give to people whose reproductive organs have been permanently damaged by exposure to radioactive materials?

Eng. Rotich: Mr. Deputy Speaker, Sir, in the first case, it is not true that we only do physical tests. We do both physical and chemical tests, but it was not covering radioactive materials. For the question of responsibility, the Government cannot admit liability.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. If the Government was carrying out chemical tests, they would have been able to detect radioactive materials. So, it is either, they are doing it or not. If they are doing it, why have they not been able to detect the presence of radioactive materials?

Eng. Rotich: Mr. Deputy Speaker, Sir, we have not experienced that problem before, although we have been doing chemical tests.

Mr. Werah: Mr. Deputy Speaker, Sir, the contaminated soil with radioactive material is still left exposed in Kwale District. What is the Ministry doing to cover all the soil that has been used on the construction of that road, because it is affecting residents of Kwale District?

Eng. Rotich: Mr. Deputy Speaker, Sir, as I said, there is a team of experts on the ground and they will come up with appropriate recommendations and we shall take the necessary action.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I was surprised when I read in a recent Press article that Homa Bay District is one of the places which have got radioactive elements. Is it true, as the Assistant Minister alleges, that no adequate investigations have been done? Why was the Government reckless to cause this public panic before they established that it is true that there are radioactive elements? When are they going to finalise these investigations to restore public confidence and take the necessary action to do away with the radioactive elements, if at all they are there?

Eng. Rotich: Mr. Deputy Speaker, Sir, we expect the results in one month's time.

Dr. Kulundu: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the preliminary findings from Kiwegu-Jego Road indicate that, in fact, the level of radio-activity is 20 to 25 per cent above the permissible level?

Eng. Rotich: Mr. Deputy Speaker, Sir, I am unaware of that fact.

MINISTERIAL STATEMENT

POLICE ENCOUNTER AT GATHWARIGA RALLY

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, at the request of hon. Philip Gitonga of Lari to make a Ministerial Statement in relation to the disruption of a peaceful rally by police on 25th of July, 1999, in his Constituency, I wish to say the following. On Sunday, 26th, 1999, at about 3.15 pm, hon. Philip Gitonga, accompanied by hon. David Mwenje, hon. Njehu Gatabaki, hon. Njeru Kathangu, hon. Paul Kihara, hon. Adolf Muchiri and Prof. Wangari Maathai arrived at Gathwariga for a public rally. Hon. Gitonga had notified the regulating officer of the intended rally and the same was duly given a go-ahead. During the rally, hon. Gitonga and his companions informed the assembled members of public that their mission was to plant trees on a parcel of land allegedly grabbed by one Milton Njoroge. The contentious piece of land is about five acres in size and is surrounded by other farms which have houses and other structures on them. At about 5.30 pm, the Members of Parliament, together with Prof. Maathai, left the venue of the public rally and crossed over into Mr. Milton Njoroge's piece of land and attempted to plant trees. At this juncture, the police intervened and ordered the crowd to disperse as they were interfering with private property. The Members of Parliament advised the assembled people to defy the police and prompted the police to use teargas to disperse them. The police also shot in the air to scare the irate mob during the ensuing stampede. Unfortunately, several people including, Prof. Maathai, fell down as they were running away.

On the same day, during the night, at unknown time, some unknown people invaded Mr. Milton Njoroge's land and destroyed iron-sheets and walls of an unoccupied house. One suspect, namely, Mr. Francis Kagunga Muthuma, was arrested for interrogation in respect of the incident. One week after the Gathwariga rally, a group of unknown people invaded the home of Mr. Robert Njoroge Gatiba, a brother to Mr. Milton Njoroge, where they

damaged a fence in his home. Mr. Gatiba's neighbours, who witnessed the incident, made a statement to the police and the following were arrested: Messrs. Francis Gakunga, Sammy Ndungu Kiarie and Joram Kamau Mwaro. The suspects were charged with malicious damage to property and the case is still pending in court. Mr. Deputy Speaker, Sir, concerning allegations that one Mr. Waweru Irungu was shot on the arm on the day of the rally, 25th July, 1999, by police, the matter was not brought to the attention of the relevant authorities. I have personally checked the records of Kijabe Hospital, where the victim was allegedly treated, and they have no records of the existence of such a name. Mr. Irungu should be advised to report the matter to the police to facilitate immediate action on the alleged shooting incident.

Mr. Gitonga: Mr. Deputy Speaker, Sir, it is very sad for the Assistant Minister to come here and start giving out a story which is actually misleading the House. I can only imagine that this story was given to him by the police on the ground who actually acted the way they did. What exactly happened is that as soon we finished the rally, we decided to plant trees on the same spot; we did not move to Mr. Milton Njoroge's supposed-to-be land, which he occupies now. When we started planting trees, the police unleashed violence on those who were there. And I have witnesses in this House. Furthermore---

Mr. Deputy Speaker: Mr. Gitonga, you cannot open a debate on that issue; ask questions to clarify what the Assistant Minister has said.

Mr. Gitonga: Mr. Deputy Speaker, Sir, I wanted the Assistant Minister to clarify on what he said; that Mr. Francis Gakunga was arrested at night as they were demolishing Mr. Milton Njoroge's house. That is not true. Mr. Gakunga was arrested in his own house and at no time was he at Mr. Njoroge's supposed-to-be land. Therefore, that is incorrect. The other people were not even in the area which we are talking about. So, whoever actually destroyed that property, is unknown, and if it was destroyed, it was not at night. Could the Assistant Minister go and get a proper answer of who actually unleashed violence on the people, because it is the police who gave him that answer? Furthermore, Mr. Waweru who was supposed to have gone to Kijabe Hospital did not go there because he went to another clinic at Magumu. That is where he was treated. So, the Assistant Minister is misleading the House. And hon. Kathangu was there and he saw what happened.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I am confident that the facts that I have given are true to the best of my knowledge and to the best of the events that took place on the material day.

POINTS OF ORDER

HARASSMENT BY POLICE

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I wish to make a statement of personal nature. On the morning of---

Mr. Deputy Speaker: Order! You cannot read it out now! I thought you wanted to raise a point of order.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I rise on a point of order in respect of what has been reported in the Press about the killing of the Principal of Sang'alo Institute of Technology.

Mr. Deputy Speaker: No! You want to rise on what has happened to you?

Mr. Wamunyinyi: Yes, Mr. Deputy Speaker, Sir. Thank you for that correction. You know, this is my first term in Parliament. On the morning of Tuesday, the 9th November, 1999---

Mr. Deputy Speaker: Order! When you approached me to give you time to raise your point of order on that matter, you indicated that you wanted to raise a matter that concerns not only your arrest, but also your harassment as a result of what you said in the House; that you are being hunted around by the police who were holding a copy of the HANSARD. I will allow you to do precisely that, and nothing out of that. Proceed.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, following the death of the Principal on 9th November, 1999, the police have been hunting for me. When I heard of that, I went to the police station and I made a statement. While at the station, I learnt that the police had the HANSARD from the House in respect of a Question which I had raised about the Institute. I also learnt it was a KANU politician who had directed the police to arrest me. While I wish to state very clearly that the incident was barbaric and deplorable and I condemn it in the strongest terms possible, it was unfair for the police to follow the instructions of a KANU politician.

Mr. Deputy Speaker: Order, hon. Wamunyinyi! I was sympathetic to what you told me earlier on that, what you said in the House and recorded in the HANSARD was being used to pursue you in your constituency. Now, that is what I want you to address because I have something to say about it. Whether you were arrested on instigation of a "KANU hawk" or a "FORD(K) dove" that is not an issue.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I would like to request you to allow me to make this statement, because it affects me directly. If you do not allow me to make the statement, surely, I do not think it would be fair.

Mr. Deputy Speaker, Sir, following the incident, I availed myself to the police station where they were looking for me. I recorded a statement and I was held in custody for a few hours before I was released. Under these circumstances, therefore, I wish to make this statement: I have raised issues on mismanagement and malpractices by the Board of Governors of Sang'alo Institute in Parliament.

Mr. Deputy Speaker: Order! Order! Mr. Mr. Wamunyinyi, I would like to be as helpful as I personally can. What you have raised in the House is already on record. We know that you spoke about Sang'alo Institute. You specifically requested to be given time this afternoon to make a personal statement on your harassment regarding a matter you raised in the House, that, the police in possession of a copy of the HANSARD used it to harass you. If you can restrict yourself to that, I will give you the time to do it, but I cannot allow you to raise other extraneous issues, because they are things that happened to you out there.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, my conscience is very clear on this matter, and, indeed, the police are well aware that the harassment meted on me had no basis at all.

Mr. Deputy Speaker, Sir, Mr. Moses Wetangula should leave me alone and also stop, harassing and intimidating me because that will never translate into votes for him in Bungoma. I would like to appeal for peace and advise the Government that it must always take prompt action when matters like these arise.

Mr. Deputy Speaker: Order, hon. Wamunyinyi! I hate to stop you from making that statement. I wanted you to make that point, because it is important for hon. Members of this House to know what the position is, with regard to what you said in this House. Could you do us a favour and bring out that aspect of it?

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, should I be harassed and intimidated by police, who went around chasing me, on matters I raised in this House?

Mr. Gitonga: Mr. Deputy Speaker, Sir, before you called on Mr. Wamunyinyi, there was one point which needed clarification by the Minister.

Mr. Deputy Speaker: Order, hon. Gitonga! When you are given an opportunity to seek clarification, you start making statements. By so doing, you consume time that we should be using to get information from the Minister. You did not, and I was forced to move on to Mr. Wamunyinyi.

I would like to direct this to the Minister responsible for internal security. That hon. Members of this House are free to say anything and everything inside this House. They must enjoy immunity inside this Chamber. What they say here, no matter how painful, cannot and must not be used to harass them out there. Now, I would like hon. Wamunyinyi to come to my office and give me that statement so that I can take it up on behalf of all hon. Members of this House. We do not want to assume a trend that will affect other hon. Members.

MINISTERIAL STATEMENT

COLLECTION OF FUNDS BY DEOS FOR KCSE AND KCPE

The Assistant Minister for Education, Science and Technology (Mr. Karauri): On a point of order, Mr. Deputy Speaker, Sir. Last week, hon. Waithaka of Kinangop and hon. Munyao wanted to know if the District Education Officers are authorised to collect extra funds for the management and administration of both KCSE and KCPE examinations.

Mr. Deputy Speaker, Sir, hon. Waithaka also alleged that in Nyandarua, the DEO was collecting Kshs5,000 from schools in order to supplement the money that is meant for the conducting of those examinations. I wish to state, that the Ministry of Education, Science and Technology does not condone that practice. The Kenya National Examination Council gives the District Education Officers sufficient funds to run those national examinations, and any collection alleged or purported to support what the Kenya National Examination Council has given, is illegal.

Mr. Deputy Speaker, Sir, if the hon. Members have any evidence at all including receipts issued to those schools or to candidates, they should bring them to the Ministry and we will take appropriate action.

COMMUNICATION FROM THE CHAIR

GUESTS FROM SOUTH AFRICA

Mr. Deputy Speaker: Hon. Members, we have visiting us today, Mr. N.S.T. Lula and Miss. Lulu Zingwana,

hon. Members of South African Parliament, sitting in the Speaker's Gallery. I am sure you will welcome them and show them how lively our Parliament is. You are most welcome.

POINTS OF ORDER

GOVERNMENT'S LEGAL POSITION ON FEMALE CIRCUMCISION

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I am going to seek two [Mr. Anyona]

important and rather sensitive Ministerial Statements. The first one is in connection with the Ministry of Health. If this should go to the docket of the hon. Minister for Public Health, who is from my community and who is a friend of mine, there will be no tribal, community, personal or party politics. It is purely a question of articulating public interest.

Mr. Deputy Speaker, Sir, I would like the Minister to give a Ministerial Statement on a matter which affects Gusii land and other parts of the country. It is a fairly sensitive matter, and therefore, I would like it to be treated with the sensitivity it deserves.

At this time of the year, in Kisii homeland, it is a time of circumcision rites, both for boys and girls, where it still takes place. I do, therefore, want the Minister to make a Ministerial Statement with regard to the following issues: What the cultural practice of female circumcision in Kisii and elsewhere in the country? I would like to refer to it as female circumcision, and not genital mutilation, because that is an insult to a time honoured African tradition. Secondly, I would like the Minister to tell us the legal position with regard to female circumcision. Thirdly, what is public policy of this Government with regard to this matter? Not what the NGOs are saying or what the so-called civil society is saying. What is the official public policy? Fourth, what is the role of the Provincial Administration in the rite of circumcision of girls? At the moment, there is harassment of mothers who want to circumcise their girls in Kisii by chiefs, assistant chiefs and the Provincial Administration, generally. There is an outcry. I would like the Minister to clearly state, in the context of those issues I have raised, the role of the Provincial Administration in this matter, so that our people enjoy the end of this millennium in which ever way they choose to do. I would like to have a full explanation as to why there has been harassment in this case.

Mr. Deputy Speaker: That is enough!

LIQUIDATION OF KENYA NATIONAL ASSURANCE COMPANY

Mr. Anyona: Mr. Deputy Speaker, Sir, the second issue is also an important matter which concerns many Kenyans including hon. Members of this Parliament. In 1997, a matter came to this House regarding the Kenya National Assurance Company. I would like the Minister for Finance to listen to this, because I would like to have a Ministerial Statement from him. In 1997, a matter about the Kenya National Assurance Company was brought to this House. A Ministerial Statement was made by the then Minister for Finance, hon. Musalia Mudavadi, regarding the liquidation of that Corporation. What was the position of the terminal benefits of the employees of that organisation? We also wanted to know the fate of the insurance premiums, both for members of public and also for Members of this Parliament which were in that organisation? We would also like to know the assets and liabilities of this organisation. Could we have a Ministerial Statement from the Minister telling us about the process of liquidation and when it will come to an end?

Mr. Muniyao: Mr. Deputy Speaker, Sir, I am seeking clarification from the Assistant Minister for Education, Science and Technology who has just read this Ministerial Statement. I wish he could be listening to this instead of disturbing the Clerk-at-the-Table. The Assistant Minister has made a very good reply, but he should have asked us to prove anything. We had asked him to investigate and tell this House about his findings because we are sure that this money is being collected. Secondary schools students are paying Kshs2,000 each while primary schools pupils are paying Kshs500 each. The Kenya Certificate of Primary Education (KCPE) candidates are paying Kshs100. What will he do? Can he authorise that money to be refunded? We wanted to know what action he will take, but he has just made a general statement. Can he be a little bit more serious?

The Assistant Minister for Education, Science and Technology (Mr. Karauri) Mr. Deputy Speaker, Sir, since the District Education Officers are denying this, we want to know if hon. Members have evidence. Since we are continuing to investigate this matter, they should provide us with documentary evidence so that we can take action, and so that that money can be accounted for properly.

Mr. Muniyao: Mr. Deputy Speaker, Sir, this matter is very simple. Can the Assistant Minister now appeal to

those parents who have paid this money to surrender documents to prove that they have paid this money instead of asking hon. Members to do the sub-chiefs' business?

Mr. Gitonga: Mr. Deputy Speaker, Sir, I was not satisfied with the Ministerial Statement given by the Assistant Minister, Office of the President, who gave him the information? Since he did not tell us who gave him the information, I am sure that the people, who gave him the information are the same people who harassed us and injured so many people who were in that rally. These were the policemen. In order to have proper justice in this particular issue, could I ask that this issue be referred to the relevant Departmental Committee? These are the same people who gave him the information and, possibly, they could not have told him the truth.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I think I have a duty to this House to give factual, correct and reliable information. I have exactly done that. Mr. Gitonga knows very well that a permit was given. He knows very well that the notice he had given and the rally he convened did not include the planting of trees. It was all peaceful, everything went on very well, we had security men there to make sure that the rally was not disrupted, until the Member engaged himself in other activities that were not part of what he had said he was going to do in the rally.

Mr. Maitha: Mr. Deputy Speaker, Sir, the problem of the police harassing innocent people in this country has increased. Normally, the Minister or his Assistant Ministers are not given proper answers to bring to this House. Is the Assistant Minister agreeing with the hon. Member that this matter be referred to the Security Committee so that it can be pursued?

The Assistant Minister, Office of the President (W. Ruto): Mr. Deputy Speaker, Sir, I have no problem with that.

Mr. Deputy Speaker, Sir: Order! That is the end of the matter. It will be referred to the appropriate Departmental Committee.

The Minister for Public Health (Prof. Ongeru): Mr. Deputy Speaker, Sir, I have no intention of making any speech. But just to make sure that we are on the same wave-length, I will make a comprehensive Ministerial Statement and the terminologies may differ. Whereas hon. Anyona calls it cultural circumcision, the statement I will make here will include female and genital mutilations.

MINISTERIAL STATEMENT

POLICE HARASSMENT

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, following a request for a Ministerial Statement by the hon. Tabitha Seei regarding the alleged harassment of residents of Kaptarakwa, Tot and Chebior in Keiyo District by police and the Provincial Administration, I wish to state as follows:-

Mr. Deputy Speaker, Sir, on 10th October, 1999, the police at Kaptagat Police Station received a report on malicious damage of property. The offence was said to have been committed at Biwott Primary School, Chebior Sub-Location, Itanyi Location in Keiyo District. Following the report, a suspect, namely Emmanuel Kipkoech Chebet, was arrested by police on 27th October, 1999. The suspect was subsequently charged with the offence of malicious damage to property contrary to Section 339 of the Penal Code. He pleaded guilty before the Senior Resident Magistrate's court in Eldoret and was fined Kshs2,000 or three months' imprisonment in default. He paid the fine.

Mr. Deputy Speaker, Sir, on 20th October, 1999, another suspect namely, Willy Kipruto, was arrested at Chebior. He was accused of removing beacons from Biwott Primary School. The following day on 30th October, 1999, Councillor Barnabas Kiplagat Chirchir of KANU was arrested by Criminal Investigating Department officers in Eldoret in connection with the same incident. The Councillor was allowed to confer with his lawyer, a Mr. Birir, before being placed in police cells. On 2nd October, 1999, the two suspects were arraigned before the Senior Principal Magistrate's court in Eldoret where they pleaded not guilty to the charges. The court released them on bond pending hearing of the case on 17th November, 1999. The police are looking for other suspects, who are still at large.

Mr. Deputy Speaker, Sir, it is not true that Messrs. Joseph Bore, Philip Kiprono, Abraham Yator, Thomas Kiprotich, Ezekiel Cheruiyot and Joseph Ruto had been arrested or harassed by the police as alleged. In fact, the said sixth person had been in the company of the hon. Member on 17th November, 1999, in Eldoret Town. Among them it is only Mr. Joseph Bore, who is being sought by the police since investigations indicate that he masterminded the removal of beacons at the primary school. The police are not unfairly harassing any one as alleged, but they are doing their duty as required by law.

Mr. Deputy Speaker, Sir, lastly, the District Commissioner (DC), the District Criminal Intelligence Officer (DCIO), and the Officer Commanding Police Division (OCPD) in Keiyo District are doing the job for which this Government has employed them. The allegations, on the contrary, and that they frequent Eldoret Club and Esso Petrol

Station to receive money from unnamed sources, is baseless.

Mrs. Seii: Mr. Deputy Speaker, Sir, I am glad that this issue has come up. The Assistant Minister is protecting the Provincial Administration officers who have been used to harass those people in Chebior. I went to the police station with six of the people who are being sought by the police. The Officer Commanding Station (OCS), who was then at the station, could not answer questions because he said that the issue was under investigation and that there are no beacons which were removed. I went to the place and saw there were no beacons which were removed at the school. The beacons which were allegedly removed were the ones in Kaptagat Forest which has been subdivided by hon. Nicholas Biwott for himself.

Mr. Deputy Speaker: Order! Hon. Seii, you just seek clarification from the Assistant Minister on what he has said.

Mrs. Seii: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to accept or deny that the beacons which were allegedly removed were supposed to have been within the Kaptagat Forest and not at Biwott Primary School?

Earlier on, I did say that the District Criminal Investigations Officer (DCIO), the District Commission (DC), Mr. Lelon, and the Officer Commanding Police Division (OCPD), Mr. Mbijiwe have been trailing me wherever I go. They tap the vehicle and trail me to my home and wherever I go. I would like to say that the Assistant Minister should not protect those administrators whose paymasters are "other people", and the Government. I want to demand protection because I am not safe in my own home area!

Mr. Deputy Speaker: Order! Mrs. Seii, I can understand the emotion with which you are approaching this matter. But our Standing Orders do require you merely to seek clarification from the Assistant Minister. If you want to debate that issue, bring a Motion and you will have all the opportunity to say what you have to say. But for the time being, seek clarification on what the Assistant Minister has said. If you feel that certain facts are inaccurate, point them out to the Assistant Minister, and ask him to clarify.

Mrs. Seii: Mr. Deputy Speaker, Sir, I would like to get an assurance from the Assistant Minister that, I will have protection in my home area. This was even in the newspapers. It was written that if I step in Keiyo South, my life will be at risk. The boys who are allegedly being sought, as the Assistant Minister has said, are at large. They are hiding from the police. They cannot work. Their families are harassed. I want to get an assurance from the Assistant Minister that, those people can return to their homes and continue with their normal jobs, without being harassed by Mr. Mbijiwe and Mr. Lelon. The DCIO, who went personally and picked them from their homes, did something very bad.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I would like to assure hon. Mrs. Seii that, this Government is willing and, indeed, is capable of giving her enough protection, as an hon. Member of this House, and as a Kenyan. I wish also to state that those people who claim to be harassed by the police, can go home and relax. I would like to assure them that, save for the people that I mentioned, who were involved in the heinous act of removing beacons from a primary school, I do not know with what intention, they should relax at home. But for the people who removed the beacons, we

will not stop until they face the full force of the law.

POINTS OF ORDER

LOCKING UP OF FOREIGN TOURISTS

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, on 27th April, this year, I stood here to demand two Ministerial Statements; one from the Minister for Tourism, Trade and Industry as to why the African Safari Club in Mombasa, locked up their foreign tourists in their hotel between 20th and 24th of April, 1999, while there were no insecurity incidents in Mombasa and surrounding national parks.

BROKEN SEWAGE IN WUNDANYI PRISON

The second one was on the broken sewerage in Wundanyi Prison. I demanded a Ministerial Statement from the Ministry of Home Affairs, Heritage and Sports, on the danger caused by human waste over-flowing from toilets at the Wundanyi Prison. The prison, which is over-crowded, has its toilets over-flowing and draining into River Wundanyi!

Mr. Deputy Speaker: Order! That is enough! We now know what you are talking about! Is the Minister

responsible in here?

The Assistant Minister for Tourism, Trade and Industry (Mr. ole Sankori): Mr. Deputy Speaker, Sir, this is the first time I am hearing about this. I promise to do the necessary investigations and report to the House next week.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I stand to raise two main issues. The first issue concern the Minister of State, Office of the President. Last week, the Minister, Maj. Madoka, did undertake to provide on Tuesday this week, a copy of a circular to every hon. Member, with regard to police brutality on hon. Members conducting meet-the-people tours without applying for permits.

Mr. Deputy Speaker: The copy of the circular that he had sent to the Provincial Administration and the police?

Dr. Ochuodho: Yes, Mr. Deputy Speaker, Sir. For those of us who have tasted police brutality, it is a very serious matter. Of course, the House is aware of what happened yesterday!

Mr. Deputy Speaker: Order, Dr. Ochuodho! The point you are making is that, the circular has not arrived. Could the Minister tell us why it has not arrived, and when it will arrive? No more stories!

ALLOCATION OF RURAL ELECTRIFICATION PROGRAMME PROJECTS

Dr. Ochuodho: Thank you. My second point is with regard to the Minister for Energy. Yesterday, he tabled a list that was earlier demanded by hon. Sambu and myself, with regard to the allocation of Rural Electrification Programme projects, on a district by district basis for the year 1998/99 and 1999/2000. The list that was tabled in the House yesterday has got a lot of discrepancies. One of them is Nakuru, which seem to have got a very big share. My understanding is that rural means rural areas, and Nakuru is a town! Going through the list of programmes that were funded under the Rural Electrification Programme, there are some projects in towns. However, I also have concerns, having gone through the entire list---

Mr. Deputy Speaker: Order! What do you want?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, my question is on: the inequitable distribution of---

Mr. Deputy Speaker: Order! Dr. Ochuodho, you asked me to give you an opportunity to ask the Minister a question about the current distribution of the Rural Electrification funds district by district. You should not stand up and analyse those figures! So, would you like to do that?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the list that we have here indicate projects that were done by the Rural Electrification Programme for the past ten or "God-knows" how many years! An example is what appears to be a project in Homa Bay. It was the last project in Homa Bay ten years ago! Could the Minister give us a proper list that was requested for? He should bring a list showing the projects that were funded by the Rural Electrification Programme funds, district by district, between the years, 1998 and 2000? The list that he has tabled is not right!

Mr. Deputy Speaker: Next Order!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the Minister wanted to reply! Maj. Madoka, where is the circular?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I do not know how the hon. Member read my mind! But I thought the circular had been re-distributed. I will make sure this is done within the coming week.

The Assistant Minister for Energy (Mr. Sasura): Mr. Deputy Speaker, Sir, following the issue raised by Dr. Ochuodho, I laid the list on the schedule of Rural Electrification Programme projects on the Table yesterday. It is not very clear what exactly Dr. Ochuodho wants. It is a list of the districts, the cost of the projects, the projects completed and the projects in progress.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, on this particular list, under Homa Bay District, there is Fala Coffee Factor. There is no such factory in Homa Bay District. However, I suspect he is talking of Fala in Rachuonyo District, which became a district on its own about five years ago. What I am saying is that, even within Karachuonyo Constituency, where I thought Fala Coffee Factory is situated, there is no coffee! This is a very old list. I also talked to the hon. Member for Kasipul-Kabondo, where I suspect the Assistant Minister could have been referring to Fala Coffee Factory. This factory had its electricity installed eight years ago. So, this list cannot be current. Basically, what the House wants is to know from the Ministry, how much money was spent on rural electrification on a district by district basis, in the 1998/99 and 1999/2000 Financial Years.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE FINANCE BILL

Clause 2

The Minister for Finance (Mr. Okemo): I beg to move:-

THAT, Clause 2 be amended by deleting paragraph (b) and substituting therefor the following new paragraph

(b) in subsection (2) -

(i) by inserting the following new paragraph at the end of paragraph (l) -

(iii) an additional duty of twenty per centum shall be payable in respect of all used refrigerators, air conditioners and similar equipment;

(ii) by inserting the following new paragraph immediately after paragraph (l) -

(m) radios and radio-cassette players or recorders shall be deemed to be unassembled when imported in Completely

Knocked-Down form and where, *inter alia* -

(i) the diodes, resistors, transistors and similar components are unmounted;

(ii) the printed circuit boards are unmounted;

(iii) the speaker or speakers are unmounted;

(iv) the knobs are unmounted;

(v) the casings are unassembled; and

(vi) the aerial is unmounted.

(Question of the amendment proposed)

Mr. Achola: Could the Minister explain to the House why he would like to impose a higher duty on second hand refrigerators and air-conditioning equipment when we are not manufacturing any within the country?

The Minister for Finance (Mr. Okemo): We are amending this section of the Bill by imposing additional duty, first for revenue reasons and secondly to discourage the importation of items which may have harmful effects on the consumer or the environment. It also protects the local assemblers of these particular items.

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

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

THAT, Clause 4 be amended by inserting the following new proviso to the proposed subsection -

Provided that where goods are entered before arrival at the port of discharge of the aircraft or vessel under subsection (3), the thirty days period shall run from the date the aircraft or vessel commences discharge.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

(Clauses 5, 6, 7, 8 and 9 agreed to)

Clause 10

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

THAT, Clause 10 be amended in the proposed section 127B -

(a) by deleting the words "without undue delay" appearing in subsection (5) and substituting therefore the words "within thirty days from the date of receipt";

(b) by deleting subsection (7) and substituting therefor the following new subsection -

(7) An importer may remove goods subject to an appraisal under this section from customs authority pending final determination of the value thereof by the proper officer or other person authorised by the Commissioner upon payment of a cash deposit equivalent to the assessed duty, and any excess thereof shall be refunded within thirty days from the date of final determination of duty payable.

(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 10 as amended agreed to)

(Clauses 11, 12, 13 and 14 agreed to)

Clause 15

The Minister for Finance (Mr. Okemo):

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

THAT, Clause 15 be amended in paragraph (b), by renumbering the proposed sub-paragraphs (iv) and (v) as sub-paragraphs (v) and (vi) respectively and inserting the following new sub-paragraphs -
(iv) by deleting the expression "1999" appearing in item 36 and inserting "2002".

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

(Clause 16 agreed to)

Clause 17

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

THAT, Clause 17 be amended, in the proposed Seventh Schedule, as follows-

- (a) in paragraph (1) (b) of Method 2, by renumbering sub-paragraphs (a) and (b) as subparagraphs (i) and (ii) respectively;
- (b) in paragraph (1) (b) of Method 3, by renumbering subparagraphs (a) and (b) as subparagraphs (i) and (ii) respectively;
- (c) in Appendix B, by renumbering paragraph (4) as paragraph (3);
- (d) in Appendix C, by inserting the word "if" immediately after the word "related".

(Question of the amendment proposed)

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

(Clause 17 as amended put and agreed to)

Clause 18

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

THAT, Clause 18 be deleted and replaced with the following new Clause -

Amendment of
the Eighth -
Schedule to
Cap. 472.

18. The Eighth Schedule to the Customs and Excise Act is amended

(a) in Part A, by inserting the following new paragraph -

12. Any goods certified by the Kenya Bureau of Standards as not meeting the standards set by that bureau or declared by a medical officer of health appointed under the Public Health Act, to be hazardous to health.

Cap. 242.

(b) in Part B, by inserting the following new paragraph -

10. Used motor vehicles, unless there is, in respect of each such vehicle, a certificate of roadworthiness from an officially recognised Government agent of the country of export.

(Question of the amendment proposed)

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, could the Minister assure the House that he is satisfied with the performance of the KBS? This is because we have seen second hand goods arriving at Mombasa, for example, motor vehicles which cannot move from the port of Mombasa even out into the shade and yet they have been certified by the KBS as being roadworthy. Are you satisfied that the KBS will be effective in ensuring this does not happen?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I think the KBS, given the resources they have, are trying to do a good job. However, obviously there is a lot that still needs to be done. They need to be empowered with resources. Alongside that, we also have the Pre-Shipment Inspection agencies (PSI). So, those two are doing their job and we have even got another body which is supervising all the pre-shipment agencies called SWIPCO. So, I think out of all these levels of supervision, we seem to be collecting as much revenue as possible, and also making sure that the quality of the vehicles that you have referred to is satisfactory. However, we want to tighten up on the question of issuance of certificates for motor vehicles.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I am worried that the Minister is now introducing another authority under the Public Health Act, who is a health officer. Does he not feel that there is going to be conflict of interests because we will have two authorities dealing with this matter? Would it not have been better if the authority was left with the KBS? The health officer could have worked under that authority instead of creating two authorities where you will have two Acts in conflict. **The Minister for Finance** (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I think, I see the two bodies at this point in time as being complementary until such time that, as I said, KBS has sufficient institutional capacity to deal with all the issues. At this point in time, KBS really does not have sufficient competence to deal with all these issues on its own. However, for now, I think they have to be complemented by efforts from other bodies.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I am not under any illusion that KBS has the competence in all other fields. However, I want to refer the Minister to the Food and Drugs administration in the United States and the KBS. Whereas there is complementarity, there is need for one single authority to be fully responsible and that other authorities come and work under that particular authority. I think the Minister would want to look at this particular proposal probably in the future. However, I think the way it was drafted originally was much more efficient in terms of operations than the way it has now been amended.

The Minister for Finance (Mr. Okemo): I have listened and heard your views. We will be able to incorporate them in the future.

*(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 18 as amended agreed to)

Clause 19

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause be amended as follows:

(a) in paragraph (b) of the proposed subsection (3) by inserting the words "subject to the approval of the Board of Directors of the Authority", immediately before the words "by notice in the Gazette".

(b) in the proposed subsection (3A), by deleting the words "may be agreed between the Commissioner and the person appointed" and inserting "may be approved by the Board of Directors of the Authority".

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, the Minister is deleting the words "by notice in

the Gazette" and inserting "Subject to the approval of the Board of Directors of the Authority". Does he mean the Kenya Revenue Authority or which authority is this?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, what we are actually doing is transferring powers from one person to the Board. Rather than having the Kenya Revenue executive boss doing it, we think that it should be done by the entire Kenya Revenue Authority Board.

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

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

(Clause 19 as amended agreed to)

*(Clauses 20, 21, 22, 23, 24, 25,
26, 27 and 28 agreed to)*

Clause 29

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, I beg move:

THAT, Clause 29 be amended by inserting the following new paragraphs immediately after paragraph (e) -

(f) in paragraph 16, by deleting the words "one million five hundred thousand shillings" and substituting therefor the words "three million shillings";

(g) in paragraph 17, by deleting the words "one million five hundred thousand shillings" and substituting therefor the words "three million shillings".

(Question of amendment proposed)

Mr. Obwocha: Mr. Chairman, Sir, could the Minister tell us the import of this substitution of "one million five hundred thousand shillings" with "three million shillings"? Also under section (g) of the same Clause, the same substitution is made, substituting the "three million shillings" for "one million five hundred thousand shillings". What is the import of this?

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, what we are doing is actually raising the limits of any establishment that is subject to VAT. What it means, is that, at the moment, if your business turnover in a year is Kshs1.5 million, you are liable for VAT. Now, we are saying that we increase that limit. Up to Kshs3 million, you do not have to be registered for VAT. That is the import of the substitution.

Mr. Obwocha: Mr. Chairman, Sir, is that not denying Government revenue?

The Minister for Finance (Mr. Okemo): If you look at the loss of revenue of versus the cost of administering the scheme, really, the loss is very minimal.

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

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

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

Clause 31

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, I beg to move:

THAT, Clause 31 be amended in paragraph (b)(iv) by deleting the expression "2000" and substituting therefor the expression "2002".

(Question of amendment proposed)

Mr. Obwocha: Mr. Chairman, Sir, the Minister has also proposed here that, we substitute the year "2000" by "2002". What does he exactly mean? This is because here, it is the acquisition of new passports, or is it something else? Could the Minister clarify that point?

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, it has absolutely nothing to do with passports; it has to do with electric generation equipment. We have done this because, there are current schemes which are in place and these are going to continue up to the year 2004. This covers Sondu Miriu and others. So, there is no sense in putting the cut off date to the year 2000, when we know that, up to the year 2002, they are going to be importing the equipment.

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

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

(Clause 31 as amended agreed to)

(Clauses 32, 33, 34, 35, 36, 37, 38, 39 and 40 agreed to)

Clause 41

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, I beg to move:

THAT, Clause 41 be amended in paragraph (b)(i), by deleting the expression "£5200" wherever it occurs and substituting therefor the expression "£5220".

(Question of amendment proposed)

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

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

(Clause 41 as amended agreed to)

(Clauses 42, 43 and 44 agreed to)

Clause 45

Mr. Obwocha: Mr. Chairman, Sir, I would like the Minister to clarify Clause 45, where he is deleting the words "permanent secretary" and substituting therefor with the word "collector". What does the Minister mean by the word "collector"? Collector of what? Is it collector of revenue, Income Tax or what?

The Minister for Finance (Mr. Okemo): Mr. Chairman, Sir, I mean the collector or income tax.

(Clauses 46, 47, 48, 49, 50, 51, 52, 53 and 54 agreed to)

(Clauses, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 agreed to)

Clause 68

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, you say you have an amendment which is not on the Order Paper?

Mr. Obwocha: It is not in the Order Paper. It cannot be accepted.

The Temporary Deputy Chairman (Mr. Imanyara): Well, there is nothing in the Standing Orders to prevent him. Mr. Minister, why do you not propose your question and then the objection can be raised?

New Clause

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I would like to introduce a new clause to be inserted after Clause 68 to raise the air passenger service charge payable to recoup the revenue that we have lost by removing visa fees.

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, I will refer you to Standing Order No.106(2). It says:

No amendment shall be moved to any part of a Bill by any Member other than the Member in charge of the Bill.”

So, the Minister being in charge of this Bill, is perfectly entitled to raise the amendment.

The Minister for Finance (Mr. Okemo): In fact, there is no reason for them to object, Mr. Temporary Deputy Chairman, Sir. If you look at page 389 of the Order Paper, you will see a new clause.

The Temporary Deputy Chairman (Mr. Imanyara): Go ahead, Mr. Minister.

New Clause

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

THAT, the following new Clause be inserted immediately after Clause 68 as follows -

Amendment of **68A.** The Air Passenger Service Charge Act is amended in section 3 section 3 of Cap. -
475.

(a) by deleting the word "twenty" appearing in subsection (1)(a) and substituting therefor the word "forty";

(b) by deleting the word "one" appearing in subsection (1)(b) and substituting therefor the word "two".

(c) by renumbering the existing provision as subsection (1) and inserting the following new subsection -

(2) The Minister may, by notice in the Gazette, from time to time vary the charges specified in this section.

The Temporary Deputy Chairman (Mr. Imanyara): We are talking about amendments to clauses but not introduction of new clauses.

The Minister for Finance (Mr. Okemo): I beg your pardon, Mr. Temporary Deputy Chairman, Sir.

(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 68 as amended agreed to)

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

Clause 81

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

THAT, Clause 81 be amended by:-

- (i) deleting paragraph (a);
- (ii) deleting the expression "(b)".

(Question of the amendment proposed)

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, could the Minister explain the rationale in starting these amendments which was originally part "b"? Could he just tell us why a nominee has to indicate who is the actual owner of any specific share? Why does he want that one to be stated?

The Minister for Finance (Mr. Okemo): We are talking about associates and associates of associates. What we are saying is that, that is really carrying the relationship too far and it causes a constraint on ownership and entrepreneurship of the local people. What it means is that, if your wife is a shareholder in a bank, then her associate who could be a friend or a relative cannot be also a shareholder in the same bank. So, I think we have carried the definition of ownership too far. We have extended the relationship too limiting in terms of the shareholding. So, we are saying that, we end at the ownership and immediate relatives of the shareholder.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, I have no quarrel with that one which you have just deleted, my quarrel is with the next one, "(b)". If you just read it that: "Where any share is held by a company or by a nominee on behalf of another person, the company or nominee as the case maybe, shall disclose---" What is the rationale? Why do they need to?

The Minister for Finance (Mr. Okemo): Why would you have a nominee? You have a nominee because you would not want your own identity known. This is pure international banking practice. It is not unique to Kenya.

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

(Clause 81 as amended agreed to)

(Clauses 82, 83, 84 and 85 agreed to)

Clause 86

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

THAT, Clause 86 be deleted.

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, this provision was very, very important. If you read it very carefully, it says that:-

"Notwithstanding the provisions of this section, upon request made in the ordinary course of business, the Central Bank may disclose any of the information referred to in subsection (2) to any monetary authority or financial regulatory authority within or outside Kenya where such information is reasonably required for the proper discharge of the functions of the requesting monetary authority or financial regulatory authority."

Mr. Temporary Deputy Chairman, Sir, this is very important. Why does the Minister want this to be deleted? He must be hiding something.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I am hiding nothing I have a number of reasons. The first one being that, right now the exchange of information between monetary authorities is actually taking place. Today, the Central Bank obtains information from the banks and actually shares it with the IMF, the World Bank and with other banks. In the event of wanting to share information with other monetary authorities, then there should be reciprocal arrangements. For example, why should we divulge information to Uganda or Tanzania, if they are not having similar provisions in their Banking Act? I have checked and found out that they do not exist. If there are special arrangements, for example, at the moment, there are initiatives for this anti-money laundering by the World Bank and a number of southern African countries are part of this initiative. After the exercise is done and completed, there will be a protocol and that protocol will provide for reciprocity. At the moment, actually it is a superfluous requirement in the Banking A

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, while the explanation may be genuine, then there should be a proviso saying: "Provided that, that country or banking institution gives the same information in the Act." So, there should be a proviso rather than deleting the whole requirement.

Mr. Keriri: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Minister is trying to make things difficult for himself. He is trying to deny himself the discretion of doing something, because this clause says "may disclose". Now, what is wrong with the Minister having the words "may disclose"? He is not being told: "You shall disclose" to anybody. He can refuse to do it. However, since the clause says "you may disclose", it gives him the discretion to deny that information to those people he is talking about, or to give it to people who are friendly to him in reciprocity. If we delete this clause, it will mean that if the Minister happens to have friends whom he wishes to disclose the information to, he will have to come to Parliament to amend the Bill again. Why would he have to do that?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, I think the particular clause is not referring to the Minister for Finance; it is referring to the Central Bank of Kenya (CBK). I am saying that, at the moment, the CBK has the power to get the information it wants. In fact, it gets that information and shares it with other institutions as it is. So, the Act is superfluous.

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

(Clause 86 as amended agreed to)

*(Clauses 87, 88 and 89 agreed
Clause 90)*

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

THAT, Clause 90 be amended in the proposed Second Schedule -

(i) by deleting the expression "1";

(ii) by deleting the proviso and substituting therefor the following new proviso-

"Provided that the provisions of paragraphs (d) and (e) shall apply in accordance with the following table -

Minimum Core Capital

*Compliance date Banks and Mortgage Financial
Finance Companies Institutions
(Kshs. Million) (Kshs. Million)*

31st December, 1999 200150.00
31st December, 2000 250187.50
31st December, 2001 300225.00
31st December, 2002 350262.50
31st December, 2003 400300.00
31st December, 2004 450337.50
31st December, 2005 500375.00

(iii) by deleting paragraph 2.

(Question of the amendment proposed)

Mr. Ochola: Mr. Temporary Deputy Chairman, Sir. Could the Minister, kindly, explain to us the import of the suggested amendment?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, what happened is that, in the original Bill, we were increasing the core capital of banks and non-banking financial institutions, from Kshs200 million to Kshs500 million and Kshs150 million to Kshs375 million respectively, within three years. We feel that, that is not fair, particularly, to the small indigenous banks. So, we want to encourage our indigenous banks to grow slowly. We will reach those limits, but we are increasing the time from three years. We would like this to be done over a six year period.

Mr. Obwocha: Mr. Temporary Deputy Chairman. This is still grossly unfair. You can see that for a period of five years, they would have more than doubled the core capital. Starting from the year 1999 and going to the year 2005, is six years. I do not think that, that kind of growth is achievable. Unless the Minister promises that he is going to review this in the next Budget; I do not think that this is achievable.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, in fact, if we were to introduce strict banking rules, we would like to be part of the international banking system. If you even look at that capital base, you will realise that it is very small, particularly if you convert the figure into US Dollars. You see, the local banks must have corresponding arrangements with international banks. To do that, they always look at the capital base as one of the criteria. So, we may remain small forever; that is why we must give ourselves room to expand to a level where we can fit into the international banking system. So, I think those limits area reasonable. In fact, we may have to review them as soon as the economy begins to boom or grow.

(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 90 as amended agreed to)

(Clause 91 agreed to)

Clause

9

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

THAT, Clause 92 be deleted and replaced with the following new Clause -

Amendment of **92.** Section 6 of the Building Societies Act is amended by deleting section 6 of Cap. subsection (5) and substituting therefor the following new subsection - 489.

(5) Subject to this Act, no building society shall carry on business in Kenya unless the persons forming the building society under subsection (1) have raised, by subscription, minimum shares as follows -

- (a) by the 31st December, 2000, shares worth fifty million shillings;
- (b) by the 31st December, 2001, shares worth one hundred million shillings;
- (c) by the 31st December, 2002, shares worth one hundred and fifty million shillings.

(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 92 as amended agreed to)

(Clauses 93 agreed to)

Clause 94

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

THAT, Clause 94 be deleted and replaced with the following new clause -

Amendment of section 22 of subsection (2) and substituting therefor the following new subsection -
Cap. 489. **94.** The Building Societies Act is amended in section 22, by deleting
(2) A building society shall, at all times maintain a ratio of not less than eight per cent between its core capital and its total deposit liabilities.

(Question of the amendment proposed)

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, there is a proposal here by the Minister that a building society shall, at all times, maintain a ratio of not less than 80 per cent---

Hon. Members: It is eight per cent, and not 80 per cent.

Mr. Obwocha: Mr. Temporary Chairman, Sir, I am sorry; I misread that proposal.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I also have a proposal for an amendment, which will be coming later on this particular clause. So, I would like to seek the Chair's guidance that---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Raila, this is the convenient time to actually introduce your proposal. Now, since the Minister has moved his amendment, can we dispose of it first and then we come to your proposal?

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, the Minister's proposal seeks to bring in a completely new clause. However, mine is just amending the original text of this clause by merely substituting the words "total assets" for "most".

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Raila, what I am suggesting is that we dispose of the Minister's proposed amendment first, and then we deal with yours straightaway.

Mr. Raila: No, no, no. We should include my amendment, because---

The Temporary Deputy Chairman (Mr. Imanyara): So, would you like to, first, make a contribution to the Minister's amendment?

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I want the Minister to actually buy my amendment.

The Temporary Deputy Chairman (Mr. Imanyara): But you have given notice of your intention to move that amendment, and we are going to come to it. So, let us dispose of the Minister's amendment first, then we will come to yours.

Mr. Raila: On a point of order, Mr. Temporary Deputy Chairman, Sir. The Minister's proposed amendment completely involves re-wording the clause. So, my amendment will be completely out of place if we dispose of the Minister's amendment first.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Raila, this is a matter of procedure.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think the right procedure is that we pass the Minister's proposed amendment first, in which case we will have passed his original amendment. However, if hon. Raila is further proposing to amend what we will already have amended, that will be okay.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, if you look at the Bill, the text has now completely changed. The word "mortgage" is not even there. The word "mortgage" which has been replaced with the phrase "total assets" is not included in this new text.

The Temporary Deputy Chairman (Mr. Imanyara): Are you reading the proposed amendment or the original clause?

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, you will find that the original Clause 94, if you look at Sub-Clause 2, had the word "mortgage" which will not be more than twelve-and-a-half times the core capital. But the new clause does not have the word "mortgage" at all. I was trying to suggest that, if the procedure allows, we go back to the original text, and that the Minister agrees to my amendment.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I think one needs to understand what we are trying to get at. Both the original and the amended clause is intended to reduce exposure. That is important because people are losing a lot of money in financial institutions. By using this new formula, we are trying to reduce the risk of depositors' money. When the lending is long term, the risk is even higher even though it maybe covered by fixed assets. So, the idea of changing it was essentially meant to reduce the risk to the depositors. I think that was the objective. Now, you can word it in whichever way. I do not know whether that is the objective of hon. Raila.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, basically, my objective is to try to give the building societies the possibility to provide the services which they are established; that is to lend money to people to construct houses. The current restriction to just mortgage deposits, restricts them completely and that is why we are saying that we are concerned with security. That is why I am talking about the total assets as opposed to---

The Temporary Deputy Chairman (Mr. Imanyara): Order! Hon. Raila, what is the problem with dealing with the Minister's amendment first and then coming to yours? If we pass the Minister's amendment before coming to yours, because we are not yet debating yours, how will it affect your proposed amendment? This is because we have to deal with the one which is before us.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, the original text reads as follows:-

"The total amount so received on deposit or loans and not repaid by the society shall not, at any time, exceed two thirds of the amount for the time being secured to the society by mortgages from its members and shall, at all times, be not more than twelve-and-a-half times the core capital."

The new amendment says---

The Temporary Deputy Chairman (Mr. Imanyara): The Minister wants that to go.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I was trying to amend that one by replacing the words "by mortgages" with "total assets". If that is now replaced by this one here, then my amendment becomes completely misplaced.

The Temporary Deputy Chairman (Mr. Imanyara): Yes, I see the point, but we have to deal with the one before us first.

Mr. Raila: It is procedural because---

(Inaudible)

It will not!

The Temporary Deputy Chairman (Mr. Imanyara): This is because once we pass this one, then yours will be untenable.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, it will be completely out of place.

The Temporary Deputy Chairman (Mr. Imanyara): On the other hand, we must dispose of the one which is before us.

Mr. Raila: Temporary Deputy Chairman, Sir, as a matter of procedure, how---

The Temporary Deputy Chairman (Mr. Imanyara): I have to put the question then.

(Mr. Keriri stood up in his place)

Does somebody want to contribute? Mr. Keriri, what do you have to say?

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, it is a matter of procedure. If we continue with the Minister's amendment and pass it then hon. Raila's proposed amendment---

An hon. Member: Then it will be irrelevant!

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, it will not be irrelevant. Hon. Raila can rise and propose his amendment to the other amendment, and delete it if he succeeds.

The Temporary Deputy Chairman (Mr. Imanyara): He has given notice of his proposed amendment.

Mr. Keriri: Yes, he has given notice to his proposed amendment and the Minister has also done the same thing. So, we must deal with both of them.

The Temporary Deputy Chairman (Mr. Imanyara): Right now, we are dealing with the Minister's proposed amendment. Mr. Raila's point is that, if we deal with this and delete the original text then the intention he had will be destroyed.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, it will not be destroyed because all it will do is to delete the Minister's amendment.

An hon. Member: That is the correct procedure!

The Temporary Deputy Chairman (Mr. Imanyara): On procedure, we must deal with the matter before us.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I want to make a suggestion. The Minister can actually withdraw his amendment, so that I can move mine.

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Raila, I am sorry, I have to put the question.

(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 94 as amended agreed to)

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

THAT, Clause 94 as amended be amended in Section 22, by deleting the word "mortgages" and substituting it with the words "total assets" in place thereof.

The purpose of doing this is to enable the building societies to adequately provide services to which they are established. The real intention here is to secure whatever deposits are taken by the building societies and also the loans that are given.

The Temporary Deputy Chairman (Mr. Imanyara): As a matter of procedure, let us just get this matter correct. What you are proposing that we amend is what the Minister has replaced with the original clause that is the New Clause No.94. That is the only clause that you can ask us to amend.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, but that is what I am saying.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Raila, if you look at the new clause and amend it with your proposal, it does not quite fit in.

An hon. Member: Amend the amended clause!

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Raila, there is no word "mortgages" in the amended section. So, you will have some difficulty there.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I am proposing that the phrase "not less than eight per cent between its core capital and its total deposit liabilities" be changed to "not more than 12-and-half times the core capital." This was contained in the original draft.

The Temporary Deputy Chairman (Mr. Imanyara): We do not have the original draft. Do you want to delete "eight"?

Mr. Raila: I want to delete "eight" and replace it with "12 and a half times the core capital."

(Question of the amendment to the amended clause proposed)

The Minister for Finance (Mr. Okemo): I think I said, at the beginning, that we have to understand what we are doing. We have just passed an earlier clause for commercial banks which is eight per cent. Commercial banks deal in more active banking than the building societies which, basically, deal in fixed assets and the lending is long term. Therefore, the risks are bigger. If we have already agreed on this, it is illogical to agree on eight per cent for commercial banks and increase it for building societies. We are trying to protect the depositor; that person who is putting money into the building society, which, in turn, the building societies are lending for mortgage. Are we trying to say that we want to risk mwananchi's money to those ambitious owners of building societies who merely want to lend because they want to make money? That is really the import of hon. Raila's amendment.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, the risk is both ways. It is even the building societies who are lending the money. It is their money and also the depositors' money. Initially, my original proposal was to take the total assets of the building societies, because we were talking about security. The risk is long term and it is not just one sided. It is on both sides. We should not restrict the building societies from providing the services for which they are established. That is why I am trying to substitute this. The purpose of this is very noble, and I would invite the Minister to agree and accept it.

Mr. Keriri: I think we need to be very clear about what we are trying to do. It is what we are trying to do that we want to achieve. There are two issues here; one is to allow the building societies to take as much deposits as they can without any restrictions at all. Then, they take all the deposits, but their core capital is so small that those deposits are unproportional to their ability to satisfy the depositors. Let us look at the two proposals. The Minister is trying to protect the depositors who put money like the way we put money into the Prudential Bank. When it collapsed it could not meet customers' deposits. So, the customers lost them. The Minister is trying to say that we want as much money as we want to satisfy customers. Take the deposits, but they must be limited to the extent you can honour them. Hon. Raila's proposal is 12-and-half times, which means that you can take a deposit of 12-and-half times the core capital, which is actually the opposite of what the Minister is trying to say. Which one do we want? I think the Members ought to understand which one they want before they decide on this. Do we want the building societies to take too much money from depositors, and at the end be unable to pay that money, or do we want to restrict them so that they can do what the Minister is trying to do?

The Minister for Finance (Mr. Okemo): I just wanted to add that hon. Keriri has got the gist of what I am attempting to explain. The way he has explained it is exactly what I have in mind.

Mr. Raila: I want to be properly understood here. We are all very concerned about the depositors and the risks to which they are exposed. We have had very bad practice with the experience with the "cowboy banks." That should not act as a deterrent. We need to set up laws that will deal with "cowboy banks". Let us look at the commercial practices in other countries. What I am proposing is very normal, and that is the reason why I originally tied it to the total assets of the building societies. If the Minister had accepted my original proposal, then the point by hon. Keriri would not arise. Apart from the mortgages, those building societies have assets. For example, Fedha Towers, which is owned by the East African Building Society, is an asset. There is no reason why you should deny them the right to use it as a collateral for whatever they are lending out.

The intention here is to let the building societies be able to lend more to the people, and not basically just to take money from the people and expose them to risks.

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

(Clauses 95, 96, 97 and 98 agreed to)

Clause 99

THAT, Clause 99 be deleted and replaced by the following new Clause -

Insertion of **99.** The Building Societies Act is amended by inserting the section 63D in following new section immediately after section C - Cap. 489.

Powers upon
audit or
inspection
report.

63(D)(1). Where an auditor's report under section 15 or an inspection report under this Part reveals that a building society conducts its business in a manner contrary to the provisions of this Act or of any regulations made thereunder, or in any manner detrimental to or not in the best interests of its members, depositors or members of the public, the Central Bank may-

(i) restrict, suspend or prohibit the payment of dividends by the building society;

(ii) prohibit the conversion of any profits of the building society into capital;

(iii) direct the suspension or removal of any officer involved in such conduct from the service of the building society;

(iv) require the building society to reconstitute its board of directors in accordance with the criteria set out by the Central Bank; or

(v) withhold branch or other corporate approvals with respect to such building society.

The Temporary Deputy Chairman (Mr. Imanyara): You do not want to give a summary of what this is all about, Mr. Minister?

The Minister for Finance (Mr. Okemo): Basically it is an omission we are trying to put back. Clause 63C was omitted by mistake. So, we are putting it in, which, therefore, means that the next one would have to be 63D.

(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 99 as amended agreed to)

(Clauses 100, 101, 102 and 103 agreed to)

Clause 104

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 104 be deleted.

Mr. Temporary Deputy Chairman, Sir, the reason why I want this clause to be deleted is that the Minister for Tourism brought a subsidiary legislation which cannot supersede the substantive legislation. The Minister wants the functions of the Catering Levy Trustees (CLT) transferred to KRA. You will agree with me that the CLT was established under an Act of Parliament. If the Minister wants to transfer its functions, he cannot do so through a notice in the Kenya Gazette. He should bring an amendment to the Act, so that Parliament gives an okay that functions of the CLT be transferred to KRA. Therefore, what we are saying is that there is no way that functions of the CLT will be transferred to KRA. This is because both parastatals were established under different Acts of Parliament. So, there is no way functions of one parastatal can be performed by another parastatal. The Minister is arguing that they will save some money. What we are saying is, let him give the CLT time to restructure itself, instead of transferring its functions to KRA.

Mr. Temporary Deputy Chairman, Sir, in any case, we have minutes which show that once the functions of the CLT are transferred to KRA, the staff of the CLT will be retrenched because KRA will not absorb them. So, I am requesting the Minister to let the functions of the CLT remain as before. Let us give them time to restructure themselves, just as we have done with other parastatals.

In any case, Mr. Temporary Deputy Chairman, Sir, rumour has it that the former Minister for Tourism was an interested party.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Ojode, we want facts. We do not want to talk about rumours in this House.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, what I am saying is that the former Minister for Tourism is known to have run down a number of parastatals within his docket. It was said that the former Minister wanted to buy Utalii College. You know a rumour in Kenya becomes true---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Ojode, keep rumours out of this House!

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, you know very well that the Kenya National Assurance Company was run down by the same Minister. He also wanted to buy Kenya Utalii College. So, I am pleading with the Minister to give the CLT enough time to reorganise itself. In any case, there is a subsidiary legislation which altered the functions of the CLT. There is no way that we will impose a penalty on a person who fails to pay the levy, because we do not have the Act.

Mr. Temporary Deputy Chairman, Sir, KRA was established to collect taxes. At the same time, the CLT was set up, and one of its duties was to collect levy, which they used in their day-to-day activities.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Ojode, you have made an appeal to the Minister, and I think he has heard your sentiments.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, the Minister should consider the plight of the 384 employees of the CLT. Why should this Government retrench those employees and yet, there are so many people who

can do this other job?

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

(Question of the amendment proposed)

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, in fact, we had very extensive discussions with the hon. Ojode on this issue. I understand what his fears are. I tried to allay those fears, but I do not think he was convinced. The decision to introduce this clause on the transfer of functions of the CLT to KRA was made purely on economic grounds. Today, KRA is the most efficient arm of the Government for collection of revenue. In fact, it is not only the revenue collection function of the CLT that we are proposing to be transferred to KRA, but we have also proposed that the stamp duty, which is currently being collected by the Ministry of Lands and Settlement, be transferred to KRA. We also have proposed that the levy collected by the Civil Aviation Board should be transferred to KRA. This is because the cost of collection and administration of KRA is 1.5 per cent. That means, for every Kshs100 they collect, it costs them Kshs1.50. In the case of the CLT, I explained to my brother, hon. Ojode, that it costs them 25 per cent. That is, for every Kshs100, they collect, it cost them 25 per cent. So, we said, really, that extra Ksh23.50 could be used to provide services and promote the tourism industry in this country. In fact, KRA will collect that money and deposit it in a designated special account, because they cannot take it to the Exchequer. This money will be available to the CLT. So, they will actual have more money than when they collect the levy. So, what we are saying, and what I tried to convince my brother, hon. Ojode, was that, because of these savings and inefficiencies in collection, let this money be collected by KRA. They will give it to the CLT, who will use it to fulfil their other mandates. In addition to that, whatever is in excess, will go towards promotion of the tourism industry in this country.

Secondly, Mr. Temporary Deputy Chairman, Sir, I do not think the hon. Member should worry about the question of retrenchment. It is too early to say that. This is because the overall retrenchment exercise is an on-going one. For the time being, the CLT have other mandates, besides just collecting levy. They are also supposed to supervise and look after the training in tourism, examinations and promotion of tourism. Those are all their mandates. What we are saying is that, even in the event that there is need to retrench, we would like to make sure that the minimum number of people would have to lose their jobs. Some of them would have to be transferred to KRA to augment its activities. So, what I am really saying is that the decision to transfer functions of the CLT was purely on economic and efficiency grounds.

The Temporary Deputy Chairman (Mr. Imanyara): Very well, Mr. Minister!

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, that is a very important matter and, unfortunately, the Minister is not becoming a gentleman. We have had extensive consultations, even with him. There are legal intricacies about the transfer of these functions from the Catering Levy Trustees (CLT) to the Kenya Revenue Authority (KRA). And some of the laws were passed by this Parliament and we had agreed that we should accede to the amendments proposed by hon. Ojode so that the Minister could have one year; that is, this year, to look at the whole issue. So, now, for him to turn around and say that it is impossible to do that, I think that is unfair. Mr. Minister, we are appealing to you to look at the legislation; there are very many areas which are grey. If you could look at this one, including these people who are going to lose their jobs--- And when you come up with a Budget, even if you come up with this, you would have sorted the legal implications in that. I am appealing to the Minister not to change his mind.

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, I would also request the Minister not to change his mind, because we had agreed that he is going to delete that and he can bring it back next year. I wanted to say something about the savings. The Minister knows very well that KRA is being subsidised by the Government, which is not being done to the CLT. And in any case, why should we bring a legislation through a back-door? Subsidiary legislation cannot be accepted when substantive legislation is the one which should have removed all the functions from the CLT and transferred them to KRA. What is the hurry? I had already agreed with him that we go and restructure CLT and, then later on, by June, come up with this legislation so that we can transfer the functions. As I am talking, there are no assets left for CLT. They have all been sold.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I think that in the spirit of understanding and because I have been told to behave like a gentleman, and I know that I am one, I will live up to that. I think that we can postpone this particular one and go according to the Members' proposal so that we have time to look internally at it.

Mr. Obwocha: Mr. Temporary Deputy Chairman, Sir, having agreed on that, I want to thank him, but there is an amendment that he has proposed to Clause 104(a), which we want to agree to. So, it will be deleting the whole of that and introducing Clause 104(a). I mean that is technical.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I am in agreement with the

whole proposal up to the stage of Clause 104(a).

Hon. Members: Where is it?

Mr. Obwocha: It is on page 410. I am saying that the original Clause 104 is deleted wholly, but introduce Clause 104A which we agree to.

*(Question, that Clause 104 be
deleted, put and agreed to)*

Clause 106

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

THAT, Clause 106 be amended by deleting item "7. The Hotels and Restaurants Act, (Cap. 494)."

(Question of the amendment proposed)

Mr. Ojode: Mr. Temporary Deputy Chairman, Sir, this is another related sub-clause to Clause 104. So, it is basically the same thing. So, we had agreed on that. It is about the Hotels and Restaurants Act.

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

(Clause 106 as amended agreed to)

(Clauses 107 and 108 agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Now, we will go to the new clauses, on page 409. I will just remind you what the Standing Orders say with regard to new clauses. The Standing Order No.106, Sub-order 7, states as follows:-

"On any Motion being made for the addition of a new clause, the same shall be deemed to have been read a First Time and the question shall then be proposed "That, the clause be read a Second Time."

If this is agreed, amendments may then be proposed to the new clause. The final question to be proposed shall be "That, the Clause (as amended) be added to the Bil

New Clause

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

THAT, a new Clause be inserted immediately before clause 19 as follows -

Amendment of section 2 of Cap. 476. **18A.** Section 2 of the Value Added Tax Act is amended by inserting the following new definition in its proper alphabetical sequence -

No. 2 of 1995. "Authority" means the Kenya Revenue Authority established by the Kenya Revenue Authority Act";

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause

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

THAT, the following new Clause be inserted immediately after Clause 68 as follows -

Amendment of section 3 of Cap. 475. **68A.** The Air Passenger Service Charge Act is amended in section 3 -

- (a) by deleting the word "twenty" appearing in subsection (1)(a) and substituting therefor the word "forty";
- (b) by deleting the word "one" appearing in subsection (1)(b) and substituting therefor the word "two".
- (c) by renumbering the existing provision as subsection (1) and inserting the following new subsection -

(2) The Minister may, by notice in the Gazette, from time to time vary the charges specified in this section.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, could the Minister explain why he is trying to raise the Airport Tax from US\$20 to US\$40?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, there has been a lot of debate and criticism regarding the removal of visa fees which we were charging before and then we removed them. And we felt that the least sensitive form of raising the same revenue is to tax basically the same people, but in a different way. That is really the import of the thing, because we could introduce visa fees and charge at US\$20. So, we have said that if you put it on the Airport Tax, then, the effect will be the same, because if you look at most of the travellers who are coming as tourists, their tickets will be costing them US\$1,000 or more. So, an extra US\$20 is not going to make a difference. But we will end up with the same revenue which we had actually lost in the removal of visa fees.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I would like to differ with the Minister because many countries have actually removed Airport Tax. The countries that are still levying it are regarded as primitive. I was recently in Tokyo, and I talked with Japanese authorities and Kenyan officials who are in Tokyo. They complained that they have now been denied a very big source of revenue, and the Japanese would like to pay visa fees to come to Kenya. Many tourists would like to pay visa fees, because visa is a sign of security; that you know if you are travelling, you are not going to be harassed. Instead of the Government re-introducing Airport Tax, which was actually a hassle at the airport, the Government should look into ways and means of re-introducing visas. Why should Kenyans allow people to come to their country for free, when all Kenyans are being subjected to visa requirements in other countries?

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I would like to appeal to the Minister to understand that, the fact that the Kenya Government has made an announcement to cancel the visa requirements for certain people travelling from particular countries to Kenya, does not, in fact, stop us from reverting back to the previous visa requirement and giving an explanation. If this is taxed through the ticket, it makes it even worse. It is even going to affect the residents of this country. I think the Minister is under-estimating the wisdom of those who were paying for visas before, by saying that, doing it this way, they are not going to discover they are being charged the same thing. Let us have the courage and do the right thing.

As hon. Raila has said, the other day, we just came back from Japan, which is one of the countries for which we have abolished the visa requirement. We talked to our embassy staff and they told us that this was income that, in fact, was helping us to pay rent for the building in which they are operating from. They were paying 30 per cent of the rent from visas, and now they are having difficulties. They are now asking the Minister to pay rent. The Japanese are not against paying for visas. In any case, those who come here for more than 30 days pay for visas and they do not complain. There is not going to be much of a difference between a Japanese coming here for 30 days and another one coming here for 32 days. So, I would like to appeal to the Minister to understand that this is neither changing the situation, nor helping us. We are getting more, but in the wrong way. We should revert to the visa procedure, which has no complications and does not affect anybody.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, basically, we are saying the same thing. We are not saying that we shall charge and call it visa fees. As far as the Government is concerned, it is a question of revenue. So, you can charge revenue one way or the other. Now, this has been done with consultations with the Kenya Tourist Board, the Kenya Tourist Federation, and all the tourist bodies. In fact, it is a product of their own suggestions. They have told us that they have gone out to those markets, and the message that visas were removed or were not being paid for, was received positively, and they feel it is too soon to go back again with a contradictory message by, introducing them, because we want revenue.

If we charge an extra US\$20 to a traveller who is coming, first of all, that money is going to be collected by the Kenya Airports Authority, and it is money that is actually going to be specifically designated for our foreign missions. It is not coming to the Exchequer. It is specific to replace the revenue that was coming from the visas. Of course, we have already lost a lot of revenue from the time we made the decision that we were not going to charge for visas. So, in order to make up for that, some little extra revenue will be coming out of travellers who may not necessarily be called tourists. To me, we actually end up achieving our objectives, but in a more efficient and effective way.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Chairman, Sir, I am in sympathy with the Minister, though he wants to charge and get revenue. Let me give a practical example. Every

weekend I travel to Mombasa, I pay US\$20 going and US\$20 coming back. If this is increased to US\$40, it means I will pay Kshs3,000 on top of my ticket going to Mombasa and another Kshs3,000 coming back. That is Kshs6,000 on top of my air ticket, every weekend. I would like to appeal to the Minister to look for other ways because that is the practical effect of this. I appreciate that he needs the money, but I am appealing to him that we leave it at US\$20. It is wrong to raise it at this time. He is my good friend, and I would like to appeal to him to leave it at the US\$20. We should go back to the drawing board so that we can find something else. Let us think with him on this matter.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, the point made by hon. Keah is very important. One other point I would like the Minister to understand is that, this is not a replacement of visa revenue, because if a Canadian wants to come to Kenya and buys a ticket in Canada, then he travels and goes back with the same ticket; and he is probably given diplomatic facilities just to pass through the airport, so, we would not get that money. So, I think he should rethink and bring back the visa requirement.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I do not know whether I am being understood. First of all, hon. Keah has got the whole thing upside down. He is talking of Kshs6,000 for local travel, but that is not what we are saying. First, the US\$20 does not apply to local travellers. Secondly, we are not saying that we will not give the visas. The visas will be given at the airport on production of a ticket. So, really, either it is on the passport or the ticket. What is the big substantial difference? It is either you have it on the passport, because that is where the visa will be shown, or it is shown in the ticket. The net effect is the same. If anything, at the moment we pay US\$20, anyway, as Airport Tax. So, let us forget and say that it is not visa fees. Let us say that we are increasing Airport Tax from US\$20 to US\$40 for international travel. It does not apply to hon. Achola travelling from here to Kisumu or Mombasa.

Mr. Achola: Mr. Temporary Deputy Chairman, Sir, while I do agree with what the Minister is saying, would it be possible to specify that this charge will be on non-residents? If you are looking at that aspect of visas, then you will be achieving the same thing by saying non-residents will pay this additional US\$20.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, the only problem with that is that there will be leakages because when you go to purchase an air ticket, it is an automatic thing. That is what is happening today. As soon as you purchase your ticket, you will be paying the Airport Tax at the same time. Now if you begin to talk of residents and non-residents, then there will be a problem.

Mr. Ojode: Mr. Temporary Deputy Chairman, the Minister is saying that this 40 per cent is called "Visa Tax". It is Airport Tax, but it is meant for the visa. Kenyans do not require visas to enter their own country. So, the only thing is that non-Kenyans are the people who are supposed to be charged this amount.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, even more important is that most foreign travellers who come to this country buy their tickets outside Kenya where they are not required to pay the US\$20 anyway. So, it will only be Kenyans who will pay this tax. So, why should we force Kenyans to pay an extra US\$40 on top of their air tickets, particularly Kenyan students who are going to study abroad?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, hon Raila is aware that as soon as he is at the airport, he pays US\$20.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, I think both sides have heard you.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, the foreign counters at the airport are closed. These days we have nobody at the airport. So, it is only Kenyans who will be subjected to this tax. I am saying that the foreigners buy their air tickets outside the country where they do not pay the US\$20.

The Temporary Deputy Chairman (Imanyara): Very well, Mr. Minister; I think you have heard the point that has been made by the both sides.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, actually, the payment of this Airport Tax will be done on the basis of the manifest which each airline has to give to the Kenya Airports Authority. So, it is a simple thing, and that is what happening today.

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

(The new clause was a read a Second Time)

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

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

THAT, a new clause be inserted immediately after Clause 72 as follows -

Amendment of section 46 of Cap. 487. **72A.** Section 46 of the Insurance Act is amended in subsection (5) by deleting the word "twenty" and inserting the word "thirty".

(Question of the new Clause proposed)

(New clause read the First Time)

(Question, that the new Clause be read a second Time, proposed)

(Question, that the new clause be a read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause

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

THAT, a new Clause be inserted immediately after Clause 104 as follows -

Amendment of the Second Schedule to Cap. 517. **104A.** The Second Schedule to Export Processing Zones Act is amended by deleting item 2 and substituting therefor the following new item -

2. Fuel (excluding fuel oil which is exclusively and physically expended as raw material for the manufacture of bitumen, in such quantities as the Commissioner may, from time to time, approve).

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause

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

THAT, a new Clause be inserted immediately after Clause 105A as follows -

Insertion of new Section 24 in No. 2 of 1995. **105B.** The Kenya Revenue Authority Act is amended by inserting the following new section immediately after section 23 -

Penalty for failure to remit taxes.

24.(1) Any person required to deduct or collect any revenue pursuant to the provisions of any of the written laws specified in the First Schedule shall collect or deduct such revenue and remit it to the Authority by the due date.

(2) If any person fails to remit any revenue in accordance with subsection (1) on or before the due date, a penalty of twenty percent of the amount due shall become due and payable, and thereafter an interest of three percent per month or part thereof until the amounts are remitted in full.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I beg to move the following new clause:-

THAT, Section 2 of the Retirement Benefits Act, 1997 be amended by deleting the definition of Actuary and substitute with the following:-

Section 2 of - "Actuary means a person recognised as such by the Part I Definition Institute of Actuaries in England, or the Faculty of of "Actuary" Actuaries in Scotland, or the Canadian Institute of Actuaries, or the Society of Actuaries of the United States of America, or the Institute of Actuaries of Japan or the Institute of Actuaries of Australia or a person holding such equivalent qualification as the Board may, by notice in the Gazette, prescribe".

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

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

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

(First Schedule agreed to)

Second Schedule

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

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended by -

(i) deleting all references to tariff number 1001.90.10;

(ii) by inserting the following tariff numbers, descriptions and rates in their proper sequence -

Tariff No. Description New Rate of Duty

0502.10.00	Pigs', hogs' or boars' bristles and hair and waste thereof.	15%
0802.21.00	Hazelnuts or filberts (<i>corylus spp.</i>) in shell.	10%
1001.90.10	Other hard wheat. Per Kg. Shs. 3.70 or 25%	
2706.00.00	Tar distilled from coal, from lignite or from peat, and other mineral tars whether or not dehydrated or partially distilled including reconstituted tars.	10%
2822.00.00	Cobalt oxides and hydroxide; commercial cobalt oxides.	10%
2824.10.00	Lead monoxide (litharge, missicot).	10%
2836.50.00	Calcium carbonate.	10%
2905.41.00	2-Ethyl-2-(hydroxymethyl) propane-1, 3-diol (trimethylolpropane).	10%
2905.42.00	Pentaerythritol.	10%
2916.13.00	Methacrylic acid and its salts.	10%
2916.14.00	Esters of methacrylic acid.	10%
3507.90.10	Meat tenderizer.	10%
3806.10.00	Resin and resin acids.	10%
3901.30.00	Ethylene-vinyl acetate copolymers.	5%
3901.90.00	Other polymers of ethylene, in primary forms.	5%
3902.30.00	Propylene copolymers.	5%
3902.90.00	Other polymers of propylene or of other olefins, in primary forms.	5%
3903.20.00	Styrene-acrylonitrile (SAN) copolymers.	5%
3903.30.00	Acrylonitrile-butadiene styrene (ABS) copolymers.	5%
3903.90.00	Other polymers of styrene, in primary forms.	5%
3904.40.00	Other vinyl chloride copolymers.	5%
3914.00.00	Ion-exchangers based on polymers of headings Nos. 39.01 to 39.13, in primary forms.	10%
3919.90.21	Self-adhesive plates, sheets, film, foil, tape and strip of plastics, in rolls of a width	10%

exceeding 100 cm, unprinted.
 3920.42.10 Other plates, sheets, film foil and strip of 10%
 plastics, non-cellular and not reinforced,
 laminated, supported or similarly combined
 with other materials, of polymers of vinyl)
 chloride, flexible.
 3923.40.00 Spools, cops, bobbins and similar supports. 15%
 7019.31.00 Mats. 15%
 7228.30.00 Other bars and rods, of alloy steel, 10%
 not further worked than forged.
 7228.50.00 Other bars and rods, of alloy steel, 10%
 not further worked than cold-formed
 or cold-finished.
 7803.00.00 Head bars, rods, profiles and wire. 10%
 8102.93.00 Molybdenum and articles thereof, including 10%
 waste and scrap, wire.

(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)*

(Second Schedule as amended agreed to)

Third Schedule

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

THIRD SCHEDULE

THAT the Third Schedule to the Bill be amended -

- (i) by deleting all references to tariff number 1001.90.10;
- (ii) by inserting the following new tariff numbers, descriptions and rates in their proper sequence -

Suspended Duty

<i>Tariff No.</i>	<i>Description</i>	<i>Amount</i>	<i>Amount</i>
<i>Provided</i>	<i>Imposed</i>		
0401.10.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, not exceeding 1%.	50%	50%
0401.20.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 1% but not exceeding 6%.	50%	50%
0401.30.00	Milk and cream, not concentrated	50%	50%

nor containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 6%.

0402.10.00 Milk and cream, concentrated or 50% 50% containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content by weight not exceeding 1.5%.

0402.21.00 Milk and cream concentrated, in 50% 50% powder, granules or other solid forms, of a fat content by weight exceeding 1.5%, not containing added sugar or other sweetening matter.

0402.29.90 Milk and cream, in powder, granules 50% 50% or other solid forms, of a fat content by weight exceeding 1.5%, containing added sugar or other sweetening matter.

0402.91.00 Milk and cream, not containing added 50% 50% sugar or other sweetening matter.

0402.99.90 Other milk and cream, concentrated 50% 50% or containing added sugar or other sweetening matter, in other forms.

1001.90.10 Other hard wheat. 50% 50%

1005.90.00 Other maize (corn). 50% 50%

1006.10.00 Rice in the husk (paddy or rough) 50% 50%

1006.20.00 Husked (brown) rice. 50% 50%

1006.30.00 Semi-milled or wholly milled rice, 50% 50% whether or not polished or glazed.

1006.40.00 Broken rice. 50% 50%

2710.00.21 Aviation spirit (gasoline). Per 1000L. Per 1000L.

@ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 450.00

2710.00.22 Motor spirit (gasoline), premium. Per 1000L. Per 1000L.

@ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 450.00

2710.00.23 Motor spirit (gasoline), regular. Per 1000L. Per 1000L.

@ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 450.00

2710.00.24 Jet fuel, spirit type. Per 1000L. Per 1000L.

@ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 450.00

2710.00.25 Special boiling point spirit Per 1000L. Per 1000L.

and white spirit. @ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 300.00

2710.00.29 Other light petroleum oils and Per 1000L. Per 1000L.

preparations. @ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 300.00

2710.00.31 Jet fuel (kerosene type) Per 1000L. Per 1000L.

@ 20 deg. C @ 20 deg. C

Shs. 500.00 Shs. 450.00

2710.00.32 Kerosene Per 1000L. Per 1000L.

@20 deg. C@20 deg. C
 Shs. 500.00Shs. 450.00
 2710.00.39Other medium petroleum oils andPer 1000L.Per 1000L.
 preparations.@20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 2710.00.41Diesel oil (industrial, heavy, black,Per 1000L.Per 1000L.
 for low speed marine and stationary@20 deg. C@20 deg. C
 engines).Shs. 500.00Shs. 300.00
 2710.00.42Gas oil (automotive, light, amber, forPer 1000L.Per 1000L.
 high speed engines).@20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 2710.00.43Other gas oil.Per 1000L.Per 1000L.
 @20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 2710.00.44Residual fuel oils (marine, furnacePer 1000L.Per 1000L.
 and similar fuel oils of 125@20 deg. C@20 deg. C
 centistokes (cSt).Shs. 500.00Shs. 300.00
 2710.00.45Residual fuel oils of 180Per 1000L.Per 1000L.
 centistokes (cSt).@20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 2710.00.46Residual fuel oils of 280Per 1000L.Per 1000L.
 centistokes (cSt).@20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 2710.00.47Other residual fuel oilsPer 1000L.Per 1000L.
 @20 deg. C@20 deg. C
 Shs. 500.00Shs. 300.00
 5006.00.00Silk yarn and yarn spun from silk waste,50%Nil
 put up for retail sale; silk-worm gut.
 5401.10.20Sewing thread of man-made filaments,50%Nil
 put up for retail sale.
 5401.20.20Sewing thread of artificial filaments,50%Nil
 put up for retail sale.
 5404.90.00Strip and the like of synthetic textile50%Nil
 materials of an apparent width not
 exceeding 5mm.
 5406.10.00Synthetic filament yarn (other than50%Nil
 sewing thread) put up for retail sale.
 5406.20.00Artificial filament yarn (other than50%Nil
 sewing thread) put up for retail sale.
 5508.10.90Sewing thread of synthetic staple50%Nil
 fibres, put up for retail sale.
 6309.00.00Worn clothing and other worn articles.20%10%
 8701.20.20Assembled road tractors for semi-trailers.20%10%

(Question of the Amendment proposed)

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

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

(Third Schedule as amended agreed to)

(Fourth, Fifth, Sixth and Seventh Schedule Agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE FINANCE BILL

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

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

The Minister for Public Health (Prof. Ongeru) seconded.

(Question proposed)

(Question put and agreed)

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

The Minister for Public Health (Prof. Ongeru) seconded.

(Question proposed)

(Question put and agreed to)

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

MEMBERS HALF-HOUR STATEMENTS

Mr. Deputy Speaker: Hon. Members, it is zero-hour now, and there are a few issues to be raised. The first one is by hon. Muchiri.

DEMOLITION OF KIOSKS

Mr. Muchiri: Mr. Deputy Speaker, Sir, I stand to seek a Ministerial Statement from the Office of the President. On the 17th of November, 1999, hundreds of Provincial Administration officers and Nairobi City Council askaris demolished 200 kiosks and destroyed the property inside, worth over Kshs50 million. They took away the victims' money. This is the third incident of that nature. There was a court order barring the same officers from doing so. I would like the Minister to state what action he is going to take against the officers concerned, namely: the Provincial Commissioner (PC), Nairobi, District Officer (DO), Kasarani, Director of City Inspectorate, Provincial Administration police officers and the chief who did the surveillance on the nights of 16th and 17th November, 1999. The Minister also should issue a Ministerial Statement as to what law the Provincial Administration and Nairobi City Council act upon when they demolish and destroy people's property.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, we will be able to make that Ministerial Statement next Thursday.

Mr. Deputy Speaker: Order, Mr. Kiangoi! Strictly speaking, Zero-Hour means that a Minister is made aware of the fact that the matter is going to be raised at 6.30 p.m. by 4.00 p.m., so that he can be prepared to answer that question. So, you must be prepared to answer this question not later than Tuesday next week.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, my Ministry never had such a notice.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, the statement that has been sought by hon. Muchiri was meant for the Office of the President, and I have already given it to the Assistant Minister who was here today.

The Minister for Public Health (Prof. Ongeri): Mr. Deputy Speaker, Sir, in the name of collective responsibility, I will request the Office of the President to answer that question next week.

MYSTERIOUS KILLING OF 20 PEOPLE
IN NDARAGWA CONSTITUENCY

Mr. Kamau: Mr. Deputy Speaker, Sir, I would like the Minister of State, Office of the President, to state under what circumstances the 20 people that I have named in this paper - of which I believe he has a copy - were killed. The Minister has requested me to put the names in writing. Now that the names are in writing, I want him to tell the House how these people were killed, and what he is going to do to stop any more killings in Ndaragwa Constituency.

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Deputy Speaker, Sir, in the name of collective responsibility, I will make sure that the answer is provided next week, on Tuesday.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, we all have our duties to perform. I am supposed to take this request to the Speaker before 1.00 p.m. I am then commanded by the Standing Orders that every Minister must have that request by 4.00 p.m., which I undertake to do. In this case, I had talked to the Assistant Minister, Office of the President, in charge of Internal Security, hon. William Ruto, and he was supposed to be here! What do we do in a situation like that, where they leave other Ministers to come up with this routine?

The Minister for Public Health (Prof. Ongeri): Mr. Deputy Speaker, Sir, a Minister by definition is a Minister, and the nature of the queries raised by the two hon. Members are such that they require a detailed answer. I do not think it is fair to just answer that question in the manner in which you so desire, if this is going to be meaningful. One of the reasons why we have this Zero-Hour is that you raise queries, and where we have immediate answers, we will give you, and where we have got none, we will research and give you a proper and fair position.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. The Zero-Hour was introduced in the Standing Orders for a very specific purpose, and it appears as if the KANU side is not taking it seriously. This is because if hon. N. Nyagah has complied with the requirement under the Standing Orders, why is there nobody from the Office of the President, to whom this Question was directed, to come and request for more time? Why is it that other Ministers, who are completely unaware are rising when there is nobody else here to answer?

Mr. Deputy Speaker, Sir, we need your ruling on this. Can the Chair make a proper ruling on this issue, to compel the Government side to take their responsibilities seriously?

Hon. Members: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order, hon. Members! Refer to your Standing Order 20 (A). It is very specific as to what must be done from Zero-Hour. However, for your benefit, I will read it. It states:

(1)"Under this Standing Order and notwithstanding the provisions of Standing Order 17, Mr. Speaker shall interrupt the business of the House every Thursday at 6.30 p.m. (or 7.00 p.m. if it is an Allotted Day) to facilitate Members'Half-Hour Statements.

(2) A Member who wishes to seek leave to make a statement under this Standing Order shall before One O'clock on the day the statement is to be made, through his Party Whip hand to Mr. Speaker a written notification of the matter he wishes to discuss, and Mr. Speaker shall refuse to allow the claim unless he is satisfied that the matter may properly be discussed in the House.

(3) If Mr. Speaker is so satisfied, Mr. Speaker shall inform the Party Whip accordingly, and the Party Whip shall notify the relevant Minister(s) of the matters to be raised before Four O'clock of the same day.

(4) No Member making such a statement shall speak for more than one hundred and twenty seconds without leave of the House".

Now, it means that one Whip of a party has been to the Speaker before One O'clock. At that point in time, he has discharged his responsibility as far as the leave needs to raise the matter in the House is concerned. If he then proceeds to inform the Minister concerned before Four O'clock of that same day, that Whip has discharged his responsibility fully and the Minister is obliged by these Standing Orders to be here, not only to answer the Question, but to state whether he is in a position to answer it on that day or not.

(Applause)

So, once a Minister has been served with this notice, he is duty-bound to be here. So, that is all we are [**Mr. Deputy Speaker**]

asking; not that the answer must be given on the spot, if it is not available, but that the Minister himself must be here, having been notified of this matter, and to state that he is unable to answer the Question then, or that he is able to answer it then, in which case, he answers it. So, please, translate that information to the Ministers.

(Applause)

Mr. Gikonyo Muya!

HIGHER CHARGES BY NAIROBI CITY COUNCIL

Mr. Muya: On a point of order, Mr. Deputy Speaker Sir. I rise to seek a Ministerial Statement from the Minister for Local Government as to whether he has given approval for higher charges by the Nairobi City Council for the year 2000 under the single business permit, and also the percentage pertaining thereof and reasons for the charges.

Thank you.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I seek your guidance over this issue. Yesterday, this was the Question that was listed to be asked by Mr. G. Muya, but he decided to absent himself and, consequently, it was dropped. Is it in order for him to come round and now seek a Ministerial Statement when the Question has been dropped?

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Mr. Muya would not have raised it if he did not have the Speaker's permission. This matter was brought to my attention by Mr. Muya, and he explained to me why he was not able to come and ask his Question.

Mr. Deputy Speaker, Sir, now, when hon. Members are absent; like when Ministers are absent and they explain the reason for their absence, I take a decision based on the reasons they give. Mr. Muya gave me a satisfactory explanation as to why he was absent and I agreed that under the circumstances, the best way to treat his Question was not for me to get it re-instated on the Order Paper, but to give him a chance to raise it in this fashion. This makes it much easier for you.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I had thought that

he was one of those hon. Members who walked out and abandoned their Questions, but that notwithstanding, I seek the Chair's indulgence on this issue. I left the statement to be typed in the office, and I have not received it. With the Chair's indulgence, I can give the Statement on Tuesday next week.

Mr. Deputy Speaker: Thank you, very much. Mr. Maore!

DESTRUCTION OF MERU-MAUA ROAD

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Roads and Public Works regarding the washing off of a section of Meru-Maua Road on Sunday, four kilometres before Maua Town.

Mr. Deputy Speaker, Sir, we are reeling under the same pressure on Nkubu-Thuci Road, which was destroyed by the *El Nino*-induced rains, in January, 1998, and up to today, the same gap is widening on the road. Since this is very close to the district headquarters, I would seek the assistance of the Minister, to state in his response whether he could even enlist the emergency services of the engineering battalion of the Kenya Army. This is because I know that the Ministry officials usually take a lot of time, if there is no major contract where they could be getting kick-backs. So, I would seek a Ministerial Statement from the Minister for Roads and Public Works, to say when and how quickly he can repair that section of the road.

Hii Serikali imekwisha! Hii Serikali imeliwa na kutu!

The Minister for Public Health (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. Did I hear hon. Maore say that: "Serikali imekwisha"! The Government is there!

The Assistant Minister for Roads and Public Works (Mr. Mwakalu): Mr. Deputy Speaker, Sir, hon. Maore's concern, is noted that there has been a wash-off on parts of the road, close to the district headquarters in Meru North, due to heavy rains on Sunday. It was almost coincidental to the wash-off we had on the Nairobi-Mombasa Road. Gauging from the nature of the emergency, steps were taken on the Nairobi-Mombasa Road, and a remedy was found.

Mr. Deputy Speaker, Sir, I would like to assure hon. Maore that to the extent I can ascertain the magnitude of that emergency, immediate and appropriate action will be taken, which will, or may include, the suggestion of using army engineers. But before we come to that, we want to ascertain in precise terms, by dispatching our officers to the site tomorrow, to indicate the direction, nature and quantity of reaction to restore the *status quo* of the road.

(Applause)

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, it is now time for us to interrupt our business. The House, therefore, stands adjourned until Tuesday, 23rd November, 1999, at 2.30 p.m.

The rose House at 6.50 p.m.