

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 15th December, 1999

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.603*

#### EXPANSION OF NDHIWA POLICE CELLS

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

- (a) whether he is aware that Ndhiwa police cell is in a deplorable state;
- (b) whether he is further aware that men and women are put in the same room; and,
- (c) in view of "a" and "b" above, what action he has taken to improve the facilities.

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

- (a) Yes, I am aware.
- (b) I am aware that due to lack of cells in the police station, male and female suspects are kept in the report office under the guard of duty sentries.
- (c) Construction of new buildings to ameliorate the situation at the police station is under way.

**Mr. Onyango:** Mr. Deputy Speaker, Sir, it is good the Assistant Minister is aware that both the male and female suspects are kept in the same cell. One day, when I went there, I found the place was very dirty. What is the Ministry doing to make sure that such a thing does not happen again?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, we are not able to allocate any money this year for the completion of this facility, which is about 75 per cent complete. However, we appreciate the efforts being made by the local leadership towards raising funds to complete the facilities of this police station. We will push so that next year, we will allocate some money for whatever facility will be left in the construction of this police station.

**Mr. Achola:** Mr. Speaker, Sir, could the Assistant Minister explain to the House what action he is going to take, considering the fact that we have high incidences of AIDs in this particular area, and having male and female suspects kept in one cell is pretty tempting?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I have said that we take due consideration; that due to the shortage of facilities we have, there are duty sentries who are earmarked to supervise the criminals and suspects held under these cells.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, it is true that the locals of this area are organising a fund raising to complete this station. However, we did ask the Ministry concerned to also chip in. I just wanted to alert the Assistant Minister that the building is 65 per cent complete. Could the Ministry also chip in with something like Kshs400,000 in order to complete the building so that we can separate the suspects?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, while I agree in principle that we are committed to the completion of that building, I have said that this year, we are unable because of the lean budget of our department. We are unable to provide funds towards that particular project this year, but I promise that next year, we will make due consideration.

**Mr. Onyango:** Mr. Deputy Speaker, Sir, why can the Ministry not ask other departmental heads to assist it because some parts of the court are not being used? Why can they not ask those who can assist them, so that they separate the male suspects from the female suspects? Secondly, why do the officers concerned not transfer some of the suspects to Homa Bay?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I think hon. Onyango has made a very viable suggestion. We will take it into consideration.

**Mr. Deputy Speaker:** Next Question!

*Question No.755*

## COMPENSATION TO VICTIMS OF LEOPARD ATTACK

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

(a) when he will compensate the family of Robert Cheruiyot Langat who was killed by a leopard in June, 1995;

(b) when the following people who were injured by the same leopard will be compensated:- Alex Maritim, Stephen Kipkorir Bii, Joseph Soi, Chepkwony Melile, Joseph Langat, Geoffrey Langat, Philip Kipkoech Yegon, Collin Ngetich, Joel Kibii Matage, Philip Kipyegon Koech; and,

(c) what has caused the delay in compensating the victims.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I wish to reply. Sorry, I have got many questions here. I have just got the answer now. Could I be given time so that the answers can---

**Mr. Deputy Speaker:** Order! It is totally unacceptable for Ministers to come and start doing their homework on the Despatch Desk. Hon. Gumo, you just have to struggle with it and do the best you can. I cannot defer this Question when, in fact, you are here and you have the answer.

Proceed!

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

(a) Compensation claims in respect of Mr. Robert Cheruiyot Lagat who was killed by a leopard in June, 1995, were submitted to the then Ministry of Tourism and Wildlife for payment, but the claim has not been honoured due to financial constraints.

(b) I wish to confirm that except for Mr. Joseph Soi, the compensation claims in respect of the other victims named in part "b" of the Question were received by the then Ministry of Tourism and Wildlife and still remain a Government pending bill to be honoured when funds become available.

(c) The delay in payment of compensation to victims has been mainly due to financial constraints.

**Mr. Kimetto:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that Mr. Joseph Cheruiyot has school-going children and from the time their father was killed, the children have been devastated? Could the Assistant Minister consider educating the children of these people?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, I do not think that it is possible to consider paying school fees for these children, but what we can do is to follow up the matter and make sure that compensation is paid as quickly as possible.

**Mr. Otula:** Thank you, Mr. Deputy Speaker. Here is a case where a number of people have been injured by a leopard and the Assistant Minister is telling this House that these people will be compensated when funds become available. Could the Assistant Minister tell this House whether or not this particular department has got no allocation to compensate those people who are injured by wild animals?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, this is not the only case of people who are injured by wild animals. But such cases have been so many to the extent that, in some cases, the money allocated has not been enough. But, right now, I am going to make sure that this money is sent there immediately.

**Mr. Angwenyi:** Thank you, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell this House how much money is involved in the compensation of these people? And could he tell us how---

**Mr. Deputy Speaker:** One question at a time!

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us how much is involved and when it will actually be paid?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, usually, compensation is processed at the district level and I am not very sure how much money was supposed to go to these particular victims.

**Mr. N. Nyagah:** Mr. Deputy Speaker, Sir, could the Assistant Minister confirm that this Government is extremely broke and that it has no money because they are unable to pay Kshs30,000, as per the Act, to the number of people who are listed in this case? The Government is broke!

**Mr. Gumo:** Mr. Deputy Speaker, Sir, the Government is not broke. If it was broke, Members of Parliament would not be earning their salaries. As I have said, I am going to make sure that this compensation is paid.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, you must be aware that the hon. Assistant Minister said that he is not compensating the victims because money is not available. So, he must know how much is involved; otherwise, he should not have made that statement. Could he tell us how much money is involved in the case of Robert Cheruiyot Langat?

**Mr. Gumo:** Mr. Deputy Speaker, Sir, the amount will not be more than Kshs30,000.

**Mr. Kimetto:** Mr. Deputy Speaker, Sir, from 1995 to 1999, it is four years. From that time, these people have brought all that was required to the Ministry and so far, the Assistant Minister is claiming that he has no money. When will the Assistant Minister have the money to compensate the families of those who were killed by the leopard in

Kaplomboi Sub-location in 1991? When will the Assistant Minister be serious and compensate these people who were injured?

**Mr. Gumo:** Mr. Speaker, Sir, we are very serious except that cases are so many and we pay them as they come. So, concerning this particular one, it is also going to be paid as soon as possible.

*Question No.690*

NON-PAYMENT OF WAGES BY  
TRANSNATIONAL CONSTRUCTION COMPANY

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

(a) whether he is aware that Transnational Construction Company contracted by the Kenya Wildlife Service (KWS) to construct headquarters and houses and other facilities in Kajulu, Bonjoge and Kisengei areas of Kisumu and Nandi Districts has abandoned workers on the sites without pay for the last eight months;

(b) when did this project commence; and,

(c) what is the contract price for this project.

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

(a) I am not aware that Transnational Construction and Materials Supplies Limited Company, contracted by KWS to carry out and complete construction of headquarters, houses and other facilities in Kajulu, Bonjoge and Kisengei areas of Kisumu and Nandi Districts, has abandoned workers on site, without pay for the last eight months.

(b) The effective commencement date for the contract was 11th January, 1998, with a contract period of nine months and an initial completion date of 11th October, 1998.

(c) The contract price of this project is Kshs23,223,455.55.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that he is not aware. In fact, the workers who were abandoned were living in my constituency, and I am aware that, as of November, 1998, they had not been paid. In June, 1999, they were owed Kshs250,000 by the contractor. The contractor abandoned the site when the project was 90 per cent complete, without paying the workers. In view of the fact that the Assistant Minister is now aware that the contractor has abandoned the workers, what action is he going to take to make sure that these workers are paid their dues, and that this project is completed?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I have no plans to have the workers paid since the contractor was contracted by KWS, and the onus of sourcing for materials and paying workers was on the contractor. Because of the shoddy work, and because of the inability of the contractor to complete this project, we have since terminated his contract. I would advise the hon. Member to ask the workers to take the contractor to court.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that Kshs23.2 million was the contract price for this project. How much money has been paid to date, to this contractor?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, this contract was a credit contract and it was funded by IDA and KWS in the proportion of 90 to 10 per cent, respectively. The Government has not paid any money to the contractor because the contractor was supposed to execute a performance bond, which he has not done.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to evade my question? I am asking, if the contract was on credit terms, how much has he been paid by those people who were sponsoring this project? The Government does not have to pay!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I think I have answered that question.

**Mr. Deputy Speaker:** How much has been paid so far?

**Mr. Sameoi:** No money has been paid to him.

**Mr. Angwenyi:** Could the Assistant Minister consider paying these people from the amount that he is saying that he has not paid to the contractor?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I have said that we have a memorandum of understanding, and we have a contract in place, between the KWS, the Government and the contractor. Since the contractor failed to keep his part of the contract, we have since terminated his contract and we shall go as per the contract signed between the Government, the KWS and the contractor in settling this matter.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is avoiding my question.

**Mr. Deputy Speaker:** Order! Order! That is not a point of order. When an hon. Member stands up on a point of order, he is not supposed to repeat a question. Hon. Angwenyi, if you want to repeat your question, find

another way of doing it. Ask me to direct the Assistant Minister to answer your question, but I think you are doing it in the wrong way.

**Mr. Angwenyi:** I am sorry, Mr. Deputy Speaker, Sir. Can you direct the Assistant Minister to answer my question?

**Mr. Deputy Speaker:** I will do so!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, according to the terms of the contract between the Government, the Kenya Wildlife Service (KWS), and the contractor, the workers are not party to that contract. I think my earlier advice still stands; that, the Government is not going to engage itself in issues that involve third parties.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that the contractor did a shoddy work and as a result of that, baboons are now eating our crops in Got Nyabondo. Last week, wild animals ate a human being half-way in Chemoso and Kitiso area. Can the Assistant Minister assure the House that he will take action to make the KWS appoint another contractor to finish this project, so that our people do not suffer?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I undertake to do so.

**Mr. Deputy Speaker:** Next Question, Dr. Murungaru?

*Question No.730*

PAYMENT OF COMPENSATION TO MS. NDUNGU

**Mr. Deputy Speaker:** Dr. Murungaru is not here? We will come back to that Question later. Next Question, Mr. Mwakiringo.

*Question No.675*

ELECTRIFICATION OF VOI NYAYO JUA KALI SHEDS

**Mr. Mwakiringo** asked the Minister for Vocational Training:-

(a) if he is aware that Voi Jua Kali sheds have no electricity supply since they were built in 1988; and,

(b) what plans the Ministry has to supply electricity to enable the artisans earn their living.

**The Assistant Minister for Labour and Human Resource Development** (Mr. Leting): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that electricity has not been supplied to Voi Nyayo Jua Kali sheds since their construction in 1988. The distance between the nearest overhead power line and the sheds rendered the cost prohibitive.

(b) Plans have been made to supply electricity to Voi Nyayo Jua Kali sheds during the next financial year, 2000/2001, at an estimated cost of Kshs500,000. The power then will be tapped from the adjacent GTZ-funded Jua Kali sheds.

**Mr. Mwakiringo:** Thank you, Mr. Deputy Speaker, Sir. While appreciating the Assistant Minister's response to this Question, and now that the sheds have been there since 1988 without supply of electricity, can he consider supplying electricity immediately because Kshs500,000 is, surely, very little amount for the Government to budget for in the next financial year?

**Mr. Leting:** Mr. Deputy Speaker, Sir, in the Ministry's Vote, we do not have an extra Kshs500,000. Otherwise, we could do it even tomorrow. But at the moment, according to the allocations, there is no money of that amount to enable us start the project immediately.

**Mr. Mwakiringo:** Mr. Deputy Speaker, Sir, I just want to be assured by the Assistant Minister that the electricity they are going to tap from the adjacent GTZ-funded Jua Kali sheds will be enough to supply and sustain the Voi Jua Kali sheds.

**Mr. Leting:** I give that assurance, Mr. Deputy Speaker, Sir.

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

*Question No.745*

ASSISTANCE TO GOLD PROSPECTORS  
IN MASARA/MACALDER

**Mr. Achola** asked the Minister for Mineral Exploration:-

- (a) how much gold deposits exist in Masara/Macalder areas of Migori District; and,  
(b) what assistance the Government will give to the local prospectors to enable them form co-operative societies with a view to exploiting the presence of gold deposits in the area.

**The Minister for Mineral Exploration** (Mr. Kalweo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) No gold deposits have been established in the Masara/Macalder area of Migori District as no conclusive research of the gold mineralization has been carried out on the said areas. However, exploration activities to determine the occurrence of any gold deposits in the Masara/Macalder areas are being undertaken by a licensed private company.

(b) The Mining Act, Cap.306 of the Laws of Kenya, has no provision for the formation of co-operative societies. That role lies with the Ministry of Agriculture and they can form co-operative societies through the Ministry of Agriculture.

**Mr. Achola:** Mr. Deputy Speaker, Sir, the answer given by the Minister is totally unacceptable. Everybody knows that the Macalder mine has existed since 1900. In fact, from 1956 to 1959, it was a very active mine. I am, therefore, surprised that the Minister is saying that no gold deposits exist around this area. Now that I have told him that there are gold deposits in this area, could he go ahead and answer the Question properly?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I am also aware that there have been some activities within that area for quite some time now. There is a company called Made Migori Company Ltd., which was exploring gold mines in joint ventures with another company from Australia and Tanganyika Gold which is doing the research. After the research, they are required by the law to establish how much gold is deposited in these areas. Otherwise, that exercise is still on to determine the existence of gold deposits in these areas. But as of now, I cannot stand in this august House and say so much gold is in that place, but it is in the process of being determined.

**Mr. Raila:** Mr. Deputy Speaker, Sir, it is very sad that the Minister is either misleading the House or is ignorant. Kenya Goldfields Limited is the name of the company that used to exploit mines in the Macalder area, and also part of Bondo District. Gold mining in this area is almost as old as this country. There is also Bukura Gold mines. At the moment, there are several companies that are involved in gold mining but they are cheating that they are prospecting. They are exploiting the people in this area. Will the Minister undertake to carry out proper investigations to find out how much these companies are actually exploiting not only in Masara and Macalder, but also in Bondo, so that they can be made to pay taxes, so that this country can benefit?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I agree with hon. Raila. That is why I said that, as of now, it has not been established how much gold is where. But, according to geologists, the region from Migori or South Nyanza up to Sudan is a gold belt area. At the same time, there has been illegal mining here and there. This had just been a department until recently when it was elevated to a Ministry. We are doing data collection to know which company is doing what and where, so that we can have a database, so that we can be answerable. We are in the process of introducing a Bill so that we can know how to handle this mystery. It has been more or less a mystery in this country because when we talk of gold, people think we are talking about miracles. But this Ministry will undertake to educate the people.

**Raila:** Mr. Deputy Speaker, Sir, those who are involved in mining in Bondo and in South Africa told me: "I know that I am standing here, on money". Those people know that they are exploiting. They said that those mines were abandoned because of the inferior mining equipment and technology that were available during that time. However, those mines are now active and those people can actually extract more gold. Could the Minister undertake to go and carry out further investigations, so that this country can earn some money in the form of taxes from those mines, so that wananchi can also benefit?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I said that I have agreed with that suggestion, and that is why I went on to explain more on the whole issue. I know that people all over the country are interested in gold mining. I said I have been told that, that region, starting from Tanzania towards Kisii, through West Pokot and Turkana Districts, is a gold belt area. Therefore, to determine the amount of gold deposits contained in each area, we need to go and do drilling and many other things. So, I am undertaking to do exactly what the hon. Member has raised in the Question.

**Dr. Omamo:** Mr. Deputy Speaker, Sir, could the Minister explain to the House what the Government is doing to train the local people to know even how to peg? Before you begin prospecting for any gold, you must have the knowledge of pegging the area you intend to prospect. What is the Government doing about this? If the Government has done anything about this, could the House be told how many prospectors are being trained annually? This is where the bottleneck is. If you do not know how to proceed, how can you proceed?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I said that we are reviewing the Mining Act, and we will propose some amendments to it. We will bring the Act to this House for hon. Members to give their inputs, so that we can come out of these bottlenecks. As of now, the Ministry has two departments which are related to mineral prospecting. They are the Geology and Mines Departments. The Mines Department has only two officers. So, this is a question the

Ministry is trying to address. We recently had meetings with a few people who undertake mining. We want them to come up with their chamber of mines, so that we can educate wananchi on how to go about mining. However, we should not forget that there is the business aspect to the whole process. So, the Government cannot go out to teach people how to do business. This should be a self-picking exercise.

**Mr. Deputy Speaker:** Mr. Minister, you are being asked a very simple question, what you are doing to enable the people to go out in the field and prospect for gold? Those who discovered gold in Kakamega and in Macalder did not need to go to any school. Are you allowing them to get their prospecting rights easily or not?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, even if we allow them to do so, the exercise is complicated.

**Mr. Deputy Speaker:** It is not.

**Mr. Kalweo:** It is, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Well, I have been there, you know.

**Mr. Kalweo:** I have been there, too, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** I worked in that Ministry.

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, gold prospecting is very hard. I am talking of "chamber of miners", which will help our people. Let me say Mr. X has a mine somewhere. When we have a chamber of mines, Mr. X will be required to get an outsider to assist him. The two will have to have a joint venture, so that Mr. X can benefit from the other person's mining equipment. Without appropriate mining equipment, nothing can do.

**Mr. Achola:** Mr. Deputy Speaker, Sir, I am very sorry for this Minister, for having said very little about what is happening in Macalder/ Masara areas. The fact of the matter is that there are many wananchi in that area who derive their livelihood from mining gold. The biggest problem for those people is that they are harassed by the police for carrying out gold prospecting activities. Could the Minister ensure that wananchi who prospect for gold for their livelihood are left alone, if the Minister is not able to help them?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I said earlier on that, as of now, there are very many illegal miners in this country; these people are wananchi of this country. Therefore, it is through this House that we will analyse how to go about that matter. However, we have to visit those areas and have meetings with the local people and the Provincial Administration officers, so that people can know their rights. As of now, those people do not know these processes; they have to be told about them.

*Question No.746*

GRADING OF KIONGWANI-WATHINI ROAD

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

(a) whether he is aware that the Road E475, Kiongwani-Kayata-Wathini is impassable; and,

(b) when the grading of the road will commence.

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

(a) I am aware that the Kiongwani-Keyata-Wathini Road, Road E475, is impassable, particularly during the rainy season, due to the slippery nature of the sub-grade material and large canals caused by erosion.

(b) My Ministry does not have plans to grade that road in this current financial year because the road was not prioritised by the area DDC for inclusion in the work plan for this financial year.

**Mr. Ndilinge:** Mr. Deputy Speaker, Sir, arising from what the Assistant Minister is telling the House, it appears that he is contradicting himself. In his reply to part (a) of my Question, he accepts that the road is impassable. In his reply to part (b) of the Question, he is saying that there are no plans to grade the road, and this means that he has no plans to grade that road at all. Am I not in order to ask him to ask the Government to stop collecting revenue from Kilome if the Government is not ready to assist the people of that area by grading that road and others within that constituency?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, I said that we have no plans to grade that road this financial year, the reason being that the DDC did not prioritise it. We will include the road for grading in the next financial year as soon the DDC prioritises it. So, we are not ignoring that area; we will include the road for grading in the next work plan immediately it is prioritised by the DDC.

**Mr. Maundu:** Mr. Deputy Speaker, Sir, the Ministry found no opportunity to grade that road during the 20th Century. Also, the Ministry will not have an opportunity to do so during the early part of the 21st Century. Since there is transport crisis in that area, and since this is a well defined road, could the Ministry, on emergency basis, provide funds to ensure that the road is passable, for it passes through a very rich agricultural area? Could he make funds

available on an emergency basis?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, I do not think that the hon. Member's allegation, that we are not going to grade that road during the 21st Century, is correct. As soon as we get the relevant report about it from the area DDC, we will include it in the work plan for the next financial year; we are ready to do it.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, the hon. Member has informed the Assistant Minister that the road is impassable, and the Assistant Minister admitted that, indeed, the road is impassable.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order!

**Mr. Mwenje:** Now, does the Assistant Minister, really, have to wait for the DDC to identify that road as a priority project? He does not have to wait for DDC approval. Therefore, could he consider emergency means of making the road passable? That is what he is being asked to do. We do not have to wait for the DDC to approve the grading of that road; that is not a prerequisite.

**Eng. Rotich:** Mr. Deputy Speaker, Sir, I will consider it.

**Col. Kiluta:** Mr. Deputy Speaker, Sir, although I have a lot of respect for this Assistant Minister, at times I wonder whether he is serious when he answers Questions in this manner. This is a classified road, and it is his responsibility to repair it. What authority does he require from the District Development Committee (DDC) when it is his responsibility to repair it? Secondly, how much money---

**Mr. Deputy Speaker:** Order! Order! Col. Kiluta, ask one question at a time. Eng. Rotich, answer the first question.

**Eng. Rotich:** Mr. Deputy Speaker, Sir, I have already answered the question by saying that when we have little money, we have to know the priority of the DDC, because we do not have enough money to do all the roads. However, I would like to assure this House that we will take some action immediately. I do not see where the problem lies. In fact, we cannot do all the roads at the same time, because we do not have enough money.

*(Messrs. Obwocha and Wanjala consulted loudly)*

**Mr. Deputy Speaker:** Order! Order, hon. Obwocha and hon. Wanjala!

**Mr. Ndilinge:** Mr. Deputy Speaker, Sir, the Assistant Minister should not take this Question lightly. This is because if something will not be done between now and next week, it will be impossible for people who live between Salama and Munguni to move from one area to another, because the gullies are about to cut across the road completely. Could the Assistant Minister tell this House whether his Ministry has emergency funds, and if it has, can something be done on this road?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, we do not have emergency funds, but we will do something on this road within the next two weeks or so.

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

**Mr. Deputy Speaker:** Order! Hon. Angwenyi, whom are you informing?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, I am informing the Assistant Minister.

**Mr. Deputy Speaker:** No! I am sorry, you cannot inform him. Dr. Murungaru's Question for the second time.

**Mr. Wamae:** On a point of order, Mr. Deputy Speaker, Sir. I have permission from Dr. Murungaru to ask this Question on his behalf.

**Mr. Deputy Speaker:** Order, hon. Wamae! Dr. Murungaru is right there!

*(Laughter)*

**Mr. Wamae:** Oh, he has just come in!

**Mr. Deputy Speaker:** Order! Hon. Members, I think we should take ourselves a little more seriously. There have been occasions when hon. Members have not been present to ask their Questions the first time they are called out, but when the Question is called out the second time round, the hon. Member who was present when the Question was called for the first time rises to say that he has got permission to ask it. I will allow Dr. Murungaru to ask his Question.

**Dr. Murungaru:** Mr. Deputy Speaker, Sir, may I apologise for coming late, but I had actually asked hon. Wamae, in the event that I was not going to be here on time, to ask my Question.

**Mr. Deputy Speaker:** Dr. Murungaru, you just missed your Question being dropped. So, ask it.

**Dr. Murungaru:** Much obliged, Mr. Deputy Speaker, Sir.

*Question No.730*

PAYMENT OF COMPENSATION TO MS. NDUNGU

**Dr. Murungaru** asked the Minister of State, Office of the President:-

- (a) whether he is aware that Charity Wangari Ndungu, ID No.3226868/66, was attacked and seriously injured by a hyena in Naro Moru Forest on 6th April 1988;
- (b) whether he is further aware that Ms. Ndungu made a claim for compensation on 23rd April, 1988, to the Kenya Wildlife Service (KWS), and that to date, she has not been compensated; and,
- (c) what immediate action he will take to ensure that she is compensated.

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

(a) I am aware that Charity Wangari Ndungu, ID No.3226868/66, was attacked by a wild animal on 6th April, 1988.

(b) I am not aware of the fact that she made a claim for compensation because the official compensation documents have not been received at the KWS Headquarters.

(c) The compensation issue will only arise after the applicant has filled in the necessary forms for consideration by the District Wildlife Compensation Committee.

**Dr. Murungaru:** Mr. Deputy Speaker, Sir, I am amazed by the answer that I have just received from the Assistant Minister. I have documents in my possession showing that this lady filled in the necessary forms, presented them to the local KWS office and she was referred to the provincial KWS office in Nyeri, where she was told that her documents were forwarded to the KWS Headquarters. Since then, she has not received any communication from the KWS or the Office of the President. Could the Assistant Minister check again with his records to confirm whether that claim was received by the KWS Headquarters? I have got some documents to prove that.

**Mr. Gumo:** Mr. Deputy Speaker, Sir, we have already checked and found that the forms are not there. Maybe, the hon. Member could advise the victim to fill in new forms and send them over to us.

**Dr. Murungaru:** Mr. Deputy Speaker, Sir, I have just said that I have got some documents which I can provide to the Assistant Minister to prove that. Could he promise that as soon as he receives them, he will take immediate action?

**Mr. Deputy Speaker:** If he can give an answer tomorrow, I will give him an opportunity, whether that Question is on the Order Paper or not. But we do want an answer, Mr. Assistant Minister.

**Dr. Murungaru:** Mr. Deputy Speaker, Sir, I will provide the documents.

**QUESTIONS BY PRIVATE NOTICE**

MEASURES TO AVERT CLASHES IN MADUNGUNI FOREST

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

(a) What immediate action is the Minister taking to avert an imminent repeat of clashes similar to those of 1st and 2nd November, 1999, at Kalia-papo in Madunguni Forest of Malindi District, that resulted in deaths, serious injuries and destruction of property?

(b) How many people are still occupying parts of the Madunguni Forest, against the wishes of the local residents, who do not wish to see the water catchment area being destroyed?

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

(a) There has not been any clash in Madunguni Forest and the question of imminent repeat, therefore, does not arise.

(b) All those people who had been occupying the forest have been moved out and currently, there is no one living in the forest.

**Mr. Badawy:** Mr. Deputy Speaker, Sir, I am totally disappointed with the answer given by the Assistant Minister. It could probably be a question of semantics. But how does the Assistant Minister refer to the violence that took place on 1st and 2nd November, 1999, where one person died, two were seriously maimed and no less than 30 houses were torched? How does he refer to that act?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I admit that the hon. Member has a problem with semantics. The



situation as it was on 1st and 2nd November, 1999, is that a group of people invaded the Madunguni Forest for purposes of settling there. On realising this, the Provincial Administration and the local leadership organised a baraza where it was resolved that nobody should settle in the forest. Therefore, those who had already moved into the forest were moved out. That is the situation.

**Mr. Badawy:** Mr. Deputy Speaker, Sir, could the Assistant Minister categorically confirm or deny that there was a scuffle and violence, whereby one person died, at least 30 houses were burnt down, and two people maimed? If my vocabulary and semantics are as weak as he alleges, then how does he refer to that act? This is because it is not a question of the DO holding a baraza, but a question of people fighting where one person died, 30 houses were burnt down and several people maimed. Could he deny or confirm that?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I deny that.

VODAFONE'S STAKE IN LOCAL  
MOBILE TELEPHONE SERVICE

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

(a) Could the Minister inform the House how much money Vodafone has paid to the Exchequer for its 40 per cent stake in local mobile telephone business?

(b) What is the difference in the business structure between GSM I and Safaricom?

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

(a) Vodafone has not paid any money yet because the vesting of assets has just been completed. Forty per cent contribution by Vodafone can only be evaluated after the clear completion of the value of the assets. Currently, Telkom will contribute 60 per cent and Vodafone will contribute 40 per cent, which will then go towards the improvement of the network. It will, therefore, not be paid to the Exchequer. The idea is to make sure that the GSM 1 is improved so that they can compete properly with the second GSM operator.

(b) There is no difference as such between GSM 1 and Safaricom. Safaricom is the business unit of Telkom Kenya Limited which, together with Vodafone, is running the GSM 1 network and ETACS; that is the analogue network. The second GSM will be run by the just elected phone operator, Vivendi.

**Mr. Mbela:** The answer to part "a" of the Question is basically on the expectations regarding the amount of money to be put in by Vodafone to improve the business. I expected the Minister to say how much they are going to pay for the licence to operate the mobile telephone system.

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, that becomes a different issue. For the licence, since the benchmark has been established through the competitive process of the second GSM operator of US\$65 million it is expected that the operators of GSM 1 should then pay an amount that meets that benchmark.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, the hon. Minister has already allowed this Vodafone to take possession of the mobile telephone system. How is he going to ensure that the Kenya Government does not lose in this deal and that it will get not less than the money it got for the second licence proportionately?

**Mr. Mudavadi:** This shall be ensured because as I said, Telecom had been operating this system through their business unit, Safaricom. Vodafone is investing in Safaricom to the tune of 40 per cent. However, the aspect of the licence that is a different issue which means that Safaricom will have to pay the money that is due for the licence and that is the money that will come to the Exchequer. We shall ensure that it is paid.

**Dr. Ochuodho:** It is very unfortunate that Kilimanjaro which wanted to pump in Kshs9 billion into this country was locked out. We appreciate that Vivendi, however pumped in Kshs4 billion. Now, the Minister tells us that Vodafone is going to get this same service for absolutely nothing. When the Minister says 40 per cent, what amount is he talking about? Can he assure us that the need for restricting this 60 per cent local requirement is to lock out the small businessmen so that only the "big fish" who can afford billions are the ones who will be the sole owners of mobile telephones in this country?

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, I have just said that the aspect of the 40 per cent here is the subsidiary called Safaricom. Right now Price Waterhouse is finalising the process of the audit of the evaluation process which will then give us the figures in so far as the value of Safaricom as a business is concerned. The assets of Safaricom in this case are:

1. The fixed network to support the Safaricom
2. The subscribers for GSM 1 which is the 072 Code and also the subscribers for the analogue unit which is the 071 Series.

**Dr. Ochuodho:** On a point of order, Mr. Deputy Speaker, Sir. Can he accept that the amount we are talking about is too small that is why 40 per cent of it is too small? Otherwise, can he tell us the amount of figures that we are talking about because he knows the investments?

**Mr. Mudavadi:** Mr. Deputy Speaker, Sir, the estimated value of Safaricom is that its 60 per cent component is valued close to US\$30 million. This means that if Vodafone then finishes the negotiations and they pay for their share of 40 per cent, they will be paying close to US\$20 million. That is separate from the issue of the licence.

**Mr. Mbela:** Mr. Deputy Speaker, Sir, Safaricom grossly overcharged its clients. Now that Vodafone is coming in, what guarantee can the Minister make regarding the refund to the consumers? Also, can he confirm that Kshs4 billion will actually be paid?

**Mr. Mudavadi:** On the issue of the price that consumers of this particular service pay, the ultimate solution is that since competition is coming in, we expect Safaricom to make sure that they improve their services and also make sure that their product is affordable, otherwise, they will lose out to the competitor that is coming into the market. I believe that, that will make sure that the prices become more affordable for the majority of the Kenyans who would like to use this particular service. I also want to reiterate that we will ensure that the money due for the licence is paid.

#### SILTING OF BUNYALA IRRIGATION CANAL

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

(a) Is the Minister aware that the main canal of Bunyala Irrigation Scheme in Busia District is overgrown with bushes and is silted?

(b) Is he further aware that as a result of "a" above, the water is over spilling and flooding the nearby villages?

(c) What urgent steps is the Ministry taking to avert the flooding of the canal?

**Mr. Deputy Speaker:** I believe the Minister of Agriculture has a little problem with the reply. We will come back to that Question later on. Next Question!

#### JOINT JUDICIAL INQUIRY INTO DEATHS OF JUSTICES MILLER/CHESONI

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

In view of the sudden death of the late Honourable Chief Justice Zacchaeus Richard Mutsunga Chesoni under controversial and mysterious circumstances analogous or similar to those of the death of the late Honourable Chief Justice Cecil Henry Ethelwood Miller, will the Government institute immediate and thorough Joint Judicial Inquiry into the following matters:-

(a) The causes, circumstances and conditions of the deaths of the Chief Justice Chesoni and Chief Justice Miller?

(b) The disciplinary and legal measures necessary for any professional misconduct and/or negligence in both cases on the part of the teams of the doctors and the Nairobi Hospital in handling the management and treatment of Chief Justice Chesoni and Chief Justice Miller?

**An hon. Member:** Any other personalities?

**Mr. Anyona:** Mr. Speaker, Sir, When this Question came up last time there was a written answer, but today I have not received a written answer. I do not know what is going on.

**The Minister for Medical Services (Dr. Anangwe):** Mr. Deputy Speaker, Sir, I need your guidance. When you look at the substance of this particular Question, it is asking about a Joint Judicial Inquiry. I have looked at my mandate very thoroughly and the Medical Practitioners and Dentists Act and it does not empower me at all to set up a Joint Judicial Inquiry. Therefore, may I declare my incompetence to answer this particular Question unless hon. Anyona either clarifies what he means by "Joint Judicial Inquiry" because meanings are in people, or he changes his Question to ask about an investigation.

**Mr. Deputy Speaker:** Order, hon. Minister! Hon. Members, what is the position with regard to Questions? When Questions have been fielded by a Member; have been approved by the Speaker and have been submitted to Ministries for a replies, if there is a problem, it must be taken back to the Speaker's office. It is not a question of a debate in the Chamber. So, hon. Dr. Anangwe, if you are not capable of answering this Question, you should say you are having some technical difficulties. You cannot challenge the Questioner because it is no longer his Question, having been approved by the Speaker.

**The Minister for Medical Services** (Dr. Anangwe): Mr. Deputy Speaker, Sir, I was not, in fact, disagreeing with him. I was trying to facilitate or enable him to come up with a Question that has been recalled---

**Mr. Deputy Speaker:** Order! You are persisting in that same erroneous line. If you have a problem with this Question, now address the Chair and not the hon. Member who asked it because it now belongs to the House.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Minister is not going to tell me, given my experience, how to ask Questions. I complied with the requirements of the Standing Orders. So, you cannot tell me how to ask it. I am not asking for an investigation, but a Joint Inquiry and you know what an Inquiry is in the law. I am really amazed that when the Question came up here and was deferred by the Speaker, the Minister said it did not fall within his portfolio. It was referred back to the Attorney-General. After that there was correspondence between the Office of the attorney-General and the Clerk's office and it was agreed that the Question should go back to the Ministry of Health. I was assured that the Minister had agreed to answer the Question. I am now surprised to hear him say that he cannot answer the Question. I do not really mind who answers the Question, but it will not go away until it is answered. I leave it to the Chair to decide on what to do.

**Mr. Maundu:** On a point of order, Mr. Deputy Speaker, Sir. According to the Standing Orders, and in view of this particular Question which raises several fundamental issues, is it not in order for the Member to come up with a substantive Motion, so that we discuss all these issues raised in this Question?

**Mr. Deputy Speaker:** Order! Mr. Maundu, you are arrogating to yourself, powers which you do not have.

**Mr. Maundu:** Mr. Deputy Speaker, Sir, I am seeking your guidance on this matter?

**Mr. Deputy Speaker:** That is better. Hon. Members, as I have said before, once a Question has been asked and it has been approved and submitted to the relevant Ministry for reply, if thereafter, there arises a problem, that is a matter between the Ministry concerned and the Chair. However, the Chair will not allow the contents of a Question or a reply to be a matter of debate here. So, hon. Dr. Anangwe, if you have a problem in answering the Question, address me.

**The Minister for Medical Services** (Dr. Anangwe): Mr. Deputy Speaker, Sir, let me attempt to answer and I hope, this satisfies his concern. I beg to reply.

(a) The institution of a Joint Judicial Committee of Inquiry into the causes, circumstances and conditions of the deaths of Chief Justice Chesoni and Chief Justice Miller, do not fall under the functions of the Ministry of Health. However, in accordance with our mandate, my Ministry, through the Medical Practitioners and Dentists Board, has instituted investigations into the circumstances leading to the deaths of the late honourable Chief Justices Zacchaeus Richard Mutsunga Chesoni. A preliminary inquiry committee has been established, as provided for in the Medical Practitioners and Dentists Act, Chapter 253

Section 3. The committee has started its investigations and its findings will be made public, once the investigations are complete.

As for the late honourable Chief Justice Cecil Henry Ethelwood Miller, who died ten years ago, on 5th September, 1989, the Board did not receive any complaints, to enable it to institute a preliminary inquiry in accordance with the law.

(b) I would like to assure the House that, disciplinary and legal measures will be taken in accordance with the Medical Practitioners and Dentists Act, should the on-going investigations reveal any causes of professional misconduct or negligence on the part of the doctors who were involved in the management and treatment of the late Chief Justice Chesoni.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I am unable to ask a question. I would like to seek the guidance of the Chair on this matter, because the answer the Minister has just read out was exactly the same answer that we got last time when it was decided that, the answer was not sufficient and that the matter would be redirected. Would it be right and fair that, the same answer should now come back and be accepted by this House given the gravity of this matter? I want to seek that guidance before I can raise anything else.

**Dr. Anangwe:** Mr. Deputy Speaker, Sir, as I said, as the preface to my answer, this is the best I can offer, given my area of jurisdiction. The responsibility of establishing a Judicial Inquiry is not in my area of jurisdiction.

**Mr. Deputy Speaker:** Order, hon. Members! I think, we are all interested in getting a factual and truthful answer. If the Minister is telling this House that he is limited as to the scope of the answer he can give, I fully understand him. I will, therefore, order that this Question be deferred and that, the correct Governmental agent which can answer it satisfactorily be directed to do so. So, the Question is deferred. This Question can be asked again in the next sitting.

*(Question deferred)*

**Mr. Raila:** On a point of order, Mr. Deputy Speaker, Sir, I do not want to challenge your ruling on this. But the Questions says:- "Will the Government institute immediate and thorough Joint Judicial Inquiry into the following matters---"; that means, the Government, not necessarily the--- In the spirit of collective responsibility, this Government should come to the House with a proper answer---

**Mr. Deputy Speaker:** Order, hon. Raila! We should ask Questions which we expect answers to. This Question is taking us nowhere. The Minister himself has told us about his limitations. So, let us find who else can answer authoritatively on behalf of the Government. So, for the time being, the fairest thing I can do is to defer the Question because it is very important. And whether we go into recess tomorrow or next week, this Question must appear on the Order Paper, so that it can be answered satisfactorily.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. I do not know why there is this confusion. I knew where to direct the Question and directed it to the Office of the Attorney-General because that is where inquiries are set up. I do not know why there is confusion now. Nobody wants to carry this baby. Who does it belong to?

**Mr. Deputy Speaker:** Next Question, Mr. Wamae.

#### ALLOCATION OF LAND IN NGORANO LOCATION

**Mr. Wamae:** Mr. Deputy Speaker, Sir, may I ask the Minister for Lands and Settlement, the following Question by Private Notice.

(a) Is the Minister aware that Land No. Ruguru/Chieni/186, in Ngorano Location, Mathira Constituency has been illegally allocated to private developers?

(b) Is he further aware that this land was earmarked for a secondary school to assist students in two sub-locations?

(c) Will the Minister cancel the allocation of this land and grant it to the local wananchi for a school.

**The Minister for Lands and Settlement (Mr. J. Nyagah):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Land No. Ruguru/Chieni/186 in Ngorano Location of Mathira Constituency has been allocated to a private developer.

(b) I am also aware that the land was earmarked for a secondary school to assist students in the two sub-locations.

(c) The allocation which was based on a recommendation from Provincial Administration, Nyeri, was erroneous. The Ministry, therefore, initiated investigations into the circumstances under which the allocation was processed, with a view to taking appropriate remedial action. If no title deed has been issued, the allocation will be cancelled, so that the land reverts to the proposed secondary school. In the meantime, I would appreciate any assistance from the hon. Member to facilitate the investigations.

*(Applause)*

**Mr. Wamae:** Mr. Deputy Speaker, Sir, I would like to thank the Minister very much for that very helpful answer he has given. But is he aware that the PC, Central Province, Mr. Peter Kiilu, is the one who allocated this land to an individual, knowing very well that the nine acre land was reserved for a public secondary school? If the title deed has been issued, would the Minister consider cancelling it or exchanging that land with somebody else, so that the school can be built?

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, as I have stated, I would like the people of this areas to build the school on that plot of land. I wish to further confirm, as I stated earlier on that allocation was, obviously, done wrongly. I have also stated that once we get the final information that we are waiting for from our field officers, we will proceed to ensure that, the plot reverts back to the school.

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, the Minister has accepted that the plot was allocated to a private developer erroneously. He has also accepted that it was meant for building a public school. What more information is the Minister waiting for, to cancel that particular allocation?

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, I did very clearly state that there was one final thing that I am waiting for, from my officer in Nyeri and once that is confirmed to my satisfaction, I will take appropriate action.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, is the Minister aware that the local people are very agitated, hostile and are protecting that land day and night against the grabbers? To avoid confrontation, could the Minister assure this House that the grabber will not be allowed to go back to that land?

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, I wish to confirm that last Friday, my officer did go to the site and found out that there was a lot of tension in that particular area. That is why I have asked my officer to do certain

investigations in order to reduce the tension in that area.

**Mr. N. Nyagah:** On a point of order, Mr. Deputy Speaker, Sir.

*(Laughter)*

I would like to ask the Minister, who is also my brother, realising that he comes from a Christian background--- I hope he is a Christian and that he will give this House a serious answer. Could the Minister confirm to this House that after he takes that action, not only will he make sure that the land reverts back to the original user, but he will also get rid of those officers in Nyeri like he got rid of Mr. Wilfred Gacanja, the former Commissioner of Lands, from his Ministry?

**Mr. J. Nyagah:** Mr. Deputy Speaker, Sir, I do wish to reassure the Opposition Member for Kamukunji, who accidentally happens to be my younger brother, that appropriate action will be taken and that I am very Christian.

*(Laughter)*

This is because we are very serious in the Ministry to ensure that Kenyans are properly served.

*(Applause)*

#### SILTING OF BUNYALA IRRIGATION CANAL

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

(a) Is the Minister aware that the main canal of Bunyala Irrigation Scheme in Busia District is overgrown with bushes and is silted?

(b) Is he further aware that as a result of "a" above, the water is over-spilling and flooding the nearby villages?

(c) What urgent steps is the Ministry taking to avert the flooding of the canal?

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

**Mr. Deputy Speaker:** Order! Mr. Minister, you must apologise to the House.

**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, there was a mix-up; I did not carry my written reply with me and I apologise for that.

Now, I beg to reply.

(a) I am aware that owing to the permanent flow of water in Bunyala Irrigation Scheme's main canal, silt is continuously being deposited and hence, weeds grow fast despite the fact that, maintenance of the canal is carried out throughout the cropping season.

(b) I am not aware that water is over-spilling and flooding nearby villages since the irrigation water running in the main canal is pumped from Nzoia River and is highly regulated by the National Irrigation Board (NIB). The flooding that hon. Wanjala referred to could be as a result of rain water.

(c) Maintenance of irrigation and drainage facilities is normally set to commence at the end of every cropping season and continues into the season. Scheduled work usually starts with the main canal and by the time work progresses into the tributaries, the drainage canal silting, which is a continuous process, has already affected the main canal. That notwithstanding, NIB is in the process of sending an excavator from Ahero Irrigation Scheme, to assist in the desilting of the main irrigation and drainage canals as part of normal maintenance.

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, the Minister has accepted that there is always continuous silting whenever water is being pumped. Now that Bunyala Irrigation Scheme is old and it has had no excavator and canals need frequent maintenance, could he consider sending an excavator immediately and let it stay there permanently?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I do not know whether it will be possible to retain an excavator at Bunyala Irrigation Scheme in view of the size of the scheme, although hon. Wanjala already knows that arrangements are under way to see to it that the Scheme is expanded so that, that kind of equipment can be retained there to serve a larger area. But I want to assure hon. Wanjala that already, arrangements are underway to send an excavator to Bunyala and we are hoping that if transport arrangements are properly made, it should be there within a very short time from now.

**Mr. M.A. Galgalo:** Mr. Deputy Speaker, Sir, arising from the reply by the Minister, is he aware that failures in irrigation schemes are not only confined to one scheme? Could the Minister formulate a policy where he will overhaul all the irrigation schemes in the country, so that they serve the purposes for which they were created for?

**Mr. Obure:** Mr. Deputy Speaker, Sir, that sentiment is widely shared by us in the Ministry. Apart from the problem of funding, we do hope that arrangements will be made to make sure existing irrigation schemes work satisfactorily as they should. In particular, I want to agree with the hon. Member that in this country we can no longer continue to rely on rain-fed agriculture. We must go into irrigation if we are going to survive and provide sufficient food to our people.

**Mr. Nderitu:** Mr. Deputy Speaker, Sir, could the Minister inform the House why he had to remove excavators from Mwea Irrigation Scheme and take them to Ahero Irrigation Scheme?

**Mr. Obure:** Mr. Deputy Speaker, Sir, these excavators are owned by NIB and they are intended to serve all the irrigation schemes in the country. If Mr. Wanjala wants an excavator for his constituency, it will be moved from one scheme to another.

**Mr. Nderitu:** Mr. Deputy Speaker, Sir, the excavators which were being used by NIB in Mwea Irrigation Scheme were bought using profits of the money made by NIB, through Mwea Farmers Rice Society?

**Mr. Deputy Speaker:** Mr. Nderitu, then, what was your point of order?

*(Mr. Nderitu stood in his place)*

**Mr. Deputy Speaker:** Order, Mr. Nderitu! Yes, Mr. Raila.

**Mr. Raila:** Mr. Deputy Speaker, Sir, if there is constant maintenance of Bunyala Irrigation Scheme, as the Minister said, there will be no need for him now to transfer an excavator from another irrigation scheme to that area. But then, excessive siltation in irrigation schemes is also as a result of heavy soil erosion in the upper catchment areas. What steps is the Government taking to conserve land and arrest too much soil erosion in the upper catchment areas of the irrigation schemes which is causing siltation in the canal?

**Mr. Obure:** Mr. Deputy Speaker, Sir, let me start with the first part. I reiterate that there is regular maintenance of the canal. Unfortunately, the pump station at Bunyala Irrigation Scheme broke down for a considerable period of time and that was the reason why there was silting. But as for the question which hon. Raila raised, regarding soil erosion in the upper part of the River, I think that, that is pertinent; it is a question pregnant with meanings. I do not think we have sufficient time now to go into its details, although he is raising very valid points.

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, the Minister is aware that the people of Bunyala have a very big area for irrigation, but it is only the Government that has restricted them. They have now gone as far as starting their own outgrower companies to plant rice. Planting is not done by engineers. What steps is the Minister taking to expand the Bunyala Irrigation Scheme?

**Mr. Obure:** Mr. Deputy Speaker, Sir, the hon. Member is aware, that in consultation with the people of Bunyala, officers of my Ministry were only there last week to look at the various options. It is our intention to avoid over-reliance on rainfed agriculture. That is one of the potential areas we want to look into.

**Mr. Deputy Speaker:** Hon. Members, may I draw your attention to the existence of a Supplementary Order Paper. Further, that, Mr. Speaker, ruled this morning, that hon. Shidiye's Question should be put on the Order Paper for this afternoon. That Question appears on the Supplementary Order Paper. So, do not accuse the Chair of rigging.

#### REHABILITATION OF KULAN BOREHOLE

**Mr. Shidiye:** Mr. Speaker, Sir, I beg to ask the Minister for Water Development, the following Question by Private Notice:-

(a) Is the Minister aware that the residents of Kulan, Liboi Division, Garissa District, have serious shortage of water as a result of the collapse of the only borehole?

(b) What immediate action is the Minister taking to repair or replace the pump?

**The Minister for Mineral Exploration (Mr. Kalweo):** Mr. Deputy Speaker, Sir, I would like to apologise on behalf of hon. Ng'eny for failing to answer this Question this morning. He told me to convey his apologies to the House.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware

(b) Due to the current drought in that area, the Ministry has appealed to development partners to assist them to start cleaning those boreholes. For the time being, there is a borehole called Ramajale, which people could use. At the same time, we require about Kshs2 million to send a group from the headquarters to increase the number of workers in that area so as to clean some of those boreholes.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, I am really shocked with the Minister's answer. I can see a trend

whereby Ministers are not taking this House seriously. This is the same reply I was given three weeks ago, and you sent the Minister packing and told him to come back with a better answer.

**Mr. Deputy Speaker,** Sir, the Minister is talking about development partners, and yet the Ministry of Water Development is in charge of provision of water in this country. People in that area do not have water, and yet he is talking about people cleaning and using that borehole. That borehole has already collapsed; it is obsolete and it is not functional. This Minister is misleading the House. In any case, the substantive Minister in charge of water is not here. It is very unfortunate that this House is not taken seriously. The Minister should either give us water or tell us to forget about it. We should not even think of having the Ministry of Water Development in this House.

**Mr. Deputy Speaker:** Very well! What is your supplementary question?

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, I cannot even ask him a question, because he absolutely does not know what he is talking about, and secondly he is talking about something which is non-existent. Could he come back to the House with a better answer? If he cannot come with a better answer, why can he not save the time of this Parliament by letting us do some other things? I will tell my constituents that the Ministry cannot provide them with water, so that they can forget about it. I cannot be in this party any longer; if I am not helping my people.

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I cannot give a reply as to which party the hon. Member should belong to. But what my colleague told me was that, the cleaning of the boreholes will cost about Kshs2 million, and the Ministry is trying to get finances so that they can clean those boreholes. It is understood that, that area has no water for the moment, but this is the assurance my colleague gave me.

**Mr. Keynan:** On a point of order, Mr. Deputy Speaker, Sir. We are talking about a collapsed borehole, and yet the Minister is talking about cleaning the boreholes. Could he clarify that issue?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, what I said, is that, the borehole should be cleaned or overhauled.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, I think the Minister is taking this House for a ride. The borehole has collapsed and people are not getting water and it cannot be cleaned. So, there is a difference between cleaning and drilling of a new borehole. Could the Minister make an undertaking that he is going to drill that borehole? Those people have had no water for the last six months. Nothing short of that, will satisfy me.

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

**Mr. M.A. Galgalo:** Mr. Deputy Speaker, Sir, I am seeking the guidance of the Chair. Is this Minister answering the Question as a Minister in the Government of Kenya or as a messenger of the Minister for Water Development?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I think hon. Galgalo is an old hon. Member in this House and knows what collective responsibility entails. Therefore, I am not joking. The Government is not responsible for the ecological occurrences in this nation. The fact remains that, that area has no water, but the Minister is doing everything possible to see to it that there is water in that area.

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, I stand to seek the indulgence of the House. It is very clear that this Minister is not answering questions. He is either incompetent or---

**Mr. Deputy Speaker:** Could you ask your question?

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, could the Chair consider deferring this Question until such a time when there is the appropriate Minister to answer the Question?

**Mr. Deputy Speaker:** No!

**Mr. Maundu:** Mr. Deputy Speaker, Sir, the Minister made one commitment: That Kshs2 million will be provided for the cleaning of the borehole. Could he give us a time frame when he is going to provide this money, so that the work is done immediately to alleviate the problem of the people of North Eastern?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, as I said the whole exercise is estimated to cost Kshs2 million, and the Minister is doing everything possible to implement this.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, the Minister should be serious and not take it round in circles. Could he tell us when that borehole will be drilled?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, I have given that undertaking.

**Hon. Members:** When?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, as soon as possible.

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

**Mr. Deputy Speaker:** Order, hon. Members! You are developing a habit of trying to extend Question Time, in order to debate an issue. Question Time is not for debate. It is for asking Questions, and I have accorded it enough time. Mr. Kalweo, this Question was deferred by me, because the House felt terribly uneasy that the Government of

Kenya could not produce Kshs2 million to repair boreholes in North Eastern and that we were to go and look for donors assistance. So, be fair to these hon. Members. Tell the House whether you are going to provide that money under Supplementary Estimates, the next Financial Budget or within your three-year budget planning period?

**Mr. Kalweo:** Mr. Deputy Speaker, Sir, they thought of scooping from the activities of the Ministry.

**An. Hon. Member:** What is scooping?

**Mr. Deputy Speaker:** Now you are beginning to ask the Chair to give you explanations of words. The Chair only interprets the rules of the House. The word "scooping" does not appear in any of our Standing Orders! Proceed.

## MINISTERIAL STATEMENTS

### PAYMENTS TO COFFEE FARMERS

**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, I arise in order to respond to a question raised by hon. Njenga Karume regarding matters relating to the Coffee Board of Kenya (CBK) and payments of proceeds to the coffee farmers.

Mr. Deputy Speaker, Sir, I want to clarify from the very beginning that no members of the Board of Directors of the CBK were suspended or removed. I also want to say that the operations of CBK and Kenya Planters Co-operative Union (KPCU) are going on normally. It is true that there has been an interruption in payments to coffee farmers by the CBK caused by the inability to access funds with the bankers of the CBK.

The recent changes in personnel at the CBK occasioned by the special audit report by a team appointed by the Government involved a number of management staff who were sent away on suspension to facilitate further investigations. Some of these were signatories to the Board's bank account. This necessitated the appointment of new signatories from amongst the team appointed to take over the positions they held before the suspension. It has taken a little while for the CBK bankers to confirm that the new signatories can start operating the bank accounts. As at yesterday, seven banks, namely, Standard Chartered Bank, Kenya Commercial Bank, Akiba Bank, The Co-operative Bank of Kenya, Stanbic Bank, Citi Bank and the National Bank of Kenya had confirmed the new signatories to operate the CBK accounts, and the cheques for payments to farmers are now being released. In fact, some of the payments have already been released. We anticipate that the remaining three banks; namely, the Bank of India, Barclays Bank of Kenya and the ABN Amro will confirm the operation of the bank accounts by the new signatories today. It is expected that all the processes and the approved payments will be released by tomorrow, Thursday, 16th december, 1999.

Mr. Deputy Speaker, Sir, in this respect, I want to confirm that a lot of payments have already been made totalling over Kshs60 million as at now. The short delay was, therefore, not as a result of lack of funds in CBK's account, but because of the technical problems with signatories.

**Mr. Karume:** Thank you very much, Mr. Deputy Speaker, Sir. I appreciate the answer given by the Minister that now the money has been released, and I hope it has actually been released. Can the Minister also tell us what the Government is doing to ensure that the final payment will be made before Christmas this year as usual?

**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, as I said, normal operations of the CBK are going on and directors in place. It is normally not the duty of the Minister to order payments from the CBK to the farmers. I hope that the CBK will listen to the sentiments expressed by hon. Karume and pay farmers before Christmas.

**Mr. Mwhia:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a clarification from the Minister regarding the signatories to the bank accounts.

This House passes rules and laws and the Coffee Act is very clear. Can the Minister tell us when the Board of Directors met to appoint new signatories and where they got the mandate and resolutions to change the signatures in the banks? This is a statutory company that has a Board of Directors and it operates under the Coffee Act which has not been changed in this House.

**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, the hon. Member for Gatundu South must be aware of the developments which have taken place relating to the activities of CBK. He is also aware that a few months ago, the Government removed the exemption from the State Corporations Act which that Board enjoyed. Therefore, that Board is operating under the State Corporations Act and the provisions which were invoked related to the management of parastatals.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, the hon. Minister has already released a report indicating that Directors of CBK have been involved in fraud. How can he expect them to continue running the operations of CBK if they have been involved in fraudulent acts? Will he either remove them and call for elections or confirm that they have not been involved in fraud?



**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, as I stand here, there are lots of investigations being carried out from all organs of the Government directly involved. I know that where it will be established that legal action is required, that action will be taken. I will shortly be making further announcements regarding what the Government intends to do with the affairs of the CBK. However, as I said before, whatever we will do, we will do it after consultations with the relevant stakeholders.

**Mr. Anyona:** Mr. Deputy Speaker, both under the State Corporations Act and the Exchequer and Audit Act, once an audit has been carried out, the Minister is under obligation to make sure that that report is made available to Parliament so that the concerned Committee of the House can go into that report and report back to the House. When does he want to do that?

**The Minister for Agriculture** (Mr. Obure): Mr. Deputy Speaker, Sir, the audit report was tabled right here a few weeks ago. The Chairman of the Agricultural Committee of this House was given a copy of that, and I believe that the Committee is giving it due consideration.

#### LAND RENT TO FARMERS IN MUMIAS

**The Minister for Lands and Settlement** (Mr. J. Nyagah): Mr. Deputy Speaker, Sir, a few weeks ago, hon. Osundwa, the Member of Parliament for Mumias, raised a question to the effect that the Government of Kenya owes the farmers whose land is occupied by a factory some money for rent. At that time, I was asked by the Chair to produce the evidence that the land had been bought from the farmers, was owned by the Government and then the Government allocated it to Mumias Sugar Factory. Here is the evidence that this House demanded that I produce. Thank you.

*(Mr. J. Nyagah laid the document on the Table)*

**Mr. Osundwa:** Mr. Deputy Speaker, Sir, I am glad that the Minister has at last brought what he believes to be a document related to the alleged sale of land. I will raise further questions after going through the document that the Minister has tabled.

#### ENCROACHMENT ON NGONG FOREST

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. We have learnt from the media and otherwise that Ngong Forest is about to be grabbed. It has also been established that there are some people there who are already messing up Ngong Forest. If the Minister is here, can he confirm or deny, or even issue a statement and tell us whether this is true? If it is true, what action is he taking?

**The Minister for Environment and Natural Resources** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. It is only last night that I saw on the television a statement to the effect that Ngong Forest is being encroached on. I will investigate and report to this House when we come back from the recess.

#### STALLED WATER PROJECTS

**Mr. N. Nyagah:** Mr. Deputy Speaker, Sir, last week on Thursday, I demanded a Ministerial Statement from the Minister for Local Government, in regard to the commercialisation of water in Nairobi. I wanted to know how far this has been done. It was a fairly detailed communication for which, this House was promised an answer today. I am now demanding an answer.

**The Assistant Minister for Local Government** (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I have just received the statement. But I had already indicated to you that, I will make a Ministerial Statement in relation to another matter that was sought by hon. Muniyao. So, I seek your indulgence to deal with the first one first, and then come to the other one of Mr. N. Nyagah. I have just received it.

**Mr. Deputy Speaker:** Proceed!

#### CLAMPING OF VEHICLES IN THE CITY CENTRE

**The Assistant Minister for Local Government** (Mr. Kiangoi): Mr. Deputy Speaker, Sir, on the 9th of December, 1999, hon. Muniyao raised the issue of clamping of vehicles, for failure by motorists to pay the prescribed parking fees, within the Nairobi City Council. The hon. Member alleged that the clamping attendants were indisciplined, uncultured and most uncivilised in the manner in which they go about their duties. Accordingly, he requested the Minister to

abolish the new manual system of collecting revenue from car parks, and also tell the House whether the revenue collected is well accounted for.

Mr. Deputy Speaker, Sir, the new system of manually collecting the parking fees within certain zones of the City Council was introduced last year, after it was acknowledged that the council was losing a lot of revenue due to defective and vandalised meters. By October, 1998, approximately 80 per cent of the meters were either defective or vandalised. Annual fees between 1997 and 1998 averaged Kshs12 million. Due to this unsatisfactory state of affairs, the council in consultation with my Ministry, opted to a manual system of manning and collecting revenue from the car parks. To enforce the new system, the council introduced towing by breakdown, by both council and hired breakdowns. The system was very unpopular and inconvenienced city motorists, who expressed their dissatisfaction to the council, and through the media. The council, therefore, decided to look for an alternative method of enforcement.

Out of the attention that the new system had attracted, some private persons and firms made applications to the council, offering various appliances for clamping vehicles not displaying parking tickets. After demonstrations, the council granted its approval for ten firms to conduct clamping on trial basis. Each firm was given its zone of operation. The trials runs have been in operation for the last nine months, and the system is much more acceptable to the public than towing, which in some cases, resulted in damage to the motor vehicles. An amount of Kshs750 is levied on every vehicle clamped. Out of this amount, Kshs500 goes to the clamping firm, while the balance is retained by the council.

Indeed, instances of misconduct and indiscipline have been reported to the council. Where they have been confirmed, action has been taken quickly and orders for de-clamping made. Regarding the accounting of revenue collected through the new system, I wish to confirm that between January and October, 1999, the council collected Kshs113.9 million from parking fees, compared to Kshs12 million collected during the same period in 1998. It is very clear that the council was losing a lot of revenue through the meter system. It is possible that the council is still losing some revenue due to collusion between the car park attendants and motorists. The council is putting more checks to improve on the system. The council is in the process of revising the entire system of car park fees collection, with a view of making it more customer friendly. The clamping of vehicles is one aspect which is being constantly assessed, and which will be assessed with a view of reviewing it to minimise public dissatisfaction.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, I would like to get one or two clarifications from the Assistant Minister. I have listened to his Statement very keenly, and I thank him for that. But there are no Minutes from the City Council to show that it approved the method which is used now. Secondly, I am told that the company which does the clamping is totally private. It is owned by some officers within the area. The margin which the Government is getting is very little.

Finally, on the question of civilisation and culture of those members of staff, in the United Kingdom (UK), you can be arrested by a policeman and tortured, but he will still call you, "Sir." That time, he will be hand-cuffing you! The kind of staff who carry the big chains are totally uncivilised. Their behaviour indicates that they have never been to school. They are all thugs! Could the Assistant Minister make sure that those people are civilised? The people who apply for such jobs should be educated, and should know how to treat the owners of vehicles in the City.

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Deputy Speaker, Sir, on the issue of the people contracted, we have drawn the attention of our inspectors to look into the matter. As I have said, I can assure hon. Munyao that, it is a system to perfect. Therefore, we will review it from time to time, once we get the reports. As we go on, and as people bring up such matters, we will know where things have gone wrong. This way, we can perfect the system.

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister the following: We all notice that all the council workers have gone on strike because they have not been paid for the last four months. I would like to ask the Assistant Minister why he has left the matter to deteriorate so much! Nobody in the City can exist without a salary for two months, leave alone for four months! How does the Assistant Minister think those families exist?

We also know the problems at the Maternity Hospital at Pumwani. Women are delivering on the floor. They are not fed. There is nobody to cook for the mothers. It is deplorable! There is nobody to receive dead bodies at the City Mortuary! What is the Local Government Minister doing, to make sure that the City Council employees are paid immediately? Who will take the responsibility of the children who are dying now, because they have no care? He should resign! Is he worth to be a Minister in the Local Government?

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Deputy Speaker, Sir, the Minister will not resign because he is working very hard on the matter. On the issue of payment of salaries to council workers, the Minister did intervene and got some money, which has now been given to the council, to pay its workers. So, on that issue, the Minister is working to ensure that the council workers are paid.

Secondly, regarding the health services, the Minister appreciates the gravity of the matter. In fact, we are now working on a proposal, which we hope will result in the formation of a Board, that will manage health services within the City Council. It will work just like the Kenyatta National Hospital. That way, we intend to improve on the

services that are given currently.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, we are delighted to hear the re-assurance from the Assistant Minister that, the striking workers will be paid. Could he confirm whether they will be paid for all the four months, so that we do not have any further street demonstrations?

**The Assistant Minister for Local Government** (Mr. Kiangoi): Mr. Speaker, Sir, I may not be aware of the exact figure because I have been on a trip to South Africa, but the position is that money has already been disbursed and the City Council workers will definitely be paid. In fact, this morning we were trying to follow-up the matter with the City Council to see whether the workers have been paid or when they will be paid. In fact, we will get an answer to that even by tomorrow.

## COMMITTEE OF THE WHOLE HOUSE

*[Order for Committee read]*

*[Mr. Deputy Speaker left the Chair]*

### IN THE COMMITTEE

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

#### THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL

#### Clause 2

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 2 be amended-

- (a) by deleting the definitions of "burdened land" and substituting therefor the following new definition-  
"burdened land" means any land upon which an environmental easement has been imposed;
- (b) by inserting the following new definitions in their proper alphabetical sequence-  
"coastal zone" means any area declared to be a protected coastal zone under section 55;  
"environmental easement" means an easement imposed under Section 112;  
"regional development authority" means a regional development authority established by an Act of Parliament.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

*(Clauses 3, 4 and 5 agreed to)  
Clause 6*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 6 be amended by deleting the word  
"three" and substituting therefore the word "four".

*(Question of the amendment proposed)*

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

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

*(Clause 6 as amended agreed to)*

*(Clauses 7 and 8 agreed to)*

*Clause 9*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 9 be amended in subclause (3) by deleting the full stop at the end thereof and inserting the words “where the National Assembly is in session, or where not in session, within twenty-one days of the day the National Assembly next sits after such publication.”

*(Question of the amendment proposed)*

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

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

*(Clause 9 as amended agreed to)*

*Clause 10*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 10 be deleted and replaced with the following new Clause-  
10 (1) The Authority shall be managed by a Board, which shall consist of -

a Chairman appointed by the President;

the Permanent Secretary of the Ministry for the time being responsible for matters relating to the Authority or an officer of that Ministry designated in writing by the Permanent Secretary;

a Director-General appointed by the President;

three Directors who shall be officers of the Authority;

seven members, not being public officers, appointed by the Minister in consultation with the Council; and

- (f) the Secretary to the Board, who shall be appointed by the Authority.
- (2) No person shall be appointed under subsections (1) (a), (c), (d) or (e) unless such person holds at least a post-graduate degree from a recognized university in the fields of environmental law, environmental science, natural resource management or a relevant social science and in the case of the Director-General, has at least fifteen years' working experience in the relevant field.
- (3) The members referred to under subsection (1) (a) and (e) shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.
- (4) The members appointed under paragraphs (a), (c) and (e) of subsection (1) shall hold office for a term of four years and shall be eligible for reappointment for one further term of four years.
- (5) The Board shall elect a Vice-Chairman from among the members appointed under paragraph (e) of

subsection (1).

- (6) The Board shall meet at least four times in every financial year.
- (7) The Chairman shall preside at every meeting of the Board at which he is present, but in his absence the Vice-Chairman shall preside, and in his absence, the members present shall elect one of their member who shall, with respect to that meeting and the business transacted thereat have all the powers of the Chairman.
- (8) Unless a unanimous decision is reached a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or person presiding shall have a casting vote.
- (9) The quorum for the transaction of the business of the Board shall be seven members including the person presiding; and all acts, matters or things authorised or required to be done by the Board, shall be effected by a resolution passed by a majority of the members present and voting.
- (10) The Secretary to the Board shall not be entitled to vote on any matter before the Board.
- (11) The appointment of a member of the Board may be terminated by the appointing authority where the member -
  - (a) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
  - (b) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
  - (c) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or
  - (d) becomes, for any reason, incapable or incompetent of properly performing the functions of his office.
- (12) Where a member of the Board dies or resigns or otherwise vacates office before the expiry of his term of office, the appointing authority shall appoint another person in the place of such member.
- (13) Where the Director-General is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute therefor to act with the full powers of the Director-General until such time as the President determines that the incapacity has ceased.
- (14)
  - (a) The Director-General shall be the chief executive of the Authority and shall, subject to this Act, be responsible for the day to day management of the affairs of the Authority.
  - (b) The Director shall perform such functions as are conferred by this Act and such additional duties as may be assigned by the Director General.
  - (c) The Director General and the Directors of the Authority shall be paid such salaries and allowances as may, from time to time, be determined by the President.
- (15) Subject to subsections (6), (7), (8), and (9) the Board shall regulate its own procedure.

*(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, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 agreed to)*

*Clause 29*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 29, be amended -

- (a) in subclause (2), by adding at the end thereof the following new paragraph -
- (h) a representative of every regional development authority whose area of jurisdiction falls wholly or partially within the Province,

in subclause (3) -

- (i) by deleting paragraph (e) and substituting therefor the following new paragraph -
  - (e) four representatives of farmers, women, youth and pastoralists within the district, to be appointed by the Minister;
- (ii) by adding at the end thereof the following new paragraph -
- (h) two representative of the community-based organisations engaged in environmental programmes operating in the district, to be appointed by the Minister.

*(Question of the amendment proposed)*

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

*(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 Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 31 be amended -

- (a) by deleting paragraphs (a) - (e) of subclause (1) and substituting therefor the following new paragraphs -
- (a) a Chairman appointed by the Minister and who shall be a person qualified for appointment as a judge of the High Court of Kenya;

a representative of the Attorney-General;

a representative of the Law Society of Kenya;

a representative of non-governmental organizations appointed by the National Council of Non-Governmental Organizations and who shall be the secretary to the Complaints Committee;

a representative of the business community appointed by the Minister; and

- (f) two members appointed by the Minister for their active role in environmental management.
- (b) in subclause (2), by deleting the words "the chairman" and substituting therefor the words "the members appointed under subsection (1) (b);
- (c) in subclause (3), by deleting the words "the chairman" and substituting therefor the words "the member appointed under subsection (1)(b)"

*(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 31 as amended agreed to)*

#### Clause 32

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 32 be amended in paragraph (b) by inserting immediately after the word "activities" the words "which report shall form part of the annual report on the state of the environment under section 9(3)".

*(Question of the amendment proposed)*

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

*(Clause 32 as amended agreed to)*

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

#### Clause 43

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 43 be amended-

- (a) by deleting the word "indigenous" and substituting the word "local";
- (b) by inserting the words "or forest" immediately after the word "riverbank".

*(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 43 as amended agreed to)*

*(Clauses 44, 45, 46 and 47 agreed to)*

*Clause 48*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 48 be amended-

(a) in subclause (1) by deleting the words "with the approval of the Director of Forestry" and substituting thereof the words "after consultation with the Chief Conservator of Forests".

(b) in subclause (2) by deleting the word "indigenous" and substituting thereof the word "local".

*(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 48 as amended agreed to)*

*(Clauses 49, 50, 51, 52, 53,  
54, 55, 56 and 57 agreed to)*

*Clause 58*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 58 be amended-

(a) in subclause (8) by deleting the word "six" and substituting thereof the word "three";

(b) in subclause (9), by deleting the words "within nine months" and substituting thereof the words "within the time stipulated under subsection (8)".

*(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 58 as amended agreed to)*

*Clause 59*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 59 be amended in subclause (1) by deleting the word "ninety" and substituting thereof the word "sixty".

*(Question of the amendment proposed)*

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

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

*(Clause 59 as amended agreed to)*

*(Clauses 60, 61, 62, 63, 64, 65,  
66, 67, 68 and 69 agreed to)*

*Clause 70*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 70 be amended in subclause (5) by deleting the word "proceedings" and substituting thereof the word "procedure".

*(Question of the amendment proposed)*

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

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

*(Clause 70 as amended agreed to)*

*Clause 71*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 71 be amended in paragraph (e) by inserting the word "flora" immediately after the words "human beings".

*(Question of the amendment proposed)*

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

*(Clause 71 as amended agreed to)*

*(Clauses 72, 73, 74, 75, 76, 77,  
78, 79, 80, 81 and 82 agreed to)*

*(Clauses 83, 84, 85, 86, 87, 88,  
89, 90, 91, 92 and 93 agreed to)*

*(Clauses 94, 95, 96, 97, 98, 99,  
100, 101, 102 and 103 agreed to)*

*Clause 104*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 104 be amended by deleting paragraph (e) and substituting therefor the following paragraph-  
(e) provide information to, warn and protect the public in cases of actual or potential exposure to radioactive material or ionising radiation.

*(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 104 as amended agreed to)*

*(Clauses 105, 106, 107, 108, 109, and 110 agreed)*

*(Clauses 111, 112, 113, 114, 115 and 116 agreed to)*

*Clause 117*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to Move: THAT, Clause 117 be amended in subclause (1) by deleting the words "duly qualified public officers" and substituting therefor the words "duly qualified persons, whether public officers or otherwise".

*(Question of the amendment proposed)*

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

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

*(Clause 117 as amended agreed to)*

*(Clauses 118, 119, 120, 121,  
122, 123 and 124 agreed to)*

*Clause 125*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 125 be amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph

(a) a chairman nominated by the Judicial Service Commission, who shall be a person qualified for appointment as a judge of the High Court of Kenya.

*(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 125 as amended agreed to)*

*Clause 126*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 126 be amended in subclause (1) by adding at the end thereof the words "as set out in the Evidence Act".

*(Question of the amendment proposed)*

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

*(Clause 126 as amended agreed to)*

*(Clauses 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147 and 148 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee of the whole House doth report to the House its consideration of The Environmental Management and Co-ordination Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

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

#### **THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION BILL**

**Mr. Musila:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Environmental Management and Co-ordination Bill and approved the same with amendments.

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

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

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Environment** (Mr. Nyenze): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Environmental Management and Co-ordination Bill be now read the Third Time.

**The Minister for Agriculture** (Mr. Obure) seconded.

(Question proposed)

**Mr. Khamasi:** Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank the Committee which worked on this Bill. From the amendments therein, you will appreciate that a lot of time was put into it and they have come up with very good amendments. I believe that once this Bill becomes an Act, it will be of great importance to this country. This Bill was long overdue.

In the absence of this Bill, we have witnessed some of the worst environmental degradation in this country. We have witnessed our environment being "raped". We have seen our environment being destroyed and polluted with impunity. The worst culprits in this area are multinational companies, particularly those who are in oil exploration in some parts of Northern Kenya, where a lot of dumping has been done which has got very serious side effects to the residents of that particular area.

On the transport industry, we have seen the liners; the ships that bring in oil, spilling oil residues on our sea-shores and very little has been done because there was no legal framework in this particular area. On the manufacturing industry, we have seen factories, for example, Webuye Paper Mills emitting raw effluent into River Nzoia and many other areas. Very little has been done because there was no legal framework in place. On the hotel industry, when we were discussing this Bill in the Departmental Committee, we saw a lot of resistance. They never wanted this Bill to become an Act and that was for obvious reasons. Now that this Bill is going to become an Act, it will put them on the alert to make sure that the total pollution that they cause is controlled.

Mr. Temporary Deputy Speaker, Sir, the best thing about this Act is that now it gives *locus standi* to the ordinary Kenyan citizen to sue where he believes that his environment is affected. This was not there. It is the responsibility of ordinary Kenyans to be aware about the Act now in place so that whenever our environment is being polluted deliberately, they have got the legal framework within which to seek redress in our courts.

Mr. Temporary Deputy Speaker, Sir, I believe that our land regime is very inadequate. We need a comprehensive land regime in this country. We have allowed encroachment on our grazing areas and our catchment areas to an extent whereby so many catchment areas are being destroyed. With this Act in place, I believe that the people in those areas can now rise and go to court to make sure that their environment is well protected.

Mr. Temporary Deputy Speaker, Sir, I believe we shall have to consent so that our courts can now be firm and make sure that, if any cases are brought, I believe the Judiciary will set up special courts so that this law can be enacted. I want to appeal to the Minister to make sure that once the Act becomes operational, it will have a lot of effect to make sure that our environment is not polluted the way it is being done.

Thank you.

**Mr. Osundwa:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make very brief remarks on this Bill. As the Chairman of the Agriculture, Lands and Natural Resources Committee, I want to thank all the Members who contributed to this Bill. I am happy today because Kenya has joined other forward-looking countries by passing this Bill. Kenya has always lagged behind in many things not only on environment but on communication and so on. I hope His Excellency the President will assent to this Bill so that we give the Minister the teeth to bite. He has always relied on the Public Health Act and the Agriculture Act to punish offenders who pollute our environment.

We have been talking about dumping in our lakes and rivers. We have the problem of water hyacinth in Kisumu and right now, we are spending huge sums of money trying to remove the hyacinth. But these efforts will come to nought because the hyacinth is feeding on effluent from Muhoroni and from Kisumu Municipality because these two authorities have not been controlled. They are dumping effluent in the lake as they wish. Kenya is going to pay through the nose for removing this hyacinth which is feeding on the nutrients from this effluent.

Mr. Temporary Deputy Speaker, Sir, I will be very brief here and this is about appointment. This Bill is setting up Environment Management Authority, and if you look at Clause 10, it says: "No person shall be appointed under this Section unless such a person holds, at least, a post-graduate degree from a recognised university in the field of environmental law, environmental science or natural resources management". We have had cases where incompetent people have been appointed on highly scientific bodies like this one. I want to tell the Minister that this is not what Kenyans expect. We want people with integrity, people with higher education and people with relevant education to environment to be appointed to this intended Authority.

With those few remarks, I beg to support.

**Dr. Omamo:** Mr. Temporary Deputy Speaker, Sir, I am very, very happy that this Bill has reached this stage. Every Christian is persuaded to live his life abundantly here on earth. I am sure that when our Lord was persuading us to live our lives abundantly here on earth, He was thinking of a clean environment where a child would be born, grow and mature, so that on dying, he would go direct to Heaven. I gather that if we can improve our environment, life here

in Kenya would be lived abundantly. I am told that the earth is the only planet in the universe where life has been proved to exist. This came up at Stockholm in 1972, when scientists scratched their heads and agreed that life as we know it only exists here on earth. We want life to exist here on earth; let it be and let us have it abundantly.

Mr. Temporary Deputy Speaker, Sir, what is a city? We are thinking of more cities coming up in Kenya. What are the citizens? I am told that a city has been defined as "a place where many people live, but they are independent and self-supportive". Let us live in Nairobi City, but be self-supportive. The roads are ours, and must be okay; schools, maternity hospitals such as Pumwani Maternity Hospital, and others must be okay. I am very happy, and I know that if anyone tries to pollute Nyando River in Muhoroni, the polluter will have to pay for the cost. If anyone pollutes Awach and Kuja Rivers, or the Gulf of Lake Victoria, he will have to pay a cost because of this Bill.

Thank you, Mr. Minister; thank you, Mr. Temporary Deputy Speaker, Sir.

*(Question put and agreed to)*

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

### MOTION

#### ADOPTION OF SESSIONAL PAPER NO.3 OF 1999 ON NATIONAL POVERTY ERADICATION

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, we know that it is listed on today's Order Paper that the Government would move this Motion on the National Poverty Eradication Sessional Paper. However, I am not ready to do so now. The Sessional Paper is ready, but I would like to invite hon. Members to discuss it at an informal seminar first and bring it back to the House when it resumes next. So, I wish to request that we defer this particular Motion.

**The Temporary Deputy Speaker** (Mr. Poghio): Very well; Motion deferred.

*(Motion deferred)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghio): Hon. Members, there being no other Business for us to transact, the House is adjourned until Thursday, 16th December, 1999, at 2.30 p.m.

The House rose at 5.05 p.m.