

**LIST OF MEMBERS OF THE
NATIONAL ASSEMBLY**

SPEAKER

Dr M Tjitendero (Mr)

DEPUTY SPEAKER AND CHAIRMAN OF THE COMMITTEES

Rev W Konjore

THE CABINET

MINISTERS

(21 March 2000 – Elected in terms of Article 133 of the Constitution)

Mr T-B Gurirab (Mr)	<i>(Prime Minister)</i>
Rev H Witbooi	<i>(Deputy Prime Minister)</i>
Mr H Angula	<i>(Agriculture, Water & Rural Development)</i>
Mr J Mutorwa	<i>(Basic Education Sport & Culture)</i>
Mr E Nghimtina	<i>(Defence)</i>
Mr P Malima	<i>(Environment and Tourism)</i>
Ms S Kuugongelwa-Amadhila	<i>(Finance)</i>
Dr A Iyambo	<i>(Fisheries and Marine Resources)</i>
Mr M Hausiku	<i>(Foreign Affairs)</i>
Dr L Amathila (Ms)	<i>(Health and Social Services)</i>
Mr N Angula	<i>(Higher Education, Training & Employment Creation)</i>
Mr J Ekandjo	<i>(Home Affairs)</i>
Mr N Mbumba	<i>(Information & Broadcasting)</i>
Dr A Kawana (Mr)	<i>(Justice)</i>
Ms M Mungunda	<i>(Labour)</i>
Mr H Pohamba	<i>(Lands, Resettlement & Rehabilitation)</i>
Mr A Toivo Ya Toivo	<i>(Prisons & Correctional Services)</i>
Mr J Kaapanda	<i>(Regional and Local Government & Housing)</i>
Mr Dr N Iyambo	<i>(Mines and Energy)</i>
Mr J Nyamu	<i>(Trade and Industry)</i>
Mr M Amweelo (Mr)	<i>(Works, Transport & Communications)</i>
Ms N Nandi-Ndaitwa	<i>(Women's Affairs & Child Welfare)</i>
Ms P Iivula-Ithana	<i>(Attorney-General)</i>
Dr E N Tjirirange	<i>(Minister Without Portfolio)</i>
Mr I Ngatjizeko	<i>(Director-General of the National Planning Commission)</i>
Mr A P Tseehama	<i>(Director-General of Namibia Cnetral Intelligence Service)</i>

DEPUTY MINISTERS

(21 March 2000 – Elected in terms of Article 133 of the Constitution)

Mr P Smit	<i>(Agriculture, Water & Rural Development)</i>
Mr B Wentworth	<i>(Basic Education Sport & Culture)</i>
Mr V Simunja	<i>(Defence)</i>
Mr P Iilonga	<i>(Environment & Tourism)</i>
Ms C Bohitile	<i>(Finance)</i>
Ms L Lucas	<i>(Foreign Affairs)</i>
Mr R Kamwi (Mr)	<i>(Health and Social Services)</i>
Mr H Hishongwa	<i>(Higher Education, Training & Employment Creation)</i>
Ms L Kasingo	<i>(Home Affairs)</i>
Mr G Shihepo	<i>(Information & Broadcasting)</i>
Mr A G !naruseb	<i>(Justice)</i>
Ms R Nghindinwa	<i>(Labour)</i>
Mr I Katali	<i>(Lands, Resettlement & Rehabilitation)</i>
Mr J Nambinga	<i>(Prisons & Correctional Services)</i>
Prof G Töttemeyer	<i>(Regional and Local Government & Housing) (replaced by Mr L Jooste as from 07.09.04)</i>
Mr H Ya Kasita	<i>(Mines and Energy)</i>
Mr B Esau	<i>(Trade and Industry)</i>
Mr A Kapere	<i>(Works, Transport & Communications)</i>
Ms A Muharukua	<i>(Women's Affairs & Child Welfare)</i>

SECRETARY

Mr M K Ndjarakana

DEPUTY SECRETARY

Mr F S Harker

LIST OF MEMBERS AND PARTIES WHICH THEY REPRESENT

SWAPO OF NAMIBIA

Dr M Tjitendero	<i>(Speaker)</i>
Rev W Konjore	<i>(Deputy Speaker)</i>
Mr BR Kukuri	<i>(replaced by Mr R Blaauw as from 12.10.04)</i>
Mr B Amathila	<i>(Chief Whip)</i>
Mr D Boois	
Mr H G Booys	
Mr R Dinyando	
Ms M Jwagamang	
Mr H Hamutenya	
Mr E Kaiyamo	

Ms E Kamanya	
Ms L Katjita	
Dr K Mbuende (Mr)	
Ms T Mushelenga	
Ms G Ndjoze	
Ms D Sioka	<i>(First Deputy Whip)</i>
Mr R /Ui/o/oo	
Mr P Ya France	<i>(Assistant Whip)</i>
Mr A Toivo Ya Toivo	<i>(Minister)</i>
Mr J Nyamu	<i>(Minister)</i>
Mr H Angula	<i>(Minister)</i>
Ms M Mungunda	<i>(Minister)</i>
Mr H Pohamba	<i>(Minister)</i>
Mr M Amweelo	<i>(Minister)</i>
Mr N Angula	<i>(Minister)</i>
Mr J Ekandjo	<i>(Minister)</i>
Mr B Esau	<i>(Deputy Minister)</i>
Mr T-B Gurirab	<i>(Prime Minister)</i>
Mr H Witbooi	<i>(Deputy Prime Minister)</i>
Ms C Bohitile	<i>(Deputy Minister)</i>
Mr M Hausiku	<i>(Minister)</i>
Mr P Iilonga	<i>(Deputy Minister)</i>
Ms P Iivula-Ithana	<i>(Attorney-General)</i>
Dr A Iyambo (Mr)	<i>(Minister)</i>
Dr N Iyambo (Mr)	<i>(Minister)</i>
Mr J Kaapanda	<i>(Minister)</i>
Mr V Simunja	<i>(Deputy Minister)</i>
Mr P Smit	<i>(Deputy Minister)</i>
Mr H Hishongwa	<i>(Deputy Minister)</i>
Mr G Shihepo	<i>(Deputy Minister)</i>
Dr R Kamwi (Mr)	<i>(Deputy Minister)</i>
Ms L Kasingo	<i>(Deputy Minister)</i>
Mr I Katali	<i>(Deputy Minister)</i>
Dr A Kawana (Mr)	<i>(Minister)</i>
Ms S Kuugongelwa – Amadhila	<i>(Minister)</i>
Ms L Lucas	<i>(Deputy Minister)</i>
Mr N Mbumba	<i>(Minister)</i>
Ms A Muharukua	<i>(Deputy Minister)</i>
Mr J Mutorwa	<i>(Minister)</i>
Mr J Nambinga	<i>(Deputy Minister)</i>
Mr A G !Naruseb	<i>(Deputy Minister)</i>
Mr I Ngatjizeko	<i>(Director-General)</i>
Dr L Amathila	<i>(Minister)</i>
Prof G Tötemeyer	<i>(Deputy Minister)</i>

Mr A Kapere	<i>(Deputy Minister) (National Council Member)</i>
Mr H Ya Kasita	<i>(Deputy Minister) (National Council Member)</i>
Ms N Nandi-Ndaitwah	<i>(Minister)</i>
Dr E N Tjiriange (Mr)	<i>(Minister without Portfolio)</i>
Ms R Nghidinwa	<i>(Deputy Minister)</i>
Mr E Nghimtina	<i>(Minister)</i>
Mr P Malima	<i>(Minister)</i>
Mr A P Tsheehama	<i>(Director-General)</i>

DTA/UDF COALITION

Mr K Kaura	<i>(Leader of the Opposition)</i>
Mr J Garoëb	
Mr J De Waal	
Mr P Moongo	
Mr J Gaseb	
Mr A Gende	
Ms G Tjombe	
Mr M Venaani	
Mr B Rattay B	

CONGRESS OF DEMOCRATS (COD)

Mr B Ulenga	
Mr T Gurirab	
Mr I Shixwameni	
Ms R Namises	
Mr L Chata	<i>(Deputy Chief Whip) (replaced by Mr L Muchila as from 12.10.04)</i>
Dr E Amukugo (Ms)	<i>(replaced by Mr A Ndumbu as from 12.10.04)</i>
Ms N Schimming-Chase	<i>(Chief Whip)</i>

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Mr J W F Pretorius	<i>(Chief Whip)</i>
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**NATIONAL ASSEMBLY
ASSEMBLY CHAMBER
23 SEPTEMBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON DEPUTY SPEAKER took the Chair and read Prayers and the Affirmation.

HON DEPUTY SPEAKER: Honourable Members, before we go into the business of the House, I do have the pleasure to announce and acknowledge the presence of a Parliamentary delegation from our sister Republic of Angola in the gallery here, you are most welcome.

HON DEPUTY SPEAKER: Any Petitions? Any Reports of Standing or Select Committees? Other Reports and Papers? Any Notice of Questions? Honourable Namises

NOTICE OF QUESTIONS

HON NAMISES: Thank you Deputy Speaker, I give Notice that on Thursday, 23rd September, I shall ask the Minister of Women Affairs and Child Welfare the following questions:

1. In the light of the decentralisation and the empowerment of the Regions, how many Regional Offices have been opened to cater for women and children by the Ministry since its establishment?
 2. What is the staff component?
 3. What training do they have?
 4. What kinds of programmes are carried out and what impact does it have on women and children?
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HON DEPUTY SPEAKER: Yes, further questions Honourable Members? Any further Notice of Questions? Any Notice of Motions? Honourable Sioka.

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**NOTICE OF MOTIONS
HON SIOKA**

NOTICE OF MOTIONS

LEAVE OF ABSENCE

HON SIOKA: Honourable Deputy Speaker, I Move without Notice that Leave of Absence due to urgent matters, be granted to the Minister of Finance, the Minister of Foreign Affairs, due to official business and to the Honourable Kamanya due to her own illness, until the 30th September, 2004. I so Move, Comrade Deputy Speaker.

HON DEPUTY SPEAKER: Please Second the Motion, Honourable Member. Any further Notice of Motions? Any Ministerial Statements? Honourable Minister of Home Affairs, Minister Ekandjo.

MINISTERIAL STATEMENT

HON MINISTER OF HOME: Thank you, Comrade Deputy Speaker. Since 1993 up to September 2004, the Ministry has issued a total number of 1 113 Citizenship Certificates to the Gam residents. This is as per applications the Ministry received. That total number consists of both grown-ups and children who attained the age of 21 as per the Botswana Government's prescribed laws regarding citizenship renunciation. These are the copies to prove our statement. These are just some of the few copies of the list for even this one is written, "*Baharero, who have renounced Botswana citizenship and are still awaiting repatriation.*"

All these people have received applications and these are the lists received also in 2002. Name list of the Herero/Botswana who handed their renunciation letters to the Botswana Authorities. These are just some of the copies of the people we have issued with Citizenship Certificates.

IDs: Since 1992 to 2004, several mobile teams were dispatched to various regions, constituencies, including Gam and Eiseb Block with the purpose to register those who qualify to acquire Namibian National Documents.

When it comes to IDs, it will be difficult for one to explain whether the ID belongs to a person in Gam, Outapi, Khorixas, Swakopmund, etcetera.

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**RESPONSE- QUESTION BY HON NAMISES
HON NANDI-NDAITWAH**

These IDs are sent to the different Regions, Regional Offices, where the applications were received. Hence, it is the responsibility of the applicant to find out from the nearest Regional Office whether the ID is ready for collection and if not, what the status of the application is. Alternatively, it is the responsibility of all the stakeholders involved to compile a list of names together with the application number of the waiting receipt, given to the Applicants and send this list to the nearest registration offices. In that case, the office will be able to select according to town or village.

Recently, those who listen to the radios, many Councillors together with Officials from the Ministry were involved in the distribution of uncollected Identify Documents because at our Regional Offices one finds a lot of uncollected IDs and Birth Certificates are usually issued to children born in Namibia by Namibian parents. This also applies to Gam.

I am saying this Comrade Deputy Speaker, because the DTA or the NUDO are making propaganda, saying that we are not attending to the people at Gam and Eiseb Block. We have got proof, we now have up to now 1 113 and what usually happens is that if the people apply, we have to have the send the applications and many people are still awaiting since they have applied through the normal official channels. They are still waiting for their IDs. It is just in response to the propaganda made by the DTA/NUDO in Gam. Thank you very much.

HON DEPUTY SPEAKER: Thank you Honourable Minister for the statement. Since there is no Debate on this but if there are some questions to get more clarity, it can be allowed. In the absence thereof, I thank the Honourable Minister for his statement. We will thus commence with the business of the House for today, and this being the day that business is initiated from the opposition benches, we will kick off with the series of questions. The 84th Notice of Question is the one by Honourable Namises. Does the Honourable Member put the question?

RESPONSE TO QUESTIONS

QUESTION 84:

HON MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Thank you Honourable Deputy Speaker, I am happy to respond to the questions posed to me by Honourable Namises. These questions can be answered together and this is what I am going to do and in doing so, I am going to make use of the words as they are found in the Children's Act 33 of 1960. However, before I go to that, as a matter of introduction, I have

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**RESPONSE- QUESTION BY HON NAMISES
HON NANDI-NDAITWAH**

the following to say:

It is true that as Minister tasked with the responsibility to ensure the well-being of children, including orphans and other vulnerable children, I will do everything within the power vested in me to protect them and to work towards ensuring their better future. The situation of children's needs, care and protection in Namibia has increased tremendously due to social problems and due to HIV/AIDS. Many are left orphans, vulnerable and in need of physical care. Inasmuch as those children might be in need of care, the Government does not encourage institutions. Children should be taken care of within communities. In the light of the very weak or non-existing family supportive structure, as a last resort, Children's Homes and Place of Safety may not be ignored. However, should the individual or a specific community realise the needs and wish to establish such a Place of Care, this should be done in accordance with the law.

To answer your question, I refer you to section 42 of the Children's Act, which deals with registration, and presentation of Children's Homes and a Places of Safety or Places of Care. Section 42(1) reads:

“(1) No child may be received in any Children's Home other than a Children's Home maintained and conferred by the State unless the Children's Home is managed by the association of persons consisting of not less than seven members and has been registered under this section or otherwise then in accordance with the conditions on which the Children's Home has been so registered.

(2) No child may be received in any Place of Care other than a place of Care maintained and conferred by the State unless that Place of Care has been registered under this Section or otherwise then in accordance with the conditions on which that Place of Care has been so registered.

Furthermore, section 42(5)(a) reads:

“(5)(a) A Certificate of Registration issued under subsection (3) may at any time be cancelled by the Minister or may at any time be surrendered to the Minister but no such Certificate shall be so cancelled except after not less than one month written notice of the intention of cancelling that Certificate has been given to the person in whose name it was issued and after consideration by the Minister of any representation which may be submitted in pursuance of such a Notice.

(b) Written notice shall be given of any cancellation or surrender of the registration of Certificates.”

And:

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HON NANDI-NDAITWAH**

6(a) *The cancellation or surrender of the registration Certificate shall take effect on the dates prescribed in the document whether notice is given of the cancellation or surrender.”*

Section 51(a) states:

“51(a) *The Minister may, subject to the provision of Subsection (3), by order in writing, transfer any people or children from any Institution to which he has lawfully been sent by any authority or from any custody in whose control or supervision under which or protection on which he has lawfully been placed by any authority, to any Institution, custody, control, supervision or protection mentioned in Section 31 of this Act, or Section 342 of the Criminal Procedure; and*

(2) *When the Minister under this Section deals with people or a child to whom an order made by any Court applies, that Order shall be deemed to have been varied by the Minister’s Order.”*

Having gone through at length to explain the power of the Minister in accordance with the Law, for the benefit of this House, let me come to the basis of the matter that leads to Honourable Namises’ questions.

Honourable Namises, through her sister, Ms Claudia Namises, has been running an illegal place of safety called *Orlindi Home*. The Government, through the Minister of Health and Social Services, and now through the Minister of Women Affairs and Child Welfare, has been paying for nine children hosted at that place. On the 10th May 2004, a familiarisation visit was paid to Children’s Homes around, including Orlindi Place by the officials of the Ministry of Women Affairs and Child Welfare when it was discovered that the place was not registered. In other words, it was run illegally. Those in charge of the centre were advised to register the centre, but to no avail. Hence, a letter addressed to Ms Claudia Namises on the 16th of June 2004 that reads as follows:

“Ms Claudia Namises, Orlindi Place of Safety, P O Box 62104, Katutura. Reference: Registration and admission of the children at Orlindi Home. This letter is to follow up the familiarisation visit conducted by myself and staff from the Ministry to Orlindi Home on the 28th of June 2004. The Ministry learnt that Orlindi Home is operated as a Place of Safety or Children’s Home without the necessary permission. In terms of Section 42(2) of the Children’s Act 33 of 1964, no child may be received in any place of care unless that place is registered under the said Act.

Furthermore, in terms of Section 42(10) of the same Act, any person who contravene or fail to comply with any provision of this Law, shall be guilty of an offence.

The Ministry recognises the need for children to be taken care of and appreciates

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HON NANDI-NDAITWAH**

your effort in doing so, but this should at all times be done in accordance with the Law.

You are therefore urged to register your institution with the relevant authorities and to produce a Registration Certificate to my office not later than Monday, 16th August 2004.

If you fail to register your institution by the above date, all children placed illegally in the care of Orlindi Home, shall be removed to an alternative registered institution of care.

We trust that we can rely on your cooperation.

Yours truly

*MS Sirkka Ausiku
PERMANENT SECRETARY."*

The date, the 16th of August 2004 has come and passed and we have not received the registration number of Orlindi Place of Safety. Naturally, on the power vested in me by the Act quoted above, I am left with no other alternative but to order children at Orlindi Place of Safety to be removed to an alternative registered place, and in addition, where possible, to integrate them with their families.

In the same vein, I have ordered the stoppage of the payment to this so-called place of safety by the Ministry of Women Affairs as from October 1st. From October 1st there will be no payment to this place.

Honourable Namises is also involved in the Home called, Dolam's Children's Home. However, instead of encouraging communities to take care of orphans, they are manipulating children to keep them in institutions in order to get donor's support, mostly maybe for their own benefit. One case in point is that of Ms Isabel Tjivandare who took her two cousins from this Home, but instead of making it easy for her to have legal custody of the children, the case is prolonged unnecessarily to the extent that even the clothes of those children are still at that Home, besides the fact that since May 2004 the children have been and are still under the care of their Auntie and attending school at the school where she is a teacher.

Finally Comrade Deputy Speaker, I want to make it clear that illegal Children's Homes shall not be tolerated under the SWAPO-led Government and more equally as long as I am the Minister of Women Affairs and Child Welfare. In the same vein, I ask all Social Workers, working for Welfare Offices, not to place children at illegal institutions. It is unacceptable for anyone, let alone lawmakers like Honourable Namises, to engage in illegal activities.

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**RESPONSE- QUESTION BY HON NAMISES
HON NANDI-NDAITWAH**

That is not allowed and I have already issued a letter even to the police, to the Social Workers and I informed them that whenever they find those children in need, they should not take them to illegal institutions.

Comrade Deputy Speaker, I am happy that people of this country, being law-loving people, will never make a mistake to vote for an Opposition Party, including CoD, because these people like to do things illegally. Instead they will continue to show their confidence in SWAPO Party by voting SWAPO Party in their hundreds of percent during the forthcoming Presidential, National Assembly and Regional Council elections.

Unfortunately this will be the last question for you to ask as you are not going to come back. I thank you.

HON DEPUTY SPEAKER: Are there any supplementary questions, Honourable Namises?

HON NAMISES: Yes, thank you. Do I understand the Minister saying that the Dolam's Children's Home is not registered? Is that what I understand and if so, what does the Minister regard as a registration coming from the Ministry of Health and Social Services with a registration number of WO184? Is that not registration then?

HON DEPUTY SPEAKER: Honourable Minister, do you have any response to that question?

HON MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Yes, I think you are deliberately trying to misquote me. I did not say it is not registered.

HON DEPUTY SPEAKER: I only want to avoid direct addresses by you and the Honourable Member on the other side.

HON MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Thank you. Through you, Comrade Deputy Speaker, the Honourable Member is deliberately trying to misunderstand me. I did not say the Dolam's Children's Home is not registered, I said you

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**RESPONSE- QUESTION BY HON NAMISES
HON NANDI-NDAITWAH**

are also associated with it and you are manipulating children to be in that Home because there is a case of Ms Isabel whose brother passed away as well as the sister-in-law and you got hold of these two children and she is a teacher, she wants to keep these children. She came to collect them from the Home, instead of helping her to go through the process, you are making it difficult and since May, you are even holding the clothes of those children, which she wants and she is keeping the children with her, and making it possible for them to go to school. That is the point I am making.

HON DEPUTY SPEAKER: I do not hope we are encouraging a dialogue but is there still a supplementary question?

HON NAMISES: What I am asking the Minister is the very case that she is mentioning, we could not possibly have been the ones to bring the children. I think she must investigate.

HON DEPUTY SPEAKER: No, Honourable Namises one moment, the privilege you have now is to put supplementary questions.

If you have another statement or another question, it is something different.

HON NAMISES: Is the Minister aware that these children have been sent from Gobabis Social Workers through the Order of the Children's Court to this Place of Safety. Is she aware of that?

HON HONOURABLE MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Yes, children are sent by Order but when children now are sent by Order and one of the family members wants to take the children, what we should do is to facilitate for them to get out of these institutions so that they now go back to the community, to the relatives who want to take care of them. In this case it is taking too long because the institution is not helpful.

HON DEPUTY SPEAKER: Is it still a supplementary question? No, no, the supplementary question is now developing into a dialogue but let me allow you to put it but it should not become a dialogue.

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**RESPONSE - QUESTION BY HON PRETORIUS
HON EKANDJO**

HON NAMISES: Since the Minister is saying that the institution makes it difficult to forward the process, is the Minister further aware that we have reported a case of the children being illegally removed to Ms Wemmert, a Social Worker, for those specific children?

HON DEPUTY SPEAKER: No Honourable Member, your oral question is now putting some statements, that one is Out of Order. If you want to take up the issue further, you are most welcome to take it up or maybe come with a different question. I thank the Honourable Minister for her response to the Questions. The 92nd Notice of Question is the one by Honourable Minister Pretorius. Does the Member Put the Question.

QUESTION 92:

HON MINISTER OF HOME AFFAIRS: Honourable Deputy Speaker, the question of the Honourable Member is asking how many firearms were stolen from safes over the past five years. It will take long to retrieve all the dockets countrywide just to trace the arms stolen from safes. It will take a long time. It is reported, it is in the dockets countrywide. Some of the dockets are still with the Courts, cases are on, some are stored because the police are still manual, and they are not computerised. Now, starting from Katima, Ruacana up to Ariamsvlei to go through this, I do not think it is possible to do it now unless maybe the Honourable Member will be patient enough until such time the police finish tracing all the dockets country-wide. If the question was on how many firearms were stolen, this we can present, but to say that these were stolen from cars, these were stolen from a handbag, these were stolen from safes, I do not think it will be possible. It will take a long time. That is my response. Thank you very much.

HON PRETORIUS: Honourable Deputy Speaker, according to the Insurance Companies, I still have a 10-years lifespan in front of me, so I will wait for an answer.

HON DEPUTY SPEAKER: I thank the Honourable Minister for his reply and now the 93rd Notice of a Question once again is by the same Honourable Member Pretorius. Would you like to put the Question?

QUESTION 93:

RT HONOURABLE PRIME MINISTER: I wish I could today but it is not possible.

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**RESPONSE - QUESTION BY HON MOONGO
HON KAAPANDA**

Honourable Pretorius' question requires extensive research and verification. When I am ready I shall do so, thank you.

HON DEPUTY SPEAKER: So agreed, the question stands over until the Prime Minister is ready. Thank you very much. The 95th Notice of a Question is the one by Honourable Mr Moongo. Does the Member Put the Question?

QUESTION 95:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:
Thank you very much Honourable Deputy Speaker, Honourable Members. Let me use this opportunity to respond to the question raised in this august House by Honourable Moongo of the DTA/UDF Coalition.

Honourable Deputy Speaker, the question posed by the Honourable Members are inter-related and for expediency sake I tried to couple them together, but the other Members are not here, I do not know whether it really would do justice, and these questions were repeated two times. I do not know how we would deal with this. I would like to be directed Honourable Deputy Speaker. The other colleagues are not in and there is only one but the questions are so inter-related. The first one is by Honourable Kaura and he is not here.

HON DEPUTY SPEAKER: Honourable Minister, as much as the questions, I did not study them I must admit, may be inter-related, if you have the answers to the Honourable Moongo's questions ready, why do you not give them and when we come to the others, we can just say that the answer would be the same. Honourable Minister, can we proceed with some other questions and come back to that one?

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:
Thank you.

HON DEPUTY SPEAKER: The 96th Notice of a Question is the one of the Honourable Ulenga. Does the Member put the Question and does the Honourable Minister of Regional and Local Housing wish to reply?

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**RESPONSE- QUESTION BY HON MOONGO
HON NGHIMTINA**

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Honourable Deputy Speaker, when these questions were put in the First Session, they were in a certain sequence and then they were repeated again and by that time we have already prepared the answers because I should have responded on the 9th of September.

HON DEPUTY SPEAKER: Honourable Minister, I am reminded of what has happened here. You will recall that several questions were ruled Out of Order and on that basis many of the Members walked out, but some of these questions were not ruled Out of Order and therefore they will be at liberty to put the questions again on the Order Paper and that is what happened. That is why you see the same questions coming back, they were not put actually. In any case, to assist the Honourable Minister, let me rule that Questions 95, 96 and 97 should stand over for consultations, if need be, and then they can be put again because these are the questions the Minister is referring to, is it not?

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Let them just stand over until next time. Thank you.

HON DEPUTY SPEAKER: Questions 95, 96, 97 and 98, will stand over until next week. The 99th Notice of a Question is the one by Honourable Moongo. Does the Member put the Question?

QUESTION 99:

HON MINISTER OF DEFENCE: Honourable Deputy Speaker, Honourable Members of the House, Honourable Moongo four questions which are all related to administrative aspects of NDF members who arrived recently from the UN Mission in Liberia.

In his first question the Honourable Member would like to know the rationale behind testing of all NDF members returning from Liberia for HIV/AIDS. The Ministry of Defence attach more importance to the health status of the members of the Namibian Defence Force. It is only when you have a healthy Defence Force that you can speed up security of a nation including that of Honourable Members. When the first Namibian contingent went to Liberia, they were undergoing free medical examinations. It is a United Nations requirement that members participating in the UN Missions must be pre-tested before the deployment and after completion of the mission, there should be a post-examination. That is what happened. What we are doing is a general medical check-up, excluding HIV/AIDS.

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**RESPONSE – QUESTION BY HON MOONGO
HON NGHIMTINA**

We are concerned with the health status of our members and we are trying to prevent spread of infectious diseases. If one of our members was infected by various diseases while on mission, it would be detected at this stage and the member would be assisted.

On Question 2, the Member is asking the motive behind the members' salary of N\$1,890 not being paid in full? I just wish to respond that the Ministry has investigated the claim of the Honourable Member, and could not come up with any results of a member who was not paid all of his salary. Equally, our members on foreign missions are paid allowances, not salaries as claimed by the Honourable Member. The salaries of members are not attached whatsoever as they are handled independently from their allowances. Payment of allowances is calculated on a monthly basis and due to the distances between Liberia and Namibia, the cost involved, the arrangement was done that they should receive 25% of their allowances while in a mission area and 75% will be paid in Namibia after completion of the mission. That is why you see them coming back, buying all these vehicles and bumping other vehicles on the roads. If there is additional information the Honourable Member can provide, I will be happy to follow it up. I thank you.

HON DEPUTY SPEAKER: Thank you, Honourable Minister. Any supplementary questions, Honourable Moongo?

HON MOONGO: Yes, thank you Honourable Deputy Speaker, what I want, of course, to indicate is that the 75% was not paid when they came back.

HON DEPUTY SPEAKER: Honourable Moongo, no statements, supplementary questions.

HON MOONGO: Yes I would like to know as to whether 75% was paid to them when they came back, when they arrived in Namibia?

HON MINISTER OF DEFENCE: Honourable Moongo, administration matters are different from political issues, they will get their money if they were not paid at this particular time. There is no problem with that, they will get their money if they were not paid at that particular time when they told you that they did not get their money. Thank you very much.

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**RESPONSE – QUESTION BY HON T GURIRAB
HON ESAU**

HON DEPUTY SPEAKER: I thank the Honourable Minister, I believe there is no supplementary question. I thank the Honourable Minister for his reply and now the 100th Notice of a Question is the one by Honourable Tsudao Gurirab. Does the Member put the Question?

QUESTION 100:

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: I thank you very much, Comrade Deputy Speaker, Honourable Members. Both the SME and Black Economic Empowerment are very important tools in our quest to bring about economic development and greater equity amongst our people. With regard to the small and medium enterprise or SME, we are now revising policies after four years of implementation. Therefore, the outcome of the review, including the SME census underway, shall inform us on the appropriate course of action. The process of the BEE has to take on board all existing legislation and policies. We are currently working on the policies and hope to move draft legislation in due course.

At the same time, those provisions and policies advancing the BEE shall continue to be implemented. Section 3(4) of the Foreign Investment Act, is not the only one, it simply disciplines the principle of national treatment due to specific circumstances in which we find ourselves because of historical inequities. Therefore, Section 3(4) of the said Act will remain relevant to Black Economic Empowerment and Small and Medium Enterprise Development in our country. Thank you very much.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for the reply on the Questions and the 101st Notice of a Question is the one by Honourable Ulenga. Does the Member put the Question?

QUESTION 101:

HON MINISTER OF DEFENCE: Thank you, Comrade Deputy Speaker. I rise to respond to the Honourable Ulenga's Question in my capacity as Acting Minister of Foreign Affairs. The Honourable Member has asked the Minister of Foreign Affairs to respond to the following questions:

“Now that the German Government accepted the responsibility for atrocities committed on Namibia soil by Imperial Germany against the Herero, Mbanderu and the Nama people of Namibia, what official action does the Government intend taking with regard to the issue of compensation for atrocities committed

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**RESPONSE – QUESTION BY HON ULENGA
HON NGHIMTINA**

by the German Government? How does Government plan to act in the above regard.”

I, therefore, wish to respond as follows: We have taken due notice of the statement of the German Minister of Development Corporation, Honourable Mrs Heide-Marie Wieczorek-Zeul when she apologised on behalf of the German Government during her recent visit to the Republic of Namibia. Considering the excellent bilateral relations and mutual confidence, which our two countries have developed since Namibia's Independence in 1990, we believe the statement will go a long way to strengthen Namibia/Germany relations further.

With regard to the issue of compensation, I will state that the Government of the Republic of Namibia has maintained a very clear and consistent position on this matter. The Government of the Republic of Namibia does not dispute the rights of individuals or of Chief Riruako to attempt to register a court case in the USA, seeking compensation from the German Government for atrocities committed against a certain section of our population by the Colonial Imperial German Government in 1904.

It is, however, our strong belief as a Government and a party that the atrocities committed by the Colonial Imperial German Government against the people of Namibia have to be seen in the total context of our historical struggle against colonial oppression and subjugation, a struggle which eventually led to our hard-won independence and freedom.

As the Right Honourable Prime Minister correctly stated in this august House:

“All is well so far but the real dialogue must now commence in earnest. For our part, we Namibians representing the community of victims must adopt a common position and speak with one voice. The ball is now in our court and we must make the next move.”

It is clear Honourable Members, that both our countries have an understanding of the importance of the Debate on this matter and such a Debate here in Namibia and in Germany is normal and necessary. I thank you.

HON DEPUTY SPEAKER: I thank the Honourable Minister for the reply to the questions and since we have reached the tea break and it is convention that we deal with Questions until tea break and thereafter commence with the rest of the business, do I have the concurrence of the House that we proceed with business without a tea-break?

Thank you for the kind cooperation. The first Notice of Motion is the one of the Right Honourable Prime Minister. Does the Right Honourable Prime Minister Move the Motion? Who seconds the Motion? Any objection? It is agreed to. Will the Right Honourable Prime Minister please take the Floor and motivate the Motion?

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**APPOINTMENT: SECURITY COMMISSION
RT HON T-B GURIRAB**

**MOTION ON APPOINTMENT OF MEMBER
OF SECURITY COMMISSION**

HON PRIME MINISTER: Comrade Deputy Speaker, this Motion is intended to regularise and in view with authority and legitimacy, the consequence of the decision taken by our Head of State in terms of the Constitution. In terms of Section 2, Article 114(14) of the Namibian Constitution:

“Security Commission shall consist of the Chairperson of the Public Service Commission, the Chief of the Defence Force, the Inspector General of the Police, the Commissioner of Prisons and two Members of the National Assembly appointed by the President on the recommendation of the National Assembly.”

His Excellency, the President, has previously appointed to the Security Commission and in terms of the Namibian Constitution, Honourable Lempy Lukas, SWAPO Member of Parliament in her capacity as a Member of the National Assembly. Following the appointment of Honourable Lempy Lukas as Deputy Minister of Foreign Affairs, her term of service as a member of the Security Commission has ceased.

Accordingly the President intends appointing Honourable Doreen Sioka, SWAPO Member of Parliament, as a member of the Security Commission. The nomination can however not materialise without the recommendation of the National Assembly.

I, therefore, request this august Assembly to recommend this nomination to the Head of State for appointment and I ask for a unanimous approval of the House. I thank you.

HON DEPUTY SPEAKER: I thank the Right Honourable Prime Minister for the motivation of that Motion. Are there any further discussions? Further discussions? No further discussions. Does the Right Honourable Prime Minister wish to say anything?

RT HON PRIME MINISTER: Honourable Deputy Speaker, I thank the House for their generosity.

HON DEPUTY SPEAKER: I now Put the Question and that is that the Motion be adopted. Are there any objections? No objections. So agreed. The Motion has been unanimously

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**APPOINTMENT: SECURITY COMMISSION
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adopted.

The second Notice of a Motion is the one of the Honourable Deputy Minister of Environment and Tourism on behalf of his Minister. Does the Honourable Minister Move the Motion?

HON MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: I just want to ask, Comrade Deputy Speaker, because I understand there was a concurrence from the Presiding Officer for us to have a tea break to enable some consultations since we have guests coming next week from the SADC Women Parliamentary Caucus. It was agreed that we break.

HON DEPUTY SPEAKER: Honourable Minister, with all due respect, a request was forwarded to me in that regard. My response was to have or to not have a tea break had to be agreed not by me as the Presiding Officer, but by the House and therefore, I would request the concurrence of the House whether we can proceed without a tea-break. If the House decides accordingly, that is it. The only other problem that we are faced with and I would like to remind Members on this one, we really have a heavy programme still and our days are running out because we agreed in this House that we would rise on the 15th of October, which is the day almost after tomorrow. Therefore, these postponements, lack of quorum is because of the break, because normally after the break, the quorum can become a problem and that is why we tried to get the concurrence. That was not agreed actually, the request was there but it was not agreed. This is my response to your question and because of the reasons mentioned it is very difficult. Does the Honourable Minister Move the Motion, Honourable Malima?

HON MINISTER OF ENVIRONMENT AND TOURISM: I so Move.

HON DEPUTY SPEAKER: Who seconds the Motion? Is there any objection? Then it is agreed to. Will the Honourable Minister please take the Floor?

HON MINISTER OF ENVIRONMENT AND TOURISM: With your concurrence, Honourable Deputy Speaker, I ask the indulgence for my Deputy to present the motivation.

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**CARTAGENA PROTOCOL ON BIO-SAFETY
HON IILONGA**

**RATIFICATION: CARTAGENA PROTOCOL
ON BIO-SAFETY**

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Thank you Comrade Deputy Speaker, Honourable Members of the National Assembly. It gives me pleasure to motivate as to why Namibia should ratify the Cartagena Protocol on the Bio-safety on the Convention on our Biological Diversity.

Honourable Deputy Speaker, as you will recall, last month in my intervention in support of the Motion by the Honourable Minister of Agriculture and Rural Development, when he requested this august House to ratify the International Treaty on the Plant Genetics for the purposes for food and agriculture, I mentioned that this Honourable House will also be asked to ratify the Cartagena Protocol and Bio-safety. The Treaty on the Plant Genetic Resources, which we have ratified, is in harmony with the Cartagena Protocol on Bio-safety.

This protocol aims to protect Namibia against the unwise use of Genetically Modified Organisms, better known as GMOs and their products. Bio-safety is the term used internationally when people and environment are not at risk from such GMOs.

Allow me, Comrade Deputy Speaker, Honourable Members, to introduce the Cartagena Protocol on Bio-safety and explain its importance to Namibia's people, animals, plants and the environment in general.

The modern biotechnology, as many of the Members of this House will know, has led to great advances in agricultural production and the Pharmaceutical Industry. This was achieved by transferring the genetic properties of one specie to another. In the past, this was done through crossbreeding of a variety of plants and animals. Nowadays this process is done by transferring the genetic materials amongst completely unrelated species with sophisticated laboratory techniques. An example is the transfer of drought resistance or insecticidal qualities from other plant species to maize or sorghum.

While many of these advances are beneficial to humans' food security, they have also been increasing concerns that this new technology may also be harmful to humans and the environment. For example, insects may become resistant to the natural insecticides which is indigenous to species. This may change the balance of nature and all the ecological forces that we depend on.

Comrade Deputy Speaker, an international regulatory system therefore became necessary to allow Governments to avoid such problems, but at the same time to exploit the benefits from this new technology, if they so chose. This is indeed the purpose of the Cartagena Protocol. It was negotiated under the umbrella of the Convention on Biological Diversity from 1998 to

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the year 2000. You can see that there were long protracted negotiations and it takes its name from the Colombian city of Cartagena where the final round of the negotiations was concluded.

The Protocol addresses the comprehensive regulatory system for ensuring the safe transfer, handling and use of the GMOs, subject to trans-border movements. Comrade Deputy Speaker, I wish to stress that by ratifying the Protocol, Namibia neither is endorsing the new technology, nor prohibits it. However, the provisions of this Protocol will enable the Government to benefit from international cooperation on such issues. I will only touch on the new elements of the Protocol that are relevant to Namibia:

1. The Protocol in Article 7 establishes the advanced information agreements produced for GMOs that are to be introduced into the environment. This procedure ensures that the recipient countries have the opportunity to assess any risk that may be associated with GMOs before agreeing to the import under these provisions. The importer has to give the Government of the importing country detailed, recent information, including a description of the organism in advance of the shipment.

That is the importance of that Article 7.

2. Article 11 provides for the prior approval of Government concerning the genetically modified agricultural food products. Under this system, Government does approve these commodities for domestic use and has to communicate this decision to the world community via the mechanism of the Protocol. The purpose of this system is to make it clear to exporters which products can be exported to a particular country.
3. Article 17 requires each Government to notify and to consult other affected or potential affected Governments when it becomes aware that the GMOs under its jurisdiction may cross international borders due to illegal trade or released into the environment.
4. The Protocol further provides in Article 18 for GMOs, such as seeds, which are intended for direct introduction into the environment, that is
5. that their combined document must clearly state that the shipment contains GMOs.

Comrade Deputy Speaker, by ratifying the Protocol, Namibia would also qualify for technical support and financial assistance to implement the Protocol and other measures to assure bio-safety.

Comrade Deputy Speaker, the issue of regulation has become extremely urgent in Namibia, because of the changes in agricultural production towards genetically modified crops in

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countries, from which Namibia has thus far been importing large volumes of maize and other foods. In addition, this Protocol, I want to inform the House that a number of Ministries are collaborating in drafting a Bill on Bio-safety to match our domestic registration and international legal instruments on this subject. This Bill, Comrade Deputy Speaker, will soon be finalised and will be submitted to Cabinet for approval and eventually enacted by this august House.

The Bio-safety Protocol and the Bill will together ensure the safe use of biotechnology and minimise the potential negative impact on the environment, human and animal health.

In conclusion, Honourable Deputy Speaker, the Cartagena Protocol has entered into force on the 11th of September 2003. To date 88 countries have ratified the Protocol, amongst them twenty are African countries, including Botswana, Mozambique and South Africa I therefore hope that the importance of ratification to the Cartagena Protocol on Bio-safety has become clear to all of us and we can now endorse and ratify it and I thank you.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for the motivation of the Motion. Any further discussions? Honourable Chata.

HON CHATA: Honourable Deputy Speaker, may I adjourn the Debate on this Protocol until next week, Tuesday.

HON DEPUTY SPEAKER: Is there any objection to the adjournment of this Debate on the Protocol until next week and Tuesday? No objection. Agreed to. The Debate on this item stands over until next week Tuesday. The Secretary will now read the First Order of the Day.

**RESUMPTION OF SECOND READING :
NATIONAL DISABILITY COUNCIL BILL**

HON DEPUTY SPEAKER: When this Debate was adjourned on Tuesday, the 21st of September, the Question before the Assembly was a Motion by the Honourable Minister of Land Resettlement and Rehabilitation, that the Bill be now read a Second Time. The Honourable Member Mr Chata adjourned the Debate and he now has the Floor. Honourable

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Chata.

HON CHATA: Honourable Deputy Speaker, the worldwide disability movement and disability organisations in this country have done a commendable job of creating the necessary awareness of the rights of people living with one form of disability or another. This piece of a draft law and other international declarations and instruments are sufficient proof of this. As a result, this Bill deserves and receives our unreserved support.

Indeed, this Bill is one of the most progressive laws this House has ever deliberated on. I am particularly enthused by the functions and powers of the envisaged Council as stipulated in Sections 3 and 4. There cannot be any other clearer intention to satisfy Article 10(2) of our Constitution than this as far as people living with disabilities are concerned. Article 10(2) says:

“No persons may be discriminated against on the ground of sex, race, colour, ethnic, religious, creed or social status.”

The functions, Section 3, and the powers, Section 4, of the Bill in no uncertain terms grants the right, actually vests the right against discrimination of disabled persons in the Council. May I, just for the sake of emphasis, quote some relevant sections of the functions and the powers of the Council that make me very excited about this piece of legislation and as a result raised my hopes and expectations:

“Functions of Council:

Section 3(1):

- (a) The functions of the Council are to monitor the implementation of the National Policy on Disability in the manner provided in this Act;*
- (b) Identify provisions in any law which may hinder the implementation of the National Policy on Disability and make recommendations in that regard;*
- (c) Advise any other person responsible for the enforcement of existing legislation which provides for equal opportunities for all people in Namibia on the enforcement of that legislation; and*
- (d) Consult on proposed legislation which may affect disabled persons in any manner.”*

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And the rest I also support, but I thought giving such functions to interested persons like people living with disability, is very much commendable because I am sure they will never rest and they will never go to sleep, they will make sure that they use the provisions of this law to safeguard their interest and the powers of the Council among others, that I find very progressive are 4(1)(c), among others:

- “(c) to make to make representations on behalf of any disabled person before any organ of the State or provide or procure legal assistance for any disabled person in the manner in question relates to the right of, or the integration of disabled persons in society;*
- (d) To recommend to Cabinet the taking of necessary steps in order to facilitate compliance with the National Policy on Disability; recommend the Amendment of any law; and (e) which is very interesting perhaps we should see more of these provisions in other parts of our laws:*
- “(e) Where any Government Ministry fails to submit an annual report to it, in terms of Section 17(1), to demand the submission of that Report to it within a period specified in that demand.”*

I find these provisions to be very much appropriate and to be very much encouraging. I am very hopeful that when these aspects of this law are activated by the Council and by organisations of disabled persons, their rights will indeed be guaranteed.

We can only hope very strongly and optimistically that the Council shall not fall victim to political pressure and in the process suffer amnesia, as experience in other cases has taught us that this is very possible.

We, therefore, hope that the organisations of disabled persons shall not be guided by political patronage but by commitment to issues of their members when nominating people to serve in the National Disability Council and also in their deliberations in Council affairs.

As someone from an educational background, let me also state here that the Council must upon inception, insist as a matter of urgency and priority on training more teachers in various aspects of special education. The marginalisation and discrimination of this section of our population starts at the point of knowledge and skills acquisition that is in our schools. If our children with sensory, physical and mental impediments are not exposed to better education through the instructional modes that suit their situation, we can forget about realising the ideals of full participation, full integration and full equalisation of this group of people.

Today, as an example, our colleges of education do not prepare and produce teachers that can

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teach special classes. The curriculum of these colleges does not, make provision for special education as far as my knowledge serves me,. The question then is, “*who trains teachers for special education?*” There is a greater need to pay special attention to this very important issue. Many school-going aged children are excluded from education and one reason and excuse is the lack of properly trained teachers in the field of special education.

In conclusion, Mr Deputy Speaker, let us all be aware that equal opportunities for all citizens of this country is incomplete without full participation of disabled persons and any other citizen for that matter in the economic and social mainstream of this country. The need for participation in socio-economic development by disabled persons cannot be emphasized enough. Similarly, the imperative of full integrity in society by removal of access or entrances to access to public services and institutions cannot be overemphasized. Yet still the moral and constitutional requirements of equalisation of opportunities need not be emphasized for it is self-explanatory.

Therefore Honourable Members, let me end by saying that our speedy passage of this Bill will be an unequivocal statement on our part that we mean what we say and say what we mean, we totally support, we totally subscribe to, and we totally strive for a society for all.

I totally support the Bill. Let us all support the Bill and let no one speak after I have spoken. Thank you, Honourable Deputy Speaker.

HON DEPUTY SPEAKER: I thank Honourable Chata for his contribution and according to the powers vested in me, despite his last statement that nobody should speak, I ask the Honourable Deputy Minister of Labour to make her contribution.

HON DEPUTY MINISTER OF LABOUR: Honourable Deputy Speaker, Honourable Members, my contribution to the very important Bill of the National Disability Council is very brief. However, I would like to join the Honourable Members who have already spoken and congratulated the Honourable Minister of Lands, Resettlement and Rehabilitation for tabling the Bill.

My intervention for today is to support the Bill, specifically the Schedule of National Policy on Disability, page 17, 2.5, on special target groups. Here I would like to see after the Bill becomes an Act that all disadvantaged communities are covered. I am saying this because some of the rural areas did not benefit from most of the previous training programmes. Even when the translators used the sign language, some of the deaf people in the remote areas do not understand it because sign language is mostly used only for educated people for special

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education.

I also want to see that the sign language should be introduced to other people so that we are able to communicate with our colleagues, the disabled people.

Therefore, before implementation of the policy, there is a need to conduct research in order to find out where such programme did not reach so far, so as to make sure that all Namibians are benefiting equally from this very important Policy on National Disability.

With these few words I wholeheartedly support the Bill and I thank you.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for her contribution. Are there any further discussions on this Bill? Right Honourable Prime Minister.

RT HON PRIME MINISTER: Since the Minister is not here and nobody else wishes to speak, I want to adjourn the Debate until next week, Tuesday.

HON DEPUTY SPEAKER: Is there any objection to the adjournment? No objection. It is then agreed, the Debate on this item stands over until next week Tuesday. The Secretary will read the Second Order of the Day.

**CONSIDERATION: MARINE RESOURCES POLICY TOWARDS
RESPONSIBLE DEVELOPMENT AND MANAGEMENT OF
MARINE RESOURCES**

HON DEPUTY SPEAKER: When this Debate was adjourned on Tuesday, the 21st of September, the question before the Assembly was a Motion by the Honourable Minister of Fisheries and Marine Resources that the Marine Resources Policy be considered. The Honourable Minister adjourned the Debate for his reply. Did the Honourable Minister designate anybody to Reply on his behalf? This item will also stand over until Tuesday, next week. The Secretary will now read the Third Order of the Day.

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RESEARCH, SCIENCE & TECHNOLOGY BILL
HON CHATA**

**RESUMPTION OF SECOND READING :
RESEARCH, SCIENCE AND TECHNOLOGY BILL**

HON DEPUTY SPEAKER: When this Debate was adjourned on Tuesday, 21st September, the Question before the Assembly was a Motion by the Honourable Minister of Higher Education, Training and Employment Creation, that the Bill be now read a Second Time. The Honourable Chata adjourned the Debate and he now has the Floor.

HON CHATA: Thank you, Honourable Deputy Speaker, the pleasure is indeed mine to participate in the Debate on this very important Bill. I have a very short intervention to make.

It has long been established that research and development are inseparable Siamese twins as are science and technology. It has been further established that the privileges of research, science and technology have one offspring - development. Namibia's development trajectory or tragedy, whichever way one looks at it, is unavoidably linked to the level of technology that is available in the country. In view of this, we support the principle of the Bill, for we believe this is a very practical demonstration and a willing intention on the part of Government to develop this country through informed choices. We shall, however, express our concerns in some aspects we feel need serious attention by the sponsor.

I do not know whether as a country were lucky or unlucky to be made in an era of empirical order and cybernetics. In this era, power is defined not by military might, not by physique, not even by the abundance of natural resources, but by the brilliance and acumen of the minds of the citizens of a given country. The saying "*knowledge is power*" has never possessed relevance in the world than it is today. Ours is a knowledge-based world.

They economy of the world and, indeed, even the body politic of the world, are all sustained by knowledge leverage. What is in short supply in this country therefore, is not necessarily the natural resources to make everyone in the country live a decent life, what is rather in short supply are the intelligence, the knowledge and the skills to convert, to manipulate, to develop, to mix and to distribute the available resources in a manner that gives optimum benefits to everybody in the country. The Bible says, "*People perish because of lack of knowledge.*"

Without doubt, research, science and technology are what this country needs to cure the malady of backwardness, under-development, ignorance, gullibility and even economic inertia. We, therefore, hope that this Bill and the institution it purports to establish will be awake to these issues. Our major area of concern, however, is the prominent and pronounced

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and the central role, if you like, that the Head of State is going to play in the administration of this law. Two things need to be borne in mind:

Firstly, it is a question of research objectivity. The basic tenet of research is objectivity. It is not an exaggeration, I think, to accept that the very practice of politics is very far from objectivity. In fact, objectivity is its antithesis. Therefore, we find it a bit problematic to place the administration of this law right under the political hotbed of the presidency. A result of such research activities might render them or might be definitely suspect. For instance, what will happen to the research results that are in contradiction to the political stance and philosophy of political principles? Will such research and results not help in undermining the authorities? If true, will it not then be very human and politically expedient to suppress such results and if that happens, will that not be making a mockery of research?

It is in the second instance a question of potentially unhealthy tension between the academic and the National Research, Science and Technology Commission that is proposed by this Bill. My Colleague who spoke before me highlighted this point. It is a reality that our lonesome national university is not adequately funded. As a result, the University of Namibia is being reduced to the status of a higher high school with legal powers to grant Degrees and Diplomas. Research is very expensive. Without adequate funds for research, UNAM finds and will continue to find it difficult to engage in meaningful and beneficial research. Consequently, it will fail to realise one of its core functions that of advancing research in many fields. One does not need to elicit the services of voodoo doctors - such as the ones our SWAPO leaders in the Caprivi normally hire in critical moments of elections - to know that with the establishment of the National Commission on Research, science and Technology, UNAM's chances of getting more funds towards research will grow much slimmer. One wonders what necessitates this as unbecoming rivalry.

It is even more worrisome to note that there is nothing in the Bill before us that suggests that there will be a collegial relationship between these two institutions of the State, although they essentially have similar responsibilities.

Lastly, let me say this here, I am a disinterested party in the administrative affairs of UNAM except to the extent that I am a student there. I often wonder, no I rather often have a feeling that UNAM is sometimes treated like an orphan or a stepchild in the home. Why is it like this? With this law coming into force, UNAM will definitely not be competing for survival with the Polytechnic, but also with the National Commission on Research, Science and Technology, and I can predict UNAM will be more malnourished then. I hope I am wrong, Honourable Deputy Speaker.

I support the Bill but the Minister must please address my concerns for the good of this country. Thank you.

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HON DEPUTY SPEAKER: I thank Honourable Chata for his contribution. Are there any further discussions on this Bill, the Research Science and Technology Bill? Honourable Hamutenya.

HON HAMUTENYA: Honourable Deputy Speaker, if there is nobody else who wants to speak, I would like to postpone the Debate to Tuesday, next week.

HON DEPUTY SPEAKER: Is there any objection to the adjournment of this Debate until next week, Tuesday? No objection, then it is agreed to. The Debate on this item stands over until next week, Tuesday. The Secretary will read the fourth Order of the Day.

**CONSIDERATION: REPORT ON VISITS TO
RESETTLEMENT AND OSTRICH FARMS**

HON DEPUTY SPEAKER: When this Debate was adjourned on Tuesday, the 21st of September, the question before the Assembly was a Motion by the Honourable Comrade Ya France that the Report be considered. The Honourable Minister of Lands, Resettlement and Rehabilitation adjourned the Debate and thus he now has the Floor. Honourable Minister.

HON MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Thank you, Comrade Deputy Speaker, Honourable Members, I want to contribute to the Report of the Parliamentary Standing Committee on Economics, Natural Resources and Public Administration by referring to the issue of the resettlement of former farm workers under 9.1.

Before I do that, I would like to thank my Deputy for the information he had given to this Honourable House yesterday.

Comrade Deputy Speaker, the Ministry of Lands, Resettlement and Rehabilitation shares the concern of the Committee pertaining to the increase in dismissals and the retrenchments of the farm workers. This situation has compelled the Ministry to include this group of the citizens as a priority for resettlement as stipulated in the National Resettlement Policy. At the same time the Ministry takes cognisance of the acknowledgement given by the

Committee towards the effort of the Ministry in this regard, while undertaking to support the recommendations made by the Committee to alleviate the plight of this group.

The case of Skoonheid under 9.2 and the San settlers: The resettlement of the San people, similar to that of the retrenchments of former farm workers, is a complex issue and was therefore given priority status in the resettlement policy. The situation of the members of the San community at Skoonheid is no exception to the situation of other groups in this category who are starting with nothing at all. My Ministry has taken a leading role in providing them with tractors, implements, water, infrastructure, fertilisers, seeds, pesticides and training. Many of these people were found illiterate but today they can read and write due to the efforts of my Ministry and the collaborating non-governmental organisations.

As to for the issue of being called a project, the Ministry found it appropriate and fit to group the people who have absolutely nothing together for budgetary purposes, since the development projects are being funded under the Development Budget provided by the National Planning

Commission and it is also eligible for donor funding. However, particular settlers who show potential are encouraged to move on and apply for resettlement proper. The Ministry always endeavours to emulate the successful projects and implement them elsewhere, as in the case of Mangetti Dune and Omega, even though time and finances are crucial elements in the process.

Under 9.3: The challenge of settling settlers without any means. Comrade Deputy Speaker, at the inception of the resettlement the programme, the Ministry exclusively cared for the people who had nothing at all, no land, no livestock and no income or capital. However, this approach has proved to be expensive, cumbersome and full of obstacles towards development. The Ministry then, in line with the SWAPO Party Manifesto, decided to step up the land redistribution process by including people who could add value to the programme by paying for their maintenance and provide employment opportunities to at least two other families and contribute to the nation's gross domestic product.

Under 9.4, lack of finance and marketing: Comrade Deputy Speaker, Honourable Members, I am delighted to inform you that the outstanding Lease Agreements have now become to light and they can be registered at the Deeds Office to qualify as collateral and inheritable by the next-of-kin of the incumbent beneficiary.

Point 10 is the marketing opportunities: One of the main objections of the National Resettlement Policy is to integrate the beneficiaries into the mainstream of the country's agricultural economy. Therefore, the beneficiaries are encouraged to trade in open markets wherever this is possible. However the projects are assisted with transport to and from the market, while at the same time the ministerial staff are liaising with the businesses in the

respective sectors to find markets for the beneficiaries.

Under 9.5, settlement schemes, lack of social amenities: Comrade Deputy Speaker, Members of the National Assembly, the resettlement policy emphasizes that resettlement programmes can never be successfully carried out in isolation and identified the clear areas of intervention by line Ministries. However, my Ministry has endeavoured to construct some schools at Queen Sophia, Excelsior and Gam and a classroom at Bravo, clinics at Queen Sophia and Excelsior to mention but a few. I would also like to use this platform to invite other Ministries to come on board and provide other essential amenities.

Under 9.7, settlers who have basic means are performing better. I am glad to hear that the strategy of my Ministry to resettle some of them is paying off. When we started to implement this strategy, it was primarily to relieve some pressure on the ministry's budgetary allocations in terms of maintenance costs, the cost of material and supplies and other overhead expenses. Another objective was this was transfer of farming skills and general knowledge of animal husbandry and livestock farming. Therefore, these people are strategically placed between those who have nothing. I must thank some of the commercial farmers who have started training their new neighbours on the farming skills, especially in the Hardap region as well as in Omaheke.

Point 9.9, citrus farming: Comrade Deputy Speaker, Honourable Members, the National Resettlement Programme strongly promotes the diversification of farming practices to suit the respective Agro-ecological zone and to complement the bio-diversity of the different Regions. In the case of the citrus production plants at Ben Hur and Westfahlen, it is common knowledge that these sub-tropical fruit needs a lot of water. Given the scarcity of rainy water in this Region of the country, the plantations are depending heavily on underground water. At Westfahlen, the plantation was severely damaged due to continuous breakdowns of the water supply system, but through the support of the Cuban experts, this has now been rectified. The local people are now being trained to manage and maintain citrus plantations and secure sustainability for the project.

On point 10.4 Steinkopf, Comrade Deputy Speaker, Honourable Members, during the drought-stricken periods of 1995, 1998 and 1999, some of the farmers moved into some of the resettlement farms illegally and my predecessor at the Ministry of Lands, Resettlement and Rehabilitation, Honourable Comrade Pendukeni Iivula-Ithana, found it fit to suspend the resettlement programme. However, after lengthy discussions with the Regional Councils, Traditional Leaders and the Central Government, the programme was temporarily suspended to afford some of the most severely affected families with emergency grazing on the farms bought for the resettlement.

At the end of the emergency grazing, after lengthy deliberations and negotiations with all the stakeholders, it is also proper to inform the House that at this stage it was recommended by

the Land Reform Advisory Commission that farming units in the Central Northern Regions should not be less than 1,000 hectares to allow beneficiaries to farm efficiently and to earn an average income. To this effect, it is a standing guidelines that special care should be taken to see that when farming units are demarcated they are not less than 1,000 hectares.

Point 10.5, Koab: The case of Koab is almost similar to that of Steinkopf where people were placed as temporary measures to alleviate their plight during severe drought. The people of Koab are originally from Ovitoto and they were placed there because of the drought. During the year of their placement, the nucleus of their heads was almost destroyed because of the fact that Ovitoto is very drought prone due to overgrazing and over-population. The beneficiaries at Koab, as all the other beneficiaries of the settlement programme are always being reminded to keep their livestock numbers in check according to the carrying capacity of the respective camps to avoid overgrazing and causing permanent harm to the environment. They are advised to market their surplus selectively to earn an income and maintain themselves and their families as well as their farm units.

Point 10.6, Vasdraai: Comrade Deputy Speaker, the case of Vasdraai was on the front page of the newspapers for different reasons, as the Government of Namibia was criticised by the hostile farmers around Seeis who even took the Government to Court. After my Ministry intervened by resettling the people of Seeis at Vasdraai, they were again criticised because of the nature of the placement of the people at the farm. However, I must remind you that majority of these people were farm workers from the farms surrounding Seeis who were dismissed and retrenched and left with nothing in the road corridors. By the time of the resettlement, camps were allocated to them based on the number of their livestock and the majority had absolutely nothing. It was also agreed that when their livestock increased, they are welcome to apply for resettlement proper and that they will be considered together with anybody else.

Point 10.7, Ben-Hur: Comrade Deputy Speaker, the Farm Ben-Hur and Netso were previously administered by the second-tier authority of the Tswana and the emergency grazing programme of the Ministry of Agriculture under the colonial rules. These farms were inherited as from the Ministry of Agriculture similar to other farms in this category of which 56 were transferred from the Ministry of Agriculture, of which most were overcrowded and struggling with acute water shortage. These people have not been resettled by the SWAPO Party Government, as some people are made to believe, but by the colonial apartheid Government. At the moment the Government has no place to resettle some of these people as there are no places.

Point 10.12, Du Plessis. Comrade Deputy Speaker, the Farm Du Plessis as the Farm Vasdraai were resettled to alleviate the plight of the people of Omitara who were victimised by the neighbouring farmers who also took the Government to Court, because of the squatters who occupied the Government plots or Government land at Omitara. Just like in

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HON DINYANDO**

the case of Vasdraai, the camps were allocated according to the numbers of the livestock owned by the respective beneficiaries. The staff of the Ministry took the people to several farms and they voluntarily chose to be resettled at Du Plessis. The Ministry is encouraging the beneficiaries to apply once their livestock numbers justify a more suitable place and they will be considered together with other applicants in accordance with the Agricultural (Commercial) Land Reform Act of 1995 that is Act 6 of 1995.

Comrade Deputy Speaker, Honourable Members, in conclusion I want to inform this august House that my Ministry has successfully lobbied the Cabinet to utilise 20% of the Land Acquisition and Development Fund for the development of water infrastructure on resettlement farms and we will soon start doing that.

Comrade Deputy Speaker, I thank you, I just wanted to make some clarifications on the points raised by the Committee in their Report and I thank you.

HON DEPUTY SPEAKER: I thank the Honourable Minister for his contribution. Any further discussions on this Report? I revert the Floor to the Honourable Ya France or in his absence the Honourable Deputy Chairperson, Comrade Dinyando for the reply.

HON DINYANDO: Comrade Deputy Speaker, I move that the reply be postponed to Tuesday, next week.

HON DEPUTY SPEAKER: Any objection to the adjournment of this reply to next week? Agreed to. The reply on this item will stand over until Tuesday, next week. The first Notice of Motion is the one of the Honourable Minister of Works, Transport and Communication. Does the Honourable Minister Move that the Bill be now introduced?

**INTRODUCTION AND FIRST READING :
ROADS AUTHORITY AMENDMENT BILL**

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: I so Move.

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**ROADS AUTHORITY AMENDMENT BILL
HON DR AMWEELO**

HON DEPUTY SPEAKER: Who seconds? Any objection? Agreed to. Will the Honourable Minister please table the Bill? The Secretary will read the Bill a First Time.

HON DEPUTY SPEAKER: Does the Honourable Minister of Works, Transport and Communications Move that the Bill be now read the Second Time? Who seconds the motion? Is there any objection. Agreed to. Will the Honourable Minister please take the Floor and motivate the Bill

**SECOND READING :
ROADS AUTHORITY AMENDMENT BILL:**

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Thank you very much, Comrade Deputy Speaker and the Members of this august House. I wish to introduce and motivate the item on Amendments to the Roads Authority Act 1999, (Act 17 of 1999).

The need to revise the current legislation was demonstrated by the recent suspensions and reinstatements of the Roads Authority Board, which Board remains in office amidst a contravention regarding their effectiveness and ability to lead and to control the Roads Authority. The Board of Directors in general should be composed of individuals of integrity who can bring a blend of knowledge, skills, objectivity, experience and a commitment to an entity or Company.

Currently the laws governing the appointment and the vacation of the Board of Directors of the Roads Authority is limited and restrictive in that if the appointing authority holds the view that any of the aforementioned competencies have been compromised, the process to remove such a director or directors from the said office can at best be described as cumbersome.

The objective of the proposed Amendments is to aid the appointing authority in discharging its responsibility towards the entities as a whole. It has to be vested with sufficient discretionary power to be able to remove a director from office if the need arises to take such remedial action.

Section 4 of the Act provides for the appointment of the Board of Directors, while Section 7 provides for the vacation of office and the filling of a vacancy. Amendments are proposed to Section 6, which provides for tenure of office in Section 7 of the Act. The proposed Amendments substitute the current Section 6 to the extent that a director would now hold

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HON MOONGO

office subject to a more discretionary power of the appointing authority to remove a director. Further, that the current Section 7(2) will be substituted and will now provide that a Minister, the appointing authority, may at any time remove a director from office for any reason which the Minister considers sufficient.

Lastly, Section 7(3) will be substituted to provide that if a director dies or the director's office becomes vacant, a person must be appointed subject to the Act to fill that vacancy.

With the proposed Amendments that broaden the discretionary powers of the appointing authority and lessens the concentration of power in the hands of the Board, they will no longer be able to hide behind the iron wall of the legislation in that once in office, they are untouchable until their time has lapsed as a director. With these powers vested in the appointing authority, he or she will be able to ensure that when it is evident that good governance is no longer prevailing at the level of the Board, appropriate remedial action that is sanctioned by the legislation can be taken by the appointing authority. I thank you, Comrade Deputy Speaker.

HON DEPUTY SPEAKER: I thank the Honourable Minister for the motivation of this Amendment Bill. Any further discussions? Honourable Moongo.

HON MOONGO: May I adjourn the Debate of the Bill until next week, Wednesday?

HON DEPUTY SPEAKER: Any objection to the adjournment of this Debate until next week Wednesday? No objections then it is agreed to.

The Debate on this item will then stand over until next week, Wednesday. The second Notice of a Motion is the one of the Honourable Minister of Trade and Industry. Does the Honourable Deputy Minister Move that the Bill be now introduced?

INTRODUCTION AND FIRST READING:
COMPANIES BILL

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: I so Move.

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**COMPANIES BILL
HON ESAU**

HON DEPUTY SPEAKER: Who seconds the Motion? Is there any objection? Agreed to. Will the Honourable Deputy Minister please Table the Bill? The Secretary will now read the Bill the First Time.

COMPANIES BILL

HON DEPUTY SPEAKER: Does the Honourable Deputy Minister of Trade and Industry Move that the Bill be now read a Second Time. Who seconds the Motion? Any objection? Agreed to. Will the Honourable Minister please take the Floor and motivate the Bill.

SECOND READING: COMPANIES BILL

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: Thank you very much, Honourable Comrade Deputy Speaker. Honourable Members, I have the privilege and honour to introduce the Companies Bill of 2004 to this august House.

The Companies Bill is an Act that is to provide for the incorporation, management, liquidation of Companies and matters connected therewith and to replace the existing Companies Act, Act 61 of 1973.

Recognising the important role which efficient corporation legislation place in the economic development and growth of Namibia, it is the aim of the Ministry of Trade and Industry to create a corporate environment conducive to economic growth and investments. To this end the Ministry has embarked on a process of reviewing certain pieces of commercial and corporate legislation. This includes the revision of the Companies Act 61 of 1973 and the drafting of a new Namibian Companies Bill, which gives effect to modern development on Companies Law at regional as well as international level.

The current Companies Act is in essence a South African legislation supplied to the territory of the then South West Africa in 1978 and remained in force in Namibia after independence in terms of Article 140 of the Supreme Law of our Republic of Namibia. The last major revision of the Company Law took place in the late 1960s and in the early 1970's under the auspices of a South African commission of inquiry into the Companies Act.

Since the 1970's there have been significant developments in the corporate fields both regionally as well as internationally. Therefore, it has become necessary to review the

present Companies Act to determine the extent to which

it would provide for the needs of the Namibian corporate environment as well as to materialise it and to replace it with a truly Namibian Companies Act.

It is important to state that an Advisory Committee on Company Law was established in the year 1997 to steer the revision of the Bill. The Members of this Committee were drawn from a wide range of backgrounds and comprised of representatives of various role players in the legal reform and corporate environment. The people were drawn from the Ministry of Trade and Industry, from the High Court of Namibia, from the Ministry of Finance, from the Office of the Attorney-General, from the Law Society of Namibia, from the Law Reform and Development Commission, from the Namibia National Chambers of Commerce and Industry, (NCCI), from the Namibian Stock Exchange as well as the Institute of Chartered Accountants of Namibia.

During the review of the Companies Act, a national workshop was held to which all interested parties and the public were invited. At this workshop the policies and proposals contained in the new Companies Bill were explained and discussed. Further, written comments and input from the public were received and considered. In addition, the inputs of various well-known Commercial Law experts, including academics from reputable Universities from the Region as well as from elsewhere were obtained on certain proposals. The revision process, which culminated in the drafting of the current draft Bill, took almost four years and was effected in a transparent and a consultative manner. It was democracy at its best.

To summarise what the Bill contains:

This new Companies Bill provides for a Company Registration Office and a Registrar of Companies. It provides for a Standing Advisory Committee on Company Law; it provides for various Company structures or different types Company structures; it provides for the formation, for the objects and powers of companies; it provides for the name, the registration and incorporation of companies; it provides for the regulation of share capital; it provides for the regulation of companies, it also provides for debentures. It goes on and it also provides for the winding-up of companies and the judicial management of companies. I do not need to read the other items, they are captured in the Bill.

The issues listed in paragraph 4.5 constitute the main aspects to be contained in a Company's Act and for purposes of consistency, for the purpose of legal certainty and stability, the new Companies Bill remains in essence the same as the previous Companies Act, Act 61 of 1973. However, some major changes were effected in order to modernise the Namibian Companies Law and to bring it into line with the international trend, namely, simplification of the law.

Secondly, to make it a true Namibian Law. Thirdly, to remove unconstitutional provisions. The replacing of some criminal offences with civil penalties for offences not of a criminal nature, thereby reducing the burden on the Courts. Further information is available in the Bill as tabled, I do not need to list all the bullet points.

Honourable Members, the review of the Companies Act was necessitated by the need for dematerialisation of securities. This was done through the insertion of a new clause, Clause 98, pertaining to the dematerialisation of securities in the Bill currently under consideration. The current Companies Act and the Companies Bill submitted to the CCL, both determine that shares must be on paper. This paper requirement gives rise to various problems, namely it is easier to commit fraud. The settlement period takes longer. It does not conform within international requirements regarding electronic settlements. It is outdated and finally it closes markets for Namibian Companies in that if they want to list on foreign stock exchanges, they are required to move over to an electronic system. The latter they cannot do since the existing Namibian Companies Act requires that shares must be in a paper form.

Companies listed on the JSE are from this year required to deregister from that Stock Exchange because they are not compatible to the new developments but if we have the law in place, at least we will make them compatible not to be de-listed from foreign Stock Exchanges like the JSE.

Now subsequent to the approval of the Companies Bill by the CCL, a dire need has been identified to allow Namibian registered Companies to dematerialise their shares. The purpose of the new Clause, Clause 98, inserted in the Companies Bill, is to provide for the orderly electronic transfer of shares. It will permit share certificates to be dematerialised and memberships in a Company and ownership of dematerialised shares to be electronically transferred without the necessity of completing any papers or forms.

It further regulates the duties and protects the rights of the buyer and seller of paperless shares and the duties and rights of a company with regard to such shares. It further regulates the duties of the Central Security Depositories or abbreviated, the CSD, and the depository institutions accepted by the CSD, the latter, the Institute, and persons who will be responsible for the electronic system, making the electronic transfer of shares possible.

The new inserted clause, that is the very same clause, Clause 98, only deals with electronic transfer of shares insofar as companies are concerned. In order to establish a well-functioning system of dematerialisation of shares, it is necessary to introduce a further Act, to be called the Central Securities Depository Bill. This Bill will fall under the auspices of the Ministry of Finance, which will regulate the establishment of the Central Securities Depository itself. Its purpose is to provide for the registration of a Central Security Depository for the custody and administration of securities in terms of a predetermined set of rules; to permit a depository institution to become a participant of the Central Securities

Depository; to permit clients to deposit securities through a participant with the Central Security Depository and to provide for the ownership, for the transfer, for the pledges and delivery of securities held by a Depository Institution.

Honourable Comrade Deputy Speaker, Honourable Members, since taxes are payable on share transactions, it is further necessary to regulate such taxes and a further Bill to be called, Uncertificated Security Tax Bill needs to be introduced to support the introduction of electronic transfers of shares. Obviously an undertaking like this one is expected to have some financial implications. In this regard, the general increase of all fees contained in the Bill will lead to a substantial increase in revenue received by the Receiver of Revenue through the office of the Registrar of Companies. Needless to say that this revenue is for the benefit of the State Revenue Fund.

Additionally the Standing Advisory Committee on the Companies Law will consist of five senior and experienced experts. They will meet three times a year, however, the new Bill will provide for the cost necessary for the remunerations of the Members of that Committee and for the performance of their functions.

Last, but not least, in view of the ongoing negotiations of the Free Trade Agreements, it is imperative, very important and a prerequisite to have this Bill, this Companies Bill, in place as soon possible. We do not want to argue on technical things, which we do not understand sometimes, but I will really appreciate your support to expedite the process of passing the Bill with your consent.

Comrade Deputy Speaker, I thank you for your attention.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for the motivation of this bulky Bill. Any further discussions on this Bill? No discussions. Honourable Deputy Minister, would you like to say something in conclusion for the Second Reading?

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: I thank you very much, Honourable Members for your support.

HON DEPUTY SPEAKER: Thank you. I now put the question and that is that the Bill be now read a Second Time. Are there any objections? Agreed to. The Secretary will read the Bill a Second Time. Yes Honourable Pretorius?

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HON SMIT**

HON PRETORIUS: Honourable Deputy Speaker, just for the sake of the Record, if the Members can help me to have more Members in here for MAG, I will in future take part in all the discussions. Thank you.

COMPANIES BILL

HON DEPUTY SPEAKER: The Third Notice of a Motion is the one of the Honourable Minister of Agriculture, Water and Rural Development. Does the Honourable Minister Move that the Bill be now introduced.

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Yes, I so Move.

HON DEPUTY SPEAKER: Who Seconds the Motion? Is there any objection? Agreed to. Will the Honourable Deputy Minister please table the Bill.

WATER RESOURCES MANAGEMENT BILL

HON DEPUTY SPEAKER: Does the Honourable Deputy Minister of Agriculture, Water and Rural Development Move that the Bill be now read a Second Time? Who seconds? Any objections. No objections. Agreed to. Will the Honourable Deputy Minister please take the Floor and motivate the Bill.

**SECOND READING:
WATER RESOURCES MANAGEMENT BILL**

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Thank you very much, Honourable Deputy Speaker. Honourable Deputy Speaker, Honourable Members, thank you very much for this opportunity and I believe that the example was set now how to handle Bills.

Namibia is a country endowed with human potential and the natural resources to realise the

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successful implementation of Vision 2030, which aims to bring the country to a First World level environment. Equitable, efficient and sustainable use of water resources is the most critical constraint on development in many

areas and an integrated water resource management is vital especially to the development of the agricultural sector in Namibia. These priorities are also reflected in Namibia's Second National Development Plan series until 2006.

Within this perspective, the Namibia Water Resource Management Review was launched by His Excellency, Dr Sam Nujoma in March 1998. The purpose was to establish conditions for equitable access and a sustainable development of the country's fresh water resources by all sections of the population, especially the rural and urban poor, in order to promote long-term social and economic developments.

The investigation resulted in the National Water Policy White Paper in August 2000, which was approved by the Cabinet in the same year. This document made a situation analysis and recommended a new legal framework for equitable, efficient and sustainable water resource management and an appropriate environment for water services. Human Resource Development together with technical and institutional reforms were identified as key measures for implementation, but an adequate legal framework would be required to set in motion any changes.

Honourable Deputy Speaker, the Namibian Constitution states that the ownership of water resources below and above the surface of the land belongs to the State. It is the State's duty to ensure that water resources are managed and used to the benefit of its entire people. The existing legislation, the South African Water Act 54 of 1956, however was there to suit the old system of separate development, which is focused on reserved rights of access and utilisation of water resources. To implement the Constitution's principles in line with the recommendations of the new water policy, a drastically different water law was necessary and indeed, overdue.

Although examples from other countries and expert technical and legal staff were available to assist, the development of new draft legislation was a time-consuming process, but something we had to carry out. Technical challenges related to the very specific conditions of critical water shortage in the arid country that Namibia is. International practices such as for instance, prescribing minimum flows, are not applicable if rivers are dry most of the year. More important for the same assignment however, was the purposeful decision that the new law should be drafted by and for Namibians. This implied the involvement of young and keen Namibians and intense and continuous consultation with all stakeholders at the widest and lowest possible level. A task force comprising of thirty-eight key stakeholders, which included, amongst others, the Regional Councils, Ministries such as Ministry of Justice,

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Ministry of Regional, Local Government and Housing, Ministry of Environment and Tourism, Traditional Authorities, Non-Government Organisations, farmers and civil society have been instrumental during the drafting and consultation process which produced more than eight drafts after stakeholders' meetings at both national and regional levels before a ninth, draft which was submitted to the Cabinet Committee on Legislation, was completed.

The draft Water Resource Management Bill that is before this House provides for the management, development, protection, conservation and use of water resources. It also gives the legal framework to establish new institutions, such as the Water Advisory Council, the Water Regulatory Board and the Water Tribunal. It finally sets conditions for other incidental issues in the water sector, such as flood protection for example, reoccurring of floods in the Caprivi Region.

Fundamental principles of what is to become the new Water Act for Namibia are:

The essentiality of water in life and the basic human right of access to safe drinking water;

The equitable access to water resources by all citizens to support a healthy and productive life;

The need for integrated planning and management of water resources to promote economic and sustainable development of the country as a whole;

The integration of human needs within environmental systems and the protection thereof, in particular by the prevention of water pollution;

The consistency with Government policies of separation of operational and regulatory roles;

Transparency, decentralisation to the lowest possible level and meeting international obligations.

Central in the new water legislation will be the obligations of the Minister responsible for water to ensure that safe water is in a sustainable manner available for basic human needs. To realise this, he or she has a duty to ensure the development of a national plan on water resources to be known as the National Water Master Plan. Based on this the Ministry may again, in concurrence with the stakeholders concerned, reserve part or all of the flow in a water course, including any groundwater system or water stored in reservoirs for meeting basic human needs and reasonably protect aquatic and wetland systems.

A comprehensive licensing system will be introduced for the abstraction and the use of water as well as the discharge of wastewater. Abstraction and use of water for domestic purpose

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however, will be exempted from this, subject to reasonable limitations related to public health, environment and other conditions of efficient water management practices. For any other purpose, a person will have to apply for abstraction and use of water, which will be decided upon according to a reasonable application of the said principles in the manner detailed in the new legislation. Licences will be issued with specific terms of conditions, including the said frequency of review.

Honourable Deputy Speaker, Honourable Members, also to ensure professional standards and the protection of the public, additional requirements will apply for collection of data, drilling of boreholes, construction of dams and other work in rivers and use of water from international-shared rivers. Similarly, water pollution control will be implemented by the obligation of permits for any discharge of effluents to water resources and/or the underground and for the construction of any effluent treatment or water disposal works above groundwater aquifers. Protection of critical water resources, aquatic systems and wetlands will be possible by the declaration of water management areas. Similarly, there will be general regulations for efficient water use and conservation practices.

The functions and the powers of the Minister will be to achieve the policy principles by being able to request, investigate and assess any relevant information, by supervising any policies and relevant activities in water resource management and by implementing appropriate actions according to the set objectives and as detailed in the new legislation.

To assist him or her for technical advice in operational implementation, the Minister will be able to establish any executive agency, in the first place the envisaged Water Resource Management Agency. The Minister will also be able to declare irrigation areas and establish Irrigation Boards.

Under the new legislation, the Minister may further establish the following new institutions:

Basin Management Committees to ensure wider stakeholders participation at the basin level and to promote integrated water resource management and use;

Water point User Associations and Local Water User Associations and Committees to manage and coordinate rural water supply services.

A Water Advisory Council to give advice on policies and water resource management issues;

A Water Regulatory Board to exercise independent control over water extractions and effluent discharge pricing and over quality standards; and

A Water Tribunal, which will be a special court to hear and decide matters relating to water

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resources anywhere in Namibia.

The Bill provides for the legal recognition of the community-based rural water supply management institutions. This will enhance community ownership of water supply infrastructure and accelerate the process of cost recovery.

Finally, the Water Bill provides for appropriate legislation for dam safety and flood management, water use, conservation and efficient water management practices, servitudes and safety and other rights for required investigations and for water emergencies.

Honourable Deputy Speaker, Honourable Members, a new Water Act for efficient management of water resources in Namibia is long overdue and the Resource Management Bill that is before this House is the result of many efforts and inputs. It is trusted that the prompt and effective implementation will now proceed in the same spirit to serve the interest of the Namibian nation. Water is not renewable; it is recyclable but not forever. That is why we need proper tools for efficient management and best practices to ensure the sustainability of this scarce resource. I believe this Bill ensures sustainable management of our water resources. I, therefore, call upon this August House to support the Bill in its entirety. I thank you, Honourable Deputy Speaker.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for his motivation of this Bill and now I invite further discussions. Any further discussions on the Bill? Honourable Moongo.

HON MOONGO: I Move that the Debate be adjourned until next week, Thursday.

HON DEPUTY SPEAKER: Is there any objection to the adjournment this Debate until next week Thursday? Agreed to. The Debate on this item stands over until next week, Thursday. The fourth Notice of a Motion is the one of the Honourable Deputy Minister of Justice. Does the Honourable Deputy Minister Move that the Bill be now introduced?

**INTRODUCTION AND FIRST READING:
PREVENTION OF ORGANISED CRIME BILL**

HON DEPUTY MINISTER OF JUSTICE: I so Move.

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**PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB**

HON DEPUTY SPEAKER: Who seconds the Motion? Is there any objection? Then it is agreed to. Will the Honourable Deputy Minister please Table the Bill? The Secretary will read the Bill a First Time.

PREVENTION OF ORGANISED CRIME BILL

HON DEPUTY SPEAKER: Does the Honourable Deputy Minister of Justice Move that the Bill be now read the Second Time? Who seconds? Any objection? Agreed to. Will the Honourable Deputy Minister please take the Floor and motivate the Bill?

**SECOND READING
PREVENTION OF ORGANISED CRIME BILL**

HON DEPUTY MINISTER OF JUSTICE: Thank you, Comrade Deputy Speaker, Honourable Members. It is my distinct honour and privilege to Move the Prevention of Organised Crime Bill. Allow me, Comrade Speaker, Honourable Members, to provide a brief background to the rationale for the Bill by way of introductory remarks.

The 21st century brought with it a new concept called “Globalisation”. In the same vein, organised crime has also gone global. As part and parcel of the international community, Namibia must prepare herself to join the community of nations in fighting organised crime. The Prevention of Organised Crime Bill is part of a package of instruments promoted simultaneously by the Ministries of Finance, Home Affairs and Justice, consisting of the following instruments, namely:

1. International cooperation in criminal matters that is provided for by Act 9 of 2000;
2. The draft Financial Intelligence Bill currently with the Ministry of Finance; and the draft Drugs Control Bill also currently with the Ministry of Home Affairs.

The Prevention of Organised Crime Bill, in conjunction with the aforementioned instruments, will make it possible for Namibia to play its role in the international fight against organised crime, hopefully.

The Palermo Convention: Namibia has a number of international obligations. In this regard particularly of relevancy is the United Nations Convention against Transnational Crime, the Palermo Convention, to which Namibia is a signatory. This convention has a number of

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requirements which can only be met by way of enacting relevant legislation, such as the Bill I am privileged to motivate today.

The scope of the Bill: Comrade Deputy Speaker, Honourable Members, the Prevention of Organised Crime Bill, is an omnibus instrument dealing with, among other things, racketeering, money-laundering, criminal gang syndicate activities, trafficking in persons, smuggling of migrants and civil forfeiture of proceeds of unlawful activities. The term “*unlawful activities*” used in the Bill is much wider than criminal activities and may even include, for example, unlawful contracts and tax evasion. It may be of assistance to this august House for me to give a brief purview of some of the more salient Clauses of the Bill:

Clause 2 criminalizes offences relating to racketeering activities and Clause 3 provides for suitable sentences to be imposed.

Clauses 4, 5 and 6 criminalize various acts which constitutes part of money-laundering activities as per the international definition of money-laundering.

Clause 7 makes directors and other persons acting on behalf of a body of persons, personally liable for their actions.

Clause 9 places a duty on every person involved in any type of business to report a suspicion in respect of any type of transaction. This is to ensure that money-launderers cannot make use of small businesses to spread the proceeds of their unlawful activities.

Clause 12 makes it an offence for any person to participate in criminal gang or crime syndicate activities and Clause 13 provides for suitable sentences for these types of offences.

Clause 15 criminalizes the trafficking in persons and provides for a suitable sentence for this very serious offence and Clause 16 does the same in respect of smuggling of immigrants. These clauses comply with the two Protocols of the United Nations Convention against Transnational Organised Crime.

Clause 18 provides for the application of civil process to be applied in a field, which usually makes use of criminal processes.

Clause 22 deals with gifts made by a defendant to hide proceeds of unlawful activities.

Clauses 24 to 28 provide for the restraining of property involved in an investigation of a crime, to prevent the hiding or destruction of the property while criminal steps are being taken in respect of such property.

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Clause 30 provides for the endorsement of the Title Deeds of immovable property to ensure that it cannot be mortgaged or estranged while a Court Order is still to be made.

Clauses 50 to 58 provide for the civil recovery of property, which is an instrumentality of an offence or the proceeds of unlawful activities even in cases where nobody is convicted of an offence. Such property can be seized and a *curator bonis* appointed to manage the property while the legal procedure is in process.

Clauses 59 to 68 provide for a forfeiture orders to be made in the absence of the owner of the property. The prescribed procedure provides for the protection of interest of the defendant and third parties, proper notice to be given in respect of each application to the Court and an opportunity for the person in whose absence the order or orders were made to appeal or apply for a variation or rescission of the order or orders. The purpose of the afore-explained procedure is to:

1. Prevent an offender from hiding proceeds of crime in Namibia and then staying in another country where he or she cannot be reached by the Namibian law enforcement agencies.
2. Enable the law to seize proceeds of unlawful activities and convert it into cash and also,
3. To enable Namibia to cooperate with other countries to trace and seize property or things in the process of money laundering with profits from offences committed in other countries through process provided for in the International Cooperation in Criminal Matters Act, that is Act 2 of 2000.

Comrade Deputy Speaker, Honourable Members, the important role of this Bill is to seize property used in the commission of offences and profits made from it. to deny the offender the further use and take away his or her profits, the so-called “*dirty money*”. The funds obtained in this process are earmarked for the fight against this type crime. Provision is, made therefore, in Clause 74 for the establishment of a fund, to be called the *Criminal Assets Recovery Fund*.

Clause 75 stipulates which monies must be paid into this fund, whereas Clause 76 provides for the utilisation of the money of this fund and accountability thereof.

Furthermore, Honourable Deputy Speaker, Honourable Members, a Criminal Assets Recovery Committee is to be established by Clause 77. This is a Ministerial Committee and will serve as an advisory body to Cabinet with respect to the utilisation and control of the money paid into the said fund.

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HON CHATA**

Comrade Deputy Speaker, Honourable Members, in conclusion, it was found to be of utmost important that legislation be developed not only to criminalize money-laundering, but also to confiscate the proceeds of crime. Money-laundering is a sophisticated crime where offenders make use of modern technology. It has now become the time for crime syndicates to shift their activities from countries like Italy and South Africa where strict legislation has been implemented to emerging markets like Namibia, hence the necessity for Namibia to put stringent measures in place, such as this Bill, to counteract this wave of crime.

Honourable Deputy Speaker, Honourable Members, I therefore call upon this august House to complete the process of passing this Bill without too much *ado* and I thank you.

HON DEPUTY SPEAKER: I thank the Honourable Deputy Minister for the motivation of this Bill and I now invite further discussions. Any further discussions? Honourable Chata.

HON CHATA: May I adjourn the Debate on behalf of my Colleague, Honourable Shixwameni, to next week, Tuesday?

HON DEPUTY SPEAKER: Any objection to the adjournment of this Debate until Tuesday, next week? Agreed to. The Debate on this item stands over until Tuesday, next week. The fifth Notice of a Motion is the one of the Right Honourable Prime Minister. Does the Right Honourable Prime Minister Move that the Bill be now introduced?

**INTRODUCTION AND FIRST READING
PUBLIC HOLIDAYS AMENDMENT BILL**

RT HON PRIME MINISTER: I Move.

HON DEPUTY SPEAKER: Who seconds the Motion? Is there any objection? Agreed to. Will the Right Honourable Prime Minister please take Table the Bill?

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RT HON T-B GURIRAB**

HON DEPUTY SPEAKER: The Secretary will now read the Bill a First Time.

PUBLIC HOLIDAYS AMENDMENT BILL

HON DEPUTY SPEAKER: Does the Right Honourable Prime Minister Move that the Bill be now read a Second Time?

RT HON PRIME MINISTER: I Move.

HON DEPUTY SPEAKER: Who seconds? Is there any objection? Agreed to. Due to the clock and our Rules, the motivation of the Right Honourable Prime Minister on this Bill will stand over until Tuesday, next week. on this very productive note and afternoon, this House stands now adjourned until Tuesday afternoon at 14:30.

HOUSE ADJOURNED AT 17:45 UNTIL 2004.09.28 AT 14:30

**ASSEMBLY CHAMBER
28 SEPTEMBER 2008
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Reports of Standing or Select Committees? Other Reports and Papers?

**TABLING: ANNUAL FINANCIAL STATEMENTS:
NAMIBIA COLLEGE OF OPEN LEARNING**

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Honourable Speaker, Sir, I lay upon the Table, Annual Financial Statements for the Financial Year ending 31st March 2004 for the Namibia College of Open Learning.

**TABLING: STATISTICAL DIGEST, 2003
NAMIBIA COLLEGE OF OPEN LEARNING**

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I lay upon the Table, the Statistical Digest 2003 of the Namibia College of Open Learning.

HON SPEAKER: Will the Honourable Member please table the Reports? Other Reports and Papers? Any Notice of Questions? Notice of Motions?

NOTICE OF MOTIONS

HON CHATA; Honourable Speaker, I give Notice that Leave of Absence be granted to Honourable Tsudao Gurirab due to official business until 7 October 2004.

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**MINISTERIAL STATEMENT
HON NANDI-NDAITWAH**

HON SPEAKER: Will Honourable Chata please table the Motion? Ministerial Statements? Honourable Ndaitwah.

MINISTERIAL STATEMENT

HON MINISTER OF WOMEN'S AFFAIRS AND CHILD WELFARE: Thank you, Comrade Speaker, Honourable Members. Today is the 28th of September, exactly fourteen years since this Honourable House concluded the discussions and ratified the UN Convention on the Rights of the Child. It was that noble action of this august House that guided the Cabinet three years ago to declare 28 September the Day of the Namibian Children.

Against this background, the Day of the Namibian Children should always remind us of the time this House was deliberating on the convention and the commitment we have made towards the care, protection and well-being of the children of this country. On this day, we have to reaffirm our commitment towards our children to do everything possible to guide their future in the best interest of our country.

On many occasions Honourable Members from both sides of the House have reminded each other that we should not ratify conventions for the sake of getting into the good books of international bodies, but we should do so conscious of what those international instruments are calling us to do and to commit ourselves to their full realisation in Namibia. Therefore, on a day like this one we have to ask ourselves as individuals, not only Members of Parliament, but all adults of this country as to what we have done to assist shaping the future for our children around us, both our biological children and the whole large family of children. We all agree that the future of this country lies in the hands of our children. We are to create a path for them to lead them towards the destination of realising our dreams, such as Vision 2030.

When we talk about investing in children, we do not only talk about money we spend on food, clothes and send them to school or anything that you buy for them, most importantly as parents our main responsibility is to advise, guide and protect our children as a way of shaping their emotions and thinking. That is why this year our sub-theme is “*Families and Communities Care for Every Child*”.

Family is the basic unit of our society as per our Constitution. As we all know, a family in the African context means more than a father, mother, brother and sister. Family includes grandparents, aunts, uncles, cousins and all adults around the children and it is within family that values, socialisation and behaviour and ethics were passed on to the young generation.

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**MINISTERIAL STATEMENT
HON NANDI-NDAITWAH**

Honourable Members, I recognise the difficult times we find ourselves in. Our children are being influenced by so many things around them, such as television, computers and even books. However, in the world of globalisation that is a challenge we have to face with all that it takes. That is why, to ensure that our children are guided throughout their lives, it must really become a national responsibility.

On its part, the Government will continue to play its role. Policies and legal instruments have been initiated and put in place as a way of protecting our children. We all recall the Maintenance Act, the Child Status Bill that is still on the table of this House, and in August of this year the Cabinet has adopted an OVC Policy. The Government continues to work with the community in the area of early childhood development and the response of the community is high, since we have realised what ECD can do in the career life of every child.

Orphans and Vulnerable Children remain a challenge, especially in the face of HIV. That we must all fight. However, with the establishment of OVC Regional Forums we are better equipped to monitor the situation and to respond to the critical needs of some of those children. Therefore, it is not by chance that a total number of children benefiting from the State grants has risen from 9 000 in 2003 to 22 000 in 2004.

Our children also need to be aware that to be loved and to be protected comes with responsibility. That lies in their hands. Children are the future leaders and workers of this country and they have to realise the dreams of all Namibians and set new goals for future generations. Our children must aim high for the benefit of the whole nation and not for their own interest. Our children must be empowered to resist bad influence and to be involved in activities that will assist them to realise their full potential. They must know about many good things they can do instead of hanging around the streets, abusing drugs and alcohol. They must be constructive citizens and join groups, such as AIDS awareness clubs, Teenagers Against Drug and Alcohol Abuse Clubs, because by doing so, our children do not only fight HIV/AIDS, drug and alcohol abuse, but also paving a path into their positive future.

Finally, Comrade Speaker, as we celebrate 28 September throughout the country, we must remember to make this day a day of commitment on the part of the parents and the children on our responsibility and I would like to congratulate all the Namibian children on this important day of theirs, those who managed this morning and other days to come together and celebrate the day and those who, for one reason or the other, could not join others but celebrated the day in their own way. I congratulate them all and I was happy to see them this morning, those who gathered at the Independence Arena to hear an address by our First Lady. I thank you and congratulations for the Namibian children.

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HON SPEAKER: I thank the Honourable Minister for her statement, designed and prepared for this special day of the young citizens of our Republic. The Secretary will now read the First Order of the Day.

RESUMPTION RECONSIDERATION: LABOUR BILL

HON SPEAKER: Does the Honourable Minister of Labour Move that the Assembly now reconsiders this Bill?

HON MINISTER OF LABOUR: Honourable Speaker, I Move that the reconsideration of the Labour Bill be adjourned until Thursday, the 7th of October for further consultations and preparations of the Amendments.

HON SPEAKER: Are there any objections? So agreed. Therefore, the Debate on this item stands over until the 7th of October 2004. The Secretary will now read the Second Order of the Day.

COMMITTEE STAGE: COMPANIES BILL

HON SPEAKER: Does the Honourable Deputy Minister of Trade and Industry Move that the Assembly now goes into the Whole House Committee? It is Moved that I leave the Chair. Any objections? Who seconds this Motion? Agreed. I shall now call on the Honourable Deputy Speaker and at the same time the Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Companies Bill.

Clauses 1 to 338 put and agreed to.

Clause 339 put.

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COMMITTEE STAGE : COMPANIES BILL
HON ESAU

HON CHATA: Honourable Deputy Speaker, if my observation throughout the Bill is correct, then in the majority of cases, the fines are not in excess of N\$4,000, but when you look at Clause 339(2) specifically, here it states N\$400. I suspect there is a typographical error and if not, then I have a problem because Clause 337, to which this Clause refers, states N\$4,000. The Minister should give us an explanation.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion? Would the Honourable Deputy Minister wish to reply to that query and put the record straight?

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: Honourable Deputy Speaker, it is in fact a typographical error and it will be corrected. It is N\$4,000, not N\$400 in both (1) and (2).

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 339 agreed to.

Remaining Clauses, Schedules and the Title put and agreed to.

ASSEMBLY RESUMED:

Bill reported without Amendment

HON SPEAKER: Does the Honourable Deputy Minister of Trade and Industry Move that the Bill be now read a Third Time?

COMPANIES BILL: THIRD READING

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: I so Move, Comrade Speaker.

HON SPEAKER: Who seconds the Motion? So agreed. Any further discussion?

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PUBLIC HOLIDAYS AMENDMENT BILL
RT HON T-B GURIRAB**

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: Honourable Speaker, I would like to thank all the Members for passing the Bill. We will see to it that this information is disseminated through the relevant structures. I thank you.

HON SPEAKER: I now Put the Question, that the Bill be read a Third Time. Agreed to. I call on the Secretary to read the Bill a Third Time.

COMPANIES BILL

**SECOND READING:
PUBLIC HOLIDAYS AMENDMENT BILL**

HON SPEAKER: Does the Honourable Prime Minister Move that the Bill be now read a Second Time? Who seconds the Motion? Any objection? Agreed to. Honourable Gurirab.

RT HON PRIME MINISTER: Comrade Speaker, I rise to motivate for adoption of Amendment of the Day of the Namibian Women Bill. The 10th December 1959 became a living reality in the minds of Namibians because of the confrontation between the forces of liberation and those of occupation as the forceful removal of Namibian women and people generally from Old Location to Katutura set that confrontation in motion. On this day women of Namibia put up a heroic fight by various means of resistance against the enemy and burnt the fire of freedom and national resistance. It is on this day that Kakurukaze Mungunda and many others laid down their lives in our people's determination to end apartheid brutalities and colonial domination in Namibia.

Since then 10th December has in the years of the liberation struggle been acknowledged and commemorated as the Day of the Namibian Women. Unwittingly, however, after independence this day was renamed as the International Human Rights Day, leaving Namibian women without any specific day dedicated to them, to their rights, to their quest for justice, equality and empowerment with equity.

Needless to note the obvious, that the unmitigated acts of terror against our defenceless people, mostly women in the Windhoek Old Location on 10th September 1959 continues to invoke mixed and contrasting memories for 10th December is recognised and commemorated

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worldwide as the International

Human Rights Day. In Namibia, we remember it as the day of death, destruction and yes, of rekindling the gallantry and resolve of our people to end foreign oppression and bring freedom necessary to the courageous Namibian people and our beloved country.

As freedom and as common humanity are indivisible, I am certain that Namibians will continue to recognise, commemorate and celebrate the international import on 10th December as a Human Rights Day, but here and now we want to forever set the record straight by returning to the memories of the Old Location in Windhoek, the capital city of our nation, to draw inspiration from the bloodshed then and there for our liberation and from the indomitable spirit of self-liberation of Namibian women.

This Motion is easy and although it is pressingly necessary is self-corrective in terms of what the House had approved previously, the Motion is actually more of an unopposed motion variety than a substantive Motion, which would require a long drawn-out Debate. Thus, one can be spared a recycled laundry wash. We have a demanding schedule, let us dispose forthwith with this puny Amendment, albeit it for a noble cause or rededication.

Honourable Members, many Namibian women's organisation, including the general public, have repeatedly pleaded with the Ministry of Women Affairs and Child Welfare, and rightly so, with Cabinet, demanding that the 10th of December henceforth be rededicated to the Namibian women's heroism and for the fulfilment of their rights. Cabinet promptly responded favourably.

This Bill, Honourable Speaker, will also go a long way in bringing Namibian women together as sisters and allies and in this way they will be able to open up practical opportunities for themselves as stakeholders, shareholders and partners across political, racial, religious and other inhibiting societal divides.

While remembering the past injustices, Namibian women should however concentrate more on present and future challenges that would hold them back individually and collectively in terms of their demands for change that is towards their common aspirations for political, economic, social and cultural advancement.

I, therefore, move that the Honourable Members support the Amendment of the Public Holidays Act (Act 26 of 1990), specifically to replace International Human Rights Day with the Day of the Namibian Women to be celebrated annually on 10 December as a public holiday. In the meantime, all leaders here, leaders outside, leaders particularly of the political parties vote for more women to join Parliament and participate in other key national structures of decision-making and resource allocation. I thank you.

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HON MOONGO / HON DR AMUKUGO**

HON SPEAKER: Any further discussions? Honourable Moongo.

HON MOONGO: Honourable Speaker, I have a different understanding when it comes to omitting International Human Rights Day, which is recognised countrywide and worldwide and to replace it with the Day of Namibian Women. Of course, women contributed to Independence, but to omit International Human Rights Day, which is recognised worldwide means that Namibia could violate human rights. Therefore, I have mixed feelings and I do not fully support it.

HON SPEAKER: Any further discussions? Honourable Amukugo.

HON DR AMUKUGO: Honourable Speaker, I Move that the Debate be adjourned until Tuesday, next week.

HON SPEAKER: The Debate on this item stands adjourned until Tuesday, 13:30. The Secretary will read the Fourth Order of the Day.

**RESUMPTION OF SECOND READING:
NATIONAL DISABILITY COUNCIL BILL**

HON SPEAKER: When this Debate was adjourned on Thursday, the 21st of September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Lands, Resettlement and Rehabilitation, Honourable Pohamba. This Debate was adjourned by the Right Honourable Prime Minister who now has the Floor.

RT HON PRIME MINISTER: Thank you very much, Honourable Speaker. I adjourned the Debate until today to create an opportunity for my Colleague and to make a very brief contribution to the Debate.

The views that I am going to share with the House here are collective views that come from

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RT HON T-B GURIRAB**

the National Federation of People with Disabilities in Namibia and secondly, from my Advisor, Mr Tjombumbi, who heads the Disability Advisory Unit located in the Office of the Prime Minister. They have opened channels of communication with the Minister and his advisors, but I felt that I should put on

Record some of their sentiments. Speaking for them but also for myself, I feel very much happy and I am confident when I speak on the National Disability Council Bill that the House will soon adopt it, so that the promises we are making in this Bill would become real for them. They believe that this is a very progressive piece of legislation, which needs to be welcomed by all Members of this august House. They have studied the Bill, consulted me and they envisage that this Council to be established will be one that would finally be a focal point for the Government and the public at large to respond to their concerns, their needs and they welcome the positive responses from both sides of the House and appreciate the support that has been expressed so far for their own efforts that they are making and in support of this Bill and they want us to promptly adopt it.

As I indicated, my Office has a Disability Advisory Unit which is responsible for advising Cabinet, through the Prime Minister, and my staff on a daily basis on issues we should know about and to address those issues within the public sector, sensitise the private sector and all the stakeholders in the society about those things that are dear to people with disabilities that very often we are not aware of. Using Cabinet and the Office of the Prime Minister as a vehicle through which they can reach out to the wider public, they are doing their efforts to inform us about the concerns on their minds.

Mr Tjombumbi himself is a person with a disability he is present here. You know him because he has sought your advice, your support on a number of occasions. He was not nominated by the Prime Minister, but by the National Federation of People with Disabilities in Namibia.

Through it, we as a Government want to say that we try to practise what we preach and what we say is that self-representation is a cornerstone that we have responded to, a cornerstone of the philosophy of the worldwide Disability Movement of which Namibia is a part.

Furthermore, through this Unit in my Office, Namibia has participated and contributed to the deliberations of the United Nations *Ad Hoc* Committee on the Envisaged, Comprehensive and International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disability. The Convention is meant to give effect to the protection and promotion of the rights of the people with disabilities internationally.

We, therefore, support the Minister, my Office and the National Federation of People with Disabilities in this initiative and we pledge through my Office to lend whatever support we

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can to the Council to be established for the realisation of its mandate. They feel, and I agree, that the timing of this Bill is very much appropriate and the passing of it would complement international efforts for serving people with disabilities.

The Bill legally authorises the establishment of the Council with stipulated powers that are in the Bill. The Bill further provides for the Council to compel the bureaucrats, Permanent Secretaries and others and Offices, Ministries and Agencies of Government to report to Council on the implementation of the National Disability Policy and other related activities concerning the protection and welfare of people with disabilities.

It is important to point out that the Bill prohibits Government leaders and officials to make false statements to Council. That would be deemed as a criminal offence. Therefore, the Bill mandates Council to institute action against any person who provides any false information. We are getting serious, the law will take its course.

There are some issues of concern to the constituency in whose name I speak with regard to the language, for example, and tenure of office of the Director in the Bill. They brought these concerns to the attention of the Minister, but he felt that I should place them on record in the House.

One is called disability terminology. The Disability Movements internationally and nationally do not accept the usage of the term, “*disabled person*” or “*people living with a disability*”. They believe that the proper language should be, “*people or persons with disabilities*” and when referring to the organisation, it should not be “*disabled persons organisations*”, but rather “*organisation of people with disability*”. My advisors would be delighted if this could be accommodated in the Bill.

The second has to do with the Director’s term of office. They believe that the Bill does not spell out the term of office of the Director of the Council. As a matter of fact and in line with other commissions, a three-year term is satisfactory, which is only once renewable, altogether six years. It is important to have it in the Bill so that he/she would not be there for a lifetime, they say. This they consider important

There is another point that we discussed, not a new idea, we reflected on it in Cabinet on a number of occasions. The portfolio of responsibility for people with disabilities is with the Minister of Lands, Resettlement and Rehabilitation, but the budgetary allocation for the welfare and rehabilitation and protection for people with disabilities is with the Ministry of Health and Social Services. Therefore, they are of the view – and I agree with them – that they would like in the future the Ministry of Lands, Resettlement and Rehabilitation, Ministry of Health and Social Services, the Ministry of Women Affairs and Child Welfare and the Ministry of Finance to down and to regularise and sort this out. They

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would be happy if this was done speedily and as I am addressing the sentiments through the other ministries, to the future President of the Republic of Namibia, I am sure he will take care of this.

The overall coordination by way of supervision and political image building for the concerns of the people with disabilities, of course, is currently located in the Office of the Prime Minister to give it the necessary political push and visibility. This is in line with the recommendations contained in the Continental Plan of Action for the African Decade for Persons with Disabilities, 1999 to 2009.

Honourable Speaker, it is my intention, to bring to the National Assembly the Continental Plan of Action for the African Decade for Persons with Disabilities, as mentioned, for ratification by this Honourable House. Honourable Minister, on my own behalf and on behalf of the constituency in whose name I speak, I congratulate you for this initiative and encourage you to ensure that the Council is established speedily and that the principles and objectives contained in the Bill are carried out for our country to set an example for the SADC Region and Africa generally. I thank you.

HON SPEAKER: I thank the Right Honourable Prime Minister for his contribution on this Motion. Are there any further discussions? I will call on the Honourable Minister of Lands, Resettlement and Rehabilitation, Honourable Pohamba, to reply.

HON MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Comrade Speaker, I would like to respond to several questions posed by some Honourable Members, including the points raised towards the end by the Right Honourable Prime Minister on Thursday.

HON SPEAKER: Any objections? Agreed to. The Honourable Minister's reply will be on Thursday afternoon, 14:30. The Secretary will now read the Fifth Order of the Day.

**RESUMPTION OF SECOND READING :
CRIMINAL PROCEDURE BILL**

HON SPEAKER: When this Debate was adjourned on Wednesday, 22nd September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Justice. This Debate was however adjourned by Honourable Member Mr Kaura. Any further Discussion?

HON PRETORIUS: Honourable Speaker, in the first place I want to congratulate the Honourable Minister and his Ministry with an excellent piece of work as far as the principle is concerned. I am a layman and, therefore, I cannot say much about the technical side and the finer details.

I could not help to smile when the Honourable Minister declared war against the criminals. I thought about the old military saying of, *“amateurs are thinking about strategy, but professionals are thinking about logistics”*. Mr Speaker, we must recognise that we cannot solve the problem of crime with theory, but at least it is a beginning. To be successful in any war, one must have learned, trained and dedicated generals and soldiers. One must have the necessary guns and equipment. The Honourable Minister admitted the lack of logistics, but clearly indicated that it was not because of his making, he needs the support of everyone involved in the combating of crime.

Then the Honourable Minister went further and put up a hurdle, which he cannot prove that this country will be able to afford financially. He proposed that we must combat crime by stricter sentences, including lifelong sentences meaning exactly lifelong sentences. In a lighter vein, Mr Speaker, somebody asked me what the monetary similarity is between a lifelong pension for a former President and a lifelong sentence for a criminal. When I could not answer, he gave me the answer on his own. He said that both would cost the taxpayer a hell of a lot of money. (Interjection). That is what he said, Mr Speaker.

It is then that I recognised that there are thousands of Namibians ... (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: On a Point of Order. I want to be clear as to what the Honourable Pretorius is alluding to. When criminals are punished in prison, they are punished for a crime they have committed. To remove them from society you have to maintain them. However, when the President leaves his or her office, that person has been working and as a worker, you are supposed to generate your pension, and you are supposed to be rewarded after your work. I cannot see the comparison between a prisoner and a president in this regard, somebody who has been working for something all along and at the end gets a handshake, go and rest in peace and a prisoner who has wronged society to be compared to a president. I just need clarity on this one.

HON SPEAKER: The point is clear. Proceed, Mr Pretorius.

HON PRETORIUS: Honourable Speaker, if the Honourable Minister is serious, I can assure him that I am not serious, because I said “*in a lighter vein*”. I am sure that as a teacher he always waited until the end of his class and then asked his pupils to ask questions or to comment.

Mr Speaker, it is then that I recognised that there are thousands of Namibians who would prefer the carefree life of a lifelong sentence with the guarantee of a free roof over their heads, a guarantee of three free meals a day, a guarantee of free education and free medical services, etcetera. It was then that certain words of the Honourable Minister of Justice, Dr Kawana, who is unfortunately not here, became more important to me. To quote, he *inter alia* said, “*Our Judiciary should listen to the cries of our people.*” In addition, he said, “*I fully sympathise with the public perception that in our criminal justice system the rights of accused persons seem to receive more attention than the rights of victims. As a result there are calls from some members of our society*” – and he then included me by name – “*to amend the Namibian Constitution to reintroduce the death sentence*”.

Honourable Speaker, the Honourable Minister then did what many of his Colleagues have done in the past, by indicating that we are forbidden to amend Chapter 3 of the Constitution. That, Mr Speaker, is not the whole truth. Everyone who has made a study of the intentions of the lawmakers, as well as the Constitution, will recognise that we are free to improve the wording of the Constitution as long as such repeal or Amendment would not diminish or detract from the fundamental rights. (Intervention)

HON YA FRANCE: On a Point of Order Honourable Speaker, I would like to ask the Member a question. Honourable Speaker, through you, the Honourable Member is a presidential candidate and he is appealing to the electorate to amend Chapter 3 and probably introduce the death penalty, capital punishment. In the same Chapter, there is the right to life. Would he agree with me that the question of land in that chapter should also be either amended or taken somewhere else to a Chapter, which may be amended?

HON PRETORIUS: Mr Speaker, the Honourable Member’s question is based on a probability, that is what he said and I am not here to answer hypothetical questions. I think the Honourable Member must wait until he has listened to speech and then decide whether I want to amend Chapter 3 to have the death sentence.

I am challenging anybody to prove that I have ever directly asked for the reinstatement of the death sentence in this august House. What I have done was to ask for the improvement of the wording of Article 6 of the Constitution of Namibia to deal with both the life of the victim as well as the culprit of a violent crime. Nowhere in the Constitution of Namibia there is stipulated any rights of a victim to protect his own life, to protect the lives of his loved ones or to protect his property. You will not find that right in the Constitution.

I, therefore, want to make use of this discussion of the Criminal Procedure Bill to put my case on record, including the pleas of thousands of our Namibian inhabitants.

Fifteen years of Government proved that we have failed to combat crime and more in particular, theft, rape, armed robbery and murder. Our people are yearning, are shouting for protection and we apparently have no other answer up to now than to say that we need more money.

On the 11th of April 1991, that was thirteen years ago, the late Advocate Kozonguizi moved the following motion in this august House: *“That this Assembly expresses its deepest concern on the issue of the breakdown of law and order in the entire country and that a certain section of the population has taken it upon themselves to destroy all vestiges of good Government by even exacting protection money from businessmen in true Wild West fashion.”*

In his reply on the discussion of that motion he then concluded by saying: *“Finally I would like to give the assurance to the Honourable Minister of Justice and his Honourable Deputy, that in spite of noises heard here, that as long as I am in charge of Justice on this side of the House, the death penalty, as abolished by our Constitution, will remain a closed chapter.”*

Mr Speaker, the late Advocate Kozonguizi said this, *inter alia*, to disassociate himself from the impression which he created about what he said in his introduction, namely: *“In conclusion, Mr Speaker, I would like to mention something: A friend of mine, Mr Zed Ngavirue, once was speaking at the University of Papua in New Guinea where apparently the death penalty has been abolished. He said as far as the people were concerned there, they would wait for the man who had killed someone, he would serve his twenty years and after twenty years he comes out, then the people’s justice will take its course. I am not proposing that.”*

This was also apparently to disassociate himself on what his Colleague, Honourable Kaura – and he is unfortunately not here this afternoon – said earlier in that Debate, namely: *“While our Constitution states explicitly, it appears as if the criminal elements feel now it is their right to kill with impunity. Whispers are doing the rounds that the death sentence must be reinstated as a positive deterrent in our country. These whispers are one day going to become demands that the death sentence must be reinstated, because our people are not*

martyr enough to handle the abolishment of the death penalty. In Katutura the thugs are saying, "I am going to stab you to death because I know I am not going to hang." Ek sal jou dood steek want ek weet ek sal nie hang nie. These are the words they are pronouncing. This is said by the thugs in Katutura and they are doing it.

A year after this Motion of Advocate Kozonguizi, it was followed up by a very interesting speech by the late Honourable Moses Garoëb, at that stage also the Secretary General of SWAPO. I cannot do justice to his speech by only quoting some phrases, so the Honourable Members are welcome to read the full speech in HANSARD of June 1992, Volume 22. However, please allow me to highlight certain sections.

After he said that the Members might be wondering why he was somewhat motivating the unmotivatable, he refers to Article 6 and Article 131 of Namibia's Constitution. He then continued to say, "Why do I quote this and why did I say what I said? I do not believe that Members are blind, nor do I believe that Members are ignorant, or do I believe that Members have not heard that our population across the board are these days demanding the reinstitution of the death penalty."

He then said further, "Yesterday I talked to a family and it happened in my hometown. There was a burial there on Saturday of someone who was killed for R50 and when I was talking to the family, they were telling me that they wish they could get to those three who committed the murder before the police do, because in the circumstances of this country since independence, they might be taken to jail only to be released on bail, or they might be sentenced to a certain sentence, only to be released after two years. By that time, their son is dead. Nothing would bring him back, but if they got him before the police did, it would be a case of an eye for an eye. It was a contradictory discussion. They said God says, "vengeance is mine", well and fine, but the present circumstances of independent Namibia says the court will not do anything, so let us do something."

He further said, "One of the things that has been my task to carry out when these people with all kinds of emotions have approached me in the course of my duties, was to explain to them the meaning of the Constitution and why we have done away with the death sentence. Even my own niece had to confront me by asking, "Uncle, if I am killed today, it means my murderer will not get equal punishment?" I had no reply to that."

He continues by saying: "Last week there was a very long discussion on the issue on Radio Oshiwambo where everybody was unanimously calling for the re-institution of the death penalty. We as leaders have to address this issue. I am not saying that we should not re-institute the death sentence for homicide or for murder, I am not saying that, please do not go and say that Garoëb said that, I am not saying that, all I am saying here, is that the time has come that we must not appear to our people as if we were the proverbial ostrich with its head in the sand. The voices are coming from all people. We are very, very clear about the

Constitution or status of that particular issue, but I think it is time that we should address it, we as the makers of this Constitution, not only this Chamber. I will even appeal to the nation that we discuss this issue on our radios, in our printed media, in our churches, in our schools, in our workplaces, wherever it is. I believe that maybe in the course of all this our people will come to understand the finer points and why it is not in the Constitution.”

My last selective quote from the late Honourable Moses Garoëb’s speech is when he made a very interesting remark by saying: *“Even us Members of Parliament, when we are faced with violent crime we will maybe understand the implications of violent crime”*. Mr Speaker, I think the Honourable Tötemeyer’s wife had such an experience shortly before he resigned.

Two years later, I tried to follow up this request of the late Honourable Moses Garoëb to discuss the whole problem of the death sentence in this Honourable House. On the 25th of October 1994, I moved the following Motion: *“That this august Assembly, against the background of the stipulations of Article 131 of Namibia’s Constitution, discusses the need to change the wording of Article 6 of the said Constitution by deleting all the words after the word “protected”*.

Mr Speaker, the long and the short of the story is that I then motivated my case. It is there for everybody to read in HANSARD of October 1994. As a result of an objection by the Attorney-General, then the Honourable Hartmut Ruppel, the Honourable Speaker first ruled me Out of Order, but then gave a special Ruling after tea according to which I was allowed to finish my speech three days later on the 28th of October 1994. Without giving the august House the opportunity to further debate the Motion, the Honourable Minister of Justice moved that Rule 74 should be invoked. The Question was put and my Motion was rejected with one in favour, forty-five against and no abstentions.

What I am trying to do again today is to urge this House and even if by way of one or other mishap, I am not a Member of this Assembly next year, to fulfil the wishes of the late Honourable Moses Garoëb to discuss and debate the problem of violent crime and to see whether the wording of Article 6 of Namibia’s Constitution cannot be improved, not to detract or diminish, be improved in such a way that it diminishes or detracts from the fundamental principle of the right to life, but in this case the life of both the victim as well as the culprit of violent crime.

My own proposal will be that we, according to the constitutional prescriptions, substitute the present wording of Article 6 of Namibia’s Constitution with the original proposal of the SWAPO Party in 1989. This original proposal of SWAPO reads, *“No person shall be deprived of his life or personal liberty except according to procedures established by law.”* This proposal of SWAPO, which won the majority of votes in 1989, which was unfortunately

compromised on, is much more in line with international recognition of the right to life than the existing wording of Namibia's Constitution.

I even supported SWAPO's principle in 1989 with a well-worked out, written legal opinion of an expert. As usual, my submission was not even taken note of.

Just to mention a few international conventions:

The Universal Declaration of Human Rights of 1948, Article 3 reads: "*Everyone has the right to life, liberty and security of person.*" (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: May I ask Honourable Pretorius a question? I have just returned from the United States, the United States has the death penalty, and crime continues unabated. Go to South Bronx and other places, murders are still committed there. I am just trying to follow the logic, whether this is a proper deterrent. Is it true that it can deter violent crimes?

HON PRETORIUS: Mr Speaker, I want to remind the Honourable Minister that His Excellency the President is always warning us not to follow the example of America.

I am now quoting a few examples from the international community: The Universal Declaration of Human Rights, 1948, Article 3 reads: "*Everyone has a right to life, liberty and security of persons.*"

The International Covenant on the Civil and Political Rights: "*Every human being has the inherent right to life and also the victim.*" (Intervention)

HON SPEAKER: Honourable Pretorius, Speakers sometimes even change the Rulings to allow the Honourable Pretorius to continue. I am struggling with the question on what you are talking about. I think the argument is alright. There is nothing against it, but I have difficulty with your reference to specific Articles and provisions of the Constitution. That is prevented by our Rule 108, that you can only do that with an express purpose of moving an Amendment. Now you are reflecting on it very generally and bringing it back into the Debate. You have specifically cited Article 6, the right to life. When you do that, you have to have a substantive motion to move that it be amended. I was trying to hold back because I

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did not know what you have towards the end of your speech, but it appears to me it will end as a speech. If it is a speech, on this Rule, I will definitely, rule it Out of Order.

HON PRETORIUS: Honourable Speaker, I am listening and I appeal to you to be tolerant, I have only two pages and then my conclusion will ease your mind. (Intervention)

HON SPEAKER: No, but you are setting a bad precedent and you have indeed, already tried that a number of times and the HANSARD will show that I have always cautioned the Honourable Member on that. I also know why you are doing it, because you want that speech to go into the HANSARD so that, you can say well, I have had my say, while the Rules very specifically do not allow that. Why should we be discussing the death sentence, the Amendment or deletion of words after “*protected*”, which are sacrosanct in this Constitution, without having a substantive motion to amend it. Indeed, I am ruling that you are Out of Order, Honourable Pretorius, this time you are not going to finish and I will not change my mind tomorrow. Your speech is Out of Order because you are doing it on purpose. Thank you, your speech is Out of Order. There is nobody who has more knowledge of the commas and full-stops of our Constitution than Honourable Pretorius and there is nobody in this House who has more specific knowledge of the provisions of the Standing Rules and Orders than Honourable Pretorius and I will be tolerant to someone else, but not to a person who is a walking encyclopaedia of Rules and Procedures of this Chamber.

HON PRETORIUS: Honourable Speaker, you were also tolerant to Honourable Pohamba and Ilonga when they asked for Article 100 to be changed – several times.

HON SPEAKER: Was I here, Honourable Member?

HON PRETORIUS: Yes, you were.

HON SPEAKER: I would have and will rule them Out of Order, let them repeat. Honourable Member, you are Out of Order. It is not my choice. These are your Rules. Any

further discussion? Minister Iyambo.

HON MINISTER OF MINES AND ENERGY: I will do better than Honourable Pretorius. Honourable Speaker, Honourable Members, I am in full support of what the Honourable Kawana has put before this House in the Criminal Procedure Bill. Every country has a unique history, its own culture and, therefore, needs a unique approach and its own effort of combating criminal activities.

Fighting crime can only be done as a joint venture and every citizen is responsible and has the opportunity to contribute towards Namibia's security and stability by leading a crime-free life and by not supporting criminal activities.

As the Minister of Mines and Energy, I am aware that my job would be virtually impossible if our Judicial system should fail. In this task, we need security and stability to invest in this country. Diamonds, which creates a big part of Namibia's income, is another commodity that brings the criminal out in some people's minds and this is simply because diamonds in themselves are too small and, therefore, call for one to engage in unpatriotic activities.

A crime-free environment that protects its people and their property is imperative. Equally, protecting our valuable minerals so that all Namibians can benefit from them is a difficult and expensive exercise and once again, Government depends on all Namibians to assist it in this endeavour.

There are programmes being put in place to improve our Judiciary and the only problem is that the public is not well informed about the efforts that Government is making and of its success in these matters. This leaves Namibians vulnerable to distorted news which some people use to justify their failure to contribute or to justify their own crimes.

One of the crimes many of us are guilty of is living above our own means, accommodating more debts than you can handle and eventually being blacklisted. This has become quite the norm and sometimes leads to criminal behaviour, such as fraud and stealing. This example is to demonstrate how easy it is to affect our own economy in this country negatively.

Honourable Kawana has listed twenty-one laws that have been passed to govern the behaviours of all Namibians. Many other institutions are contributing towards this huge job of creating a crime-free environment.

After 14 years of Independence, experience has been gained to be used to improve on the work already done by all and by this House, in particular. This Bill before this House is about improving on what has been accomplished so far by the Namibian people and by their representatives here. A part of the Bill indicates who should be given a life sentence. I heard

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many people saying that prisoners are just a drain on the State coffers. In Namibia prisoners are taught a trade which is used to save on Government spending. In other words, a person who receives a sentence of life imprisonment will have to serve the Namibian people for the rest of his/her life in incarceration. Criminals, on the other hand, can also be seen as victims of society, the product of a society that does not have enough in place to offer help to all its victims. We do all we can to create the right environment to raise well balanced, mentally, healthy people and a safe country that all of us can be proud of.

Honourable Speaker, Honourable Members, I stand here in support of the Criminal Procedure Bill as tabled by the Minister of Justice and emphasise again that this Bill needs the support from all Honourable Members of this Honourable House and I thank you.

HON SPEAKER: Are there any further discussions? Honourable Gende.

HON GENDE: Honourable Speaker, I would like to adjourn the Debate until tomorrow, 14:30.

HON SPEAKER: Any objections? So agreed. Therefore, the Debate on this item stands adjourned until tomorrow afternoon. The Secretary will now read the Fifth Order of the Day.

**RESUMPTION OF SECOND READING: AGRICULTURAL
BANK OF NAMIBIA AMENDMENT BILL**

HON SPEAKER: When this Debate was adjourned on Wednesday, 22nd September 2004, the Question before the Assembly was a Motion by the Honourable Deputy Minister of Finance, Honourable Bohitile. This Debate was however adjourned by Honourable Member Kaura. Does anybody want to take the Floor?

HON PRETORIUS: Mr Speaker, the thing that upsets me the most in politics is inconsistency and I think we have here a very good example of that in this Amendment Bill, the Agricultural Bank of Namibia Amendment Bill.

I want to take you back about twelve years. In 1992, we had a similar Bill, the Development

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Brigade Corporation Act, and we talked about the vacation of office of directors and the filling of vacancies in Clause 10 of that Bill. I then stood up and said that I think that there is a shortcoming in this Bill and I moved an official Amendment. My Amendment was that a director shall vacate his or her office also if requested by the Minister and then I motivated my point of view and then the Deputy Minister of Justice, Advocate Rukoro at that stage, said and I will quote him:

“Mr Chairman, broadly speaking, I have sympathy with the proposed Amendment, but my only query I do not know to whom I should direct it is this, is that since this is a Government Parastatal in line with existing Parastatals, what is the position with existing Parastatals? Do we have a similar provision that the Cabinet can for any reason or no reason decide to interfere in the affairs of the Board by requesting a Director to vacate office? If it is in line with others, I will have no objections, if not, then I think it will be an unusual departure from the convention that will not be justified.”

Then the Attorney-General, who is the legal advisor of the House and the Government, stood up and said:

“Thank you, Mr Chairman, Sir. As far as the nuts and bolts provisions, those provisions which give the operational input into this Bill are concerned, we kept as closely as possible as a matter of policy to the structure and layout of other Acts which regulate other Parastatals in our system. Therefore, the answer to the question of the Honourable Deputy Minister, this is the usual sort of pattern. It would be quite unusual, in my view, to give this additional power, which is now proposed by Mr Pretorius to a Minister. The State is a hundred percent shareholder and through that medium normally exercises its control over the Board of Directors. Thank you.”

Now, Mr Speaker, my answer on that was:

“Mr Chairman, I will accept the arguments of the Honourable Members, but then my problem still remains, that in the rest of the draft Bill no real control from the side of the Cabinet or this House is built in, except for asking questions, but then not having the powers to do anything about it.”

Then the Minister of Agriculture, Water and Rural Development jumped up and he said ... (Interjection)

HON MEMBER: Who was that?

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HON PRETORIUS: I cannot remember who the Minister was. He said:

“I just wanted to reassure the Member, there will be sufficient control through the Board and the Board will be appointed by Cabinet, so I do not think that there is any problem with regard to control, but one should not exercise direct control as a Minister as opposed to via the Board. It would be a departure from the convention, as was pointed out. Therefore, I object to the Amendment.”

And then the Minutes read: *“Amendment put and rejected.”*

Now today, Mr Speaker, we are asked to do exactly what I asked in 1992. (Intervention)

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Honourable Speaker, may I ask my learned friend, Honourable Pretorius, a question? Honourable Pretorius, are you not proud of your Government, that they can identify areas of weakness and have the courage to come back here? Are you not proud that the SWAPO Government can do that?

HON PRETORIUS: Mr Speaker, I am very proud of the Government for having that attitude and in future, I will be proud of the Government bringing back the death sentence. (Intervention)

HON SPEAKER: Or maybe this Amendment from the Ministry of Finance should be named *“Pretorius’ Amendment”*.

HON PRETORIUS: Mr Speaker, this Amendment is going even further and says:

“Subject to Sub-section (3), a Member holds office at the Minister’s pleasure.” It is going even further than our Constitution. Nowhere in our Constitution does it state that a Minister is there at the pleasure of the President, but the Board of the Agricultural Bank will be there at the pleasure of the Minister.

Mr Speaker, I am afraid that I am not sure what is going on now. I still believe it is good for good governance to have that right in the Cabinet to request a Member of a Board to resign.

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I think that is good for good governance, but it is very, very dangerous if it is used for political purposes.

Now my problem is these words, "*Minister's pleasure*". Against the background of the history, it shows that this is out and out a political strategy and I am not going to support the Amendment, but I will abstain from voting, because I still believe for good governance it is necessary. Thank you.

HON SPEAKER: I thank Honourable Mr Pretorius and I particularly appreciate his scholarly approach and substantive research, which he undertakes to come and debate in this Chamber. If only we would meet at the level of principles, I do not think there would be any problems, but the steadfast principles are the ones that are so difficult to change. Any further discussions? Honourable Deputy Minister Kamwi.

HON DEPUTY MINISTER OF HEALTH AND SOCIAL SERVICES: Thank you, Honourable Speaker, Honourable Members. I am grateful that I was not in this House more four and a half years ago and my presentation would be based on the way I see the Agricultural Bank of Namibia.

I rise in support of the Agricultural Bank of Namibia Amendment Bill, 2004. If there is a piece of legislation one can talk of being long overdue, this is the one. For this reason, I would like to congratulate the Honourable Minister of Finance and her able Deputy Minister for a giant step taken finally in tabling Amendments to the Agricultural Bank of Namibia Act, (Act 5 of 2003). The legislation will enable the Honourable Minister, as the representative of the shareholder, to have vested powers in the affairs of the AgriBank. By so doing, risk management and control will be put in place. At the same time, this will allow adequate supervision to avoid pitfalls in the AgriBank operations.

Honourable Speaker, Sir, agriculture is dear to my heart. Agriculture plays a crucial role in the Namibian economy. Seventy percent of the Namibian population depend on it for livelihood. According to the Labour Force Survey of 2000, the agriculture sector employs 29% of the total labour force.

Honourable Speaker, Sir, as a matter of fact, the industry has recorded a decline its contribution to GDP from 7,6% in 1994 to 5% in 2002. Consequently, a decline in subsistence agriculture contribution to GDP from 2,7% in 1994, to 1,7% in 2002 has been registered. This indicates that AgriBank, as a leading financier to the sector, is not fulfilling its mandate of developing agriculture and agriculture-related industries.

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I have followed as events unfold at AgriBank with keen interest and I wish to share some observations with this august House. My observation of the events at AgriBank, in particular the stance taken by the outgoing Board of directors not to cooperate with the Honourable Minister of Finance by defying her orders, shows the absence of good corporate governance. This is inevitably so because the outgoing Board failed to align as nearly as possible the interest of the shareholder, the Corporation and the Namibian society.

The AgriBank Board failed to understand the agent relationship that exists between Government as the shareholder and the Board of AgriBank as an agent or representatives of the shareholder. It must be clear by now that the Board is appointed by the shareholder to run the institution in the interest of the shareholder. This must be rendered through providing leadership and direction, risk management and reporting to the shareholder or shareholders. The Board is well remunerated by the shareholder in order to carry out its responsibilities. To the contrary, the Board failed to meet its objectives and, subsequently, Government as the shareholder is blamed for the board's failure. This blame is apportioned to Government mainly because it is the shareholder accountable to the Nation. Owing to this ground, Government will not allow a few individuals with ulterior motives to dictate the operations of this institution.

Although Government has delegated decision-making in terms of running the Bank to the Board as the sole shareholder, Government has a duty to ensure that the institution operates efficiently and is at all times on track to meet its objectives.

According to AgriBank Annual Report 2003, Government paid 80% as a contribution for administrative expenses for Oshakati, Kavango and Katima Mulilo branches since Independence. One would really want to ask a question:

When will these subsidies end? Despite financial injections from Government, I am reliably informed that the Bank does not pay tax or dividends to Government. It would be interesting to know how s AgriBank, for instance, ploughs back the money into the development of agriculture, especially in the communal areas. The failure to plough back in communal areas falls short of corporate citizenry. The absence of an efficient board has perpetuated this unethical practice.

In my view, a competent Board should have addressed issues that are core to the existence of the AgriBank. This includes the Bank's own strategic forecast, which is said to continue to provide catalytic support to strengthen the capacities, initiatives and innovations of farming communities in Namibia.

Honourable Speaker, Sir, Honourable Members, I am equally aware that AgriBank is receiving subsidies for the Affirmative Action Loan Scheme, National Agricultural Credit

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Scheme, the North-South Incentive Scheme and the Labourers' Housing. These are good initiatives on the part of Government, but my research findings suggest that these schemes are not achieving the intended purposes due to poor management and implementation of these schemes. Why are the AgriBank Board and management failing to institute corrective measures to the challenge?

In the same light, many questions are raised on whether the lending and approval process of AgriBank loans takes cognisance of transparency, fairness and accountability. This puts in question the credibility and type of management we have at AgriBank. AgriBank has failed to devise its own products. The programmes in place are but all Government initiatives. This shows the Board's inability to help engage the management in its operations. Consequently, the stakeholder's needs are not addressed.

The other issue I want to raise here is the issue of the operations of rural branches of AgriBank that are not fulfilling their mandate.

Apart from the Oshakati branch, which I know too well, most of them do not have enough autonomy to make decisions. The Board and management have shown no interest in increasing autonomy in other branches. The promotion of agricultural activities for the rural people has thus failed. Their domain is limited to collecting defaults and/or following up on the arrears. They have failed to identify, monitor and measure all risks influencing their objectives.

Honourable Speaker, Sir, the Board must ensure that AgriBank employees collect and analyse data from communal areas in order to come up with new funding mechanisms. Board members must visit the communal areas in the course of the Board's existence so that they acquaint themselves with the challenge faced by communal farmers. The Board is entrusted to bring change to AgriBank and the agricultural industry, therefore it must not fail the shareholder. It is sad to note that the Board defies orders from the supervising Ministry, which is responsible for appointing the very Board. The Board should be held accountable for the belated development.

Honourable Speaker, Honourable Members, the Board should be well versed with the agricultural conditions of the communal areas. Knowledge of the current economic and political environment is also essential to keep it abreast with the contemporary changes. In this way, the shareholder's objectives will be achieved and mind you, it will only be proper that the Board and the executive management of AgriBank sign performance agreement contracts with the shareholder representative, which in this case is the Minister of Finance. This should not only apply to AgriBank, but it should be a consideration to all State-Owned Enterprises. I support the Agricultural Bank of Namibia Amendment Bill 2004 and I thank you.

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**AFFIRMATIVE ACTION LOAN SCHEME
HON PRETORIUS**

HON SPEAKER: I thank the Honourable Deputy Minister for his contribution. Any further discussions? Honourable Ilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: I move that the Debate be adjourned until tomorrow.

HON SPEAKER: Any objections? So agreed. The Debate stands over until tomorrow afternoon at 14:30. The Secretary will now read the Seventh Order of the Day.

**CONSIDERATION: COMMITTEE REPORT ON
AFFIRMATIVE ACTION LOAN SCHEME**

HON SPEAKER: When this Debate was adjourned on Wednesday, the 22nd of September 2004, the Question, before the Assembly was a Motion by the Honourable Member, Mr Ya France. The Debate was adjourned by Honourable Speaker Mr Pretorius, who now has the Floor.

HON PRETORIUS: Mr Speaker, unfortunately when we discussed the original Report, I could not end my speech, so I am just looking now at the detail, but the part which I could not deal with at that stage is very relevant now, because there are only two changes according to the Chairperson. The one is that the loan period to be extended from 25 years to 30 years. Let me immediately say that it is often said in this august House that the reason why the commercial farmers apparently are so rich is because they were subsidised to that extent and I now want to put it on record that I have no, but no objection for this Government to subsidise the present farmers to the same extent in order to help them. Therefore, if the 30 years can help, I have no problem.

The other Amendment is on page 16 and you will allow me to read it: *“The subjection of Affirmative Action Loan Scheme beneficiaries to land tax only serves to intensify their debt burden instead of alleviating it. Affirmative Action Loan Scheme beneficiaries should be exempted from land tax for the first fifteen years and no provision should be made for further exemptions.”* With that, Mr Speaker, I cannot agree and I am squarely against it. I cannot agree with this mainly for two reasons:

I am not convinced that it is constitutionally correct and in line with the intentions of the Constituent Assembly as the Legislature when they discussed the whole question of

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disadvantaged persons. In the second place, I will only support the idea of the exemptions if it is done on a sliding scale and according to Article 10 and Article 23(2) of the Constitution, based on an individual basis and not on a group or colour basis.

I want to apply the words of the Honourable Minister of Agriculture, Water and Rural Development when he said on the 22nd June 2004, and I quote him: *“Can I ask the House to give me good reason why the Government should pay for water for this well-to-do person owning five hundred cattle? And remember Government is willing to exempt the poor and to pay for their water.”* It is illogical to me that the Honourable Minister of Agriculture will not be prepared to pay for water of the well-to-do person, while the same Minister at the same time, as far as AgriBank is concerned, will agree to the exemption of land tax for the very same well-to-do person. Such a Government will definitely run into trouble and out of money. They should rather follow the example of the Windhoek Municipality, which in their monthly newspaper, *Aloe*, of May 2004, *inter alia*, wrote, *“There are two fundamental principles on which the taxation of real property rests: The principle of benefits received and the principle of ability to pay.”* These also need to be the most important guidelines for our Government when they have to decide on land tax.

Mr Speaker, let me conclude with the part I could not conclude with because I was ruled Out of Order. It is a written conclusion, so you could see for yourself on which I was ruled Out of Order.

In conclusion, as soon as my objections are removed – and they are not all removed now – I am prepared to give my full cooperation to find an affordable solution against the background of the information that was gathered by the concerned Standing Committee, even if it involves the changing – and I am very much in favour of that – of the Affirmative Action Loan Scheme to a Black Empowerment Loan Scheme by way of legislation of this Parliament and which will also be fair to all the other AgriBank clients and within the parameters of the stipulations of our Constitution. I also hope that this august House will include companies, close corporations and other partnerships in the proposed Black Empowerment Loan Scheme for commercial farmers.

With these words, Mr Speaker, I conclude. I actually support the Report, but I have my reservations and I will stand by my reservations. Thank you.

HON SPEAKER: I thank Honourable Mr Pretorius for his contribution and I thought he said he was going to stand and he immediately sat down. Further discussions? Minister Pohamba.

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HON MINISTER OF LANDS AND RESETTLEMENT: Comrade Speaker, I would like to contribute to this Debate, but I have left my notes at the office. I move that the Debate be adjourned until tomorrow.

HON SPEAKER: Any objection? Agreed to. The Debate on this item stands over until tomorrow afternoon. The Secretary will read the Eight Order of the Day.

**RESUMPTION OF DEBATE ON CONSIDERATION
OF MARINE RESOURCES POLICY**

HON SPEAKER: When this Debate was adjourned on Thursday, the 16th of September, the Question before the Assembly was a Motion by the Honourable Minister of Fisheries and Marine Resources, Honourable Dr Abraham Iyambo. The Debate was concluded and I give the Floor to Honourable Iyambo to reply.

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Speaker, I would like to thank *Honourable Chrismus Benjamin Ulenga* for his complementary remarks on the updated policy document. I am also delighted that he understands the rationale of the document. I am also heartened to hear that he confirms that our fisheries management regime has been a success story. Surely, there is room for improvement and I would like to say that Namibia can rightly, but with humility and modesty, be proud that our

fisheries policies have resulted in sustained conservation, prudent management, steady investments, economic growth and employment for Namibians. I would now like to respond to a multitude of the useful comments and queries that Honourable Ulenga made in his most sober intervention.

Honourable Speaker, the Honourable Member is concerned about possible negative impacts that offshore mining may have on rock lobster fisheries. The Honourable Member also enquired whether any specific programme has been put in place to address the problem. I do believe that this is a profound question and I would like to respond as follows:

Rock lobsters occur mainly up to one hundred metre depths in our waters. Opposing views have been expressed about the possible impact of offshore diamond mining on rock lobster. To collectively assess the situation, a series of meetings took place. For example, an international symposium held in Lüderitz in 2000, deliberated exhaustively on the co-

management and co-existence of rock lobster and diamond mining. This meeting led to the formation of a corporative body, composed of fishing and mining fraternities as well as the Lüderitz Municipality. These entities' main mandate is to determine the possible effects of mining on the rock lobster fisheries and recommend remedial measures. These discussions continued to be centred on the premises of our living Constitution: the natural resources should be used for the benefit of Namibians.

Scientific information has been gathered, the process continues, and the exchange of views will continue.

Honourable Speaker, the next point that Honourable Ulenga raised was about guano. He enquired what has happened to Namibia's guano industry, if it disappearing and what can be done to bring this important resource back to its optimum and I would like to answer as follows:

Section 2.15 of the Policy Document mentions the guano industry. The guano industry in Namibia started back in 1828. Guano is formed by the compaction of bird droppings on the offshore islands and artificial platforms. The diet of seabirds is based on fish, therefore the seabird droppings are high in minerals such as potassium, which is a key element for plant growth. Guano, therefore, makes excellent fertiliser. Guano is a natural marine resource exploited through the system of rights. Currently there is a seven-year right awarded to one company.

Due to the advent of synthetic fertilisers in recent years, the demand for guano has therefore not been high. The total annual production in the early nineties was around 3 000 tons; today annual production fluctuates between 2 500 to 5 000 tons per annum. However, guano is still a sought-after and valuable resource with multiple uses and is still economically viable. Indeed, the existing right holder is planning to establish another platform to boost production. A feasibility study and business plan has been submitted already to Government.

In his next question, he asked who is responsible for seabirds. He also called for the harvesting, processing, and eating of seabirds, particularly flamingo, like we do with other natural resources. Of course, I welcome the interrogation and I have the following to say:

Protection of seabirds is provided under Section 18 of the regulations dealing with marine resources that say no person may kill, desert or maim anyone of the thirty-seven listed species of seabirds or their eggs. This regulation also forbids the harvest of any birds on any island, rock, and guano platform or in any part of Namibian waters. Currently there is no real value in harvesting seabirds. Seabirds are much more valuable as eco-tourist attractions to ensure revenue and employment creation. If Honourable Ulenga has a specific business opportunity in mind for our seabirds, I would be grateful to hear his elaboration in this regard.

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Honourable Ulenga alluded that the flamingo is facing extinction and I have the following to say:

Our colleagues in the Ministry of Environment and Tourism confirmed that these birds are not facing extinction, therefore his statement has no substance. The Namibian flamingo population successfully breeds in Etosha Pan due to favourable climatic conditions. In addition, Namibia offers this bird protection under our wildlife protection laws. Walvis Bay has a healthy population of these birds. The ecological importance of this area has been recognised and I understand that the Ministry of Environment and Tourism is looking into the possibility as proclaiming it a wildlife reserve to be controlled by the Municipality of Walvis Bay and the Ministry of Environment and Tourism.

The next point that Honourable Ulenga addressed was about the economic potential of Namibia's marine resources. The Honourable Member emphatically stated that the document does not say anything or does not consider the need to create more jobs for Namibians and I would like to say the following:

I would invite the Honourable Member to first meticulously re-read the document. The term "*employment and job creation*" is used in Section 3, sub-headed, "*Development of the Marine Resource Sector*" and this, *inter alia*, states the following: "*Development objectives to be best served by the development of an integrated fisheries sector and that objectives of the development sector include creation of employment and income.*" Therefore, the document is referring to job creation. I, therefore, trust that this adequately underlines the overarching need for the sector to create employment in an integrated sector of the wider economy. Honourable Speaker, bluntly put, the policy document is for job creation.

Honourable Ulenga further asked why there are no statistics given in the document with regard to employment. I appreciate him asking how many people are employed and deriving livelihoods from fisheries. However, the Ministry has extensive technical documents, including statistical reports and annual reports. We will be delighted to make these documents available on request. A policy document is not an ideal document or appropriate document for exhaustive statistical presentations.

The Honourable Member also asked about incentives to encourage job creation. The approach we have successfully adopted is to facilitate onshore processing through differential system of levies and rebates. You may call this an incentive to create jobs. This is beneficial to those who invest on land, developing infrastructure, adding value and creating jobs. This strategy is enshrined in the document and the mechanism by which it is implemented is clearly spelled out in the Marine Resources Act. However, I thank the Honourable Member for the interest he has shown in the creation of jobs and well-being of Namibians.

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The next point that the Honourable Member raised was about internal markets for fish. The Honourable Member stated that all fish are currently exported raw. Yes, the nature of fish demands that fish is exported uncooked. It is only in a few exceptions, such as where cooked rock lobster may be exported in a cooked form, therefore examples of that array are the value-added fish products that are produced for the international market.

The Honourable Member further raised a good point regarding the need to enhance domestic consumption of fish. He asked what the Government is doing to ensure the creation of local consumption. My views on this valid and topical question are on record. I have often expressed my unhappiness that Namibians are forced to buy fish caught from outside Namibian waters. This is a slight of the quality of our fish. As a major fishing Nation, we must redress this pervasive incongruity between our fish production and what we offer for sale domestically. The fresh-on-ice fish market is needed and fish should be supplied in abundance and at reasonable price. I, however, do not want to regulate the fishing sector any more than is necessary and I have asked the industry to show initiative in this regard.

Furthermore, Section 6.3, sub-headed, "*Enhanced Food Security*", firstly calls for the promotion of fish consumption and the distribution of fish in collaboration with the fishing sector. These strategies are working.

The Honourable Member finally also referred to the socio-economic effects of the Government's policy on fisheries, whether it has worked. He would like to be briefed on the effects of this policy since independence. For his edification, may I provide the following salient and incontrovertible facts:

Firstly, the marine resources sector is the second-largest sector in the Namibian economy after mining in terms of export earnings. The fishing industry has invested so far in excess of N\$3,7 billion in vessels and plants since Independence.

Secondly, although the contribution of income to GDP has fluctuated over the years, mainly due to the unpredictable climatic vagaries that dictates the healthiness of our stocks, fisheries has shown a drastic increase from a mere N\$288 million in 1991 to a current N\$2,5 billion in 2003.

Thirdly, the Marine value has skyrocketed from a mere N\$520 million in 1991 to N\$2,6 billion in 2002.

Fourthly, final value has increased from N\$644 million in 1991 to N\$3,4 billion in 2002.

Fifthly, total direct employment in 2002 is estimated to be around 14,000 people, where 98% of the people are employed on land, where more 8% are women and 68% employed on vessels are Namibians.

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Sixth, the number of wastage processing plants has grown from zero in 1991 to over twenty in 2002, resulting in job creation.

Seventh, virtually all the major companies that were foreign-owned at independence have brought in Namibians, especially Namibian pension and insurance funds. Seven thousand Namibians are empowered directly or indirectly through individual Namibian shareholders, ownership of Namibian-owned companies and community projects. These projects and Namibian-owned companies aim to further empower individuals through staff share schemes and trusts run on behalf and for the benefit of the youth, pensioners, workers and citizens living with disabilities as well as impoverished communities.

Eighth, in addition, Namibia's fishing companies provide finance and other forms of assistance for the construction of schools, clinics and other much-needed civic facilities. The contribution made over the past eleven years so far runs in excess of N\$130 million. Investment in excess of N\$39 million has been made on non-fisheries activities. I, therefore, think that we can all be unanimous that the Government's post-Independence policy on fisheries and its legal framework has been Namibian-friendly and centred.

Finally, the last observation by Honourable Ulena concerns scientific research. Science, of course, is my baby. Honourable Ulena claimed that I am confusing fishing surveillance with fisheries research. He asked whether I consider mere surveillance and finding of fish to be research. I am very clear, Honourable Ulena, on my understanding of what is surveillance, what is fisheries scientific research, and I know how to practise it. For any scientist these questions are basics. I am therefore not confusing the two terms. This is not the appropriate time for me to delve into the dichotomy of surveillance and scientific research, neither to immerse on the obvious definitions of the two terms. It suffices to say that scientific research is conducted by our scientists in supporting sustainable management of Namibia's marine resources. I would with due politeness refer the Honourable Member to re-look at the document.

The role of surveillance, in ensuring proper compliance with the management regime that the policy espouses, is already clearly spelled out in the text. Perhaps careful scrutiny of the text by the Honourable Ulena would clarify the issue of the difference between surveillance and scientific research. The inference from the Honourable Member that research means finding fish is both simplistic in nature and content.

I wish to sincerely thank Honourable Ulena from the CoD for having posed pertinent and sensible questions in a bid to make a meaning contribution to the development of Namibia's marine sector and I thank you, Honourable Speaker.

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ADJOURNMENT

HON SPEAKER: I would like to thank the Honourable Minister for his very comprehensive reply to the Debate that has taken place and I now put the Question, that this Policy paper now be adopted. Any objection? Agreed to. The Marine Resources Policy Motion is unanimously adopted. I will now call on the Right Honourable Prime Minister to adjourn the House until tomorrow at 14:30.

RT HON PRIME MINISTER: Honourable Speaker, I rise to Move for the adjournment of the House until tomorrow afternoon, 14:30.

HON SPEAKER: Who seconds? So agreed. The House stands adjourned until tomorrow afternoon at 14:30.

HOUSE ADJOURNS AT 17:45 UNTIL 2004.09.29 AT 14:30

**ASSEMBLY CHAMBER
29 SEPTEMBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Reports of Standing or Select Committees? Other Reports and Papers? Notice of Questions?

NOTICE OF QUESTIONS

HON PRETORIUS: Mr Speaker, I give Notice that on Thursday, the 7th of October 2004, I shall ask the responsible Minister for elections, whether it is the Right Honourable Prime Minister or the Honourable Minister of Regional and Local Government and Housing:

Is the Namibian Defence Force going to play any administrative during the coming elections and if so, what will their powers and functions be?

HON SPEAKER: Will the Honourable Member please table the Questions? Any further Notice of Questions? Any Notice of Motions? Ministerial Statements? I will ask the Secretary to read the First Order of the Day.

**RESUMPTION OF DEBATE ON
RATIFICATION OF THE CARTAGENA PROTOCOL**

HON SPEAKER: When this Debate was adjourned on Thursday 23 September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Environment and Tourism, Honourable Malima. This Debate was adjourned by Honourable Chata. Is there any other Honourable Member who wants to take the Floor on this item?

HON MUSHELENGA: Honourable Speaker, Honourable Members, in the absence of the

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Honourable Chata, I would like to move that this House adopts this Protocol.

HON SPEAKER: For the record, why do you want to do it in his absence and not the desirability of the Protocol itself? Honourable Amweelo.

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Thank you, Honourable Speaker, I want to contribute to this very important Convention. It is my profound pleasure, in view of the support for the ratification of the Cartagena Protocol on Bio-safety to the Convention on Biological Diversity by Namibia, to enlighten this august House on the importance of bio-safety and the reason as to why Namibia should support the ratification of the Cartagena Protocol to the Convention on Biological Diversity.

Comrade Speaker, it is a well-known fact that, if we talk about biological diversity, we refer to all living organisms, including human beings, and the environment they live in. However, the ecosystem is healthy if its biological diversity is higher, meaning many organisms, many species in the environment. Hence, it is important the ecosystem of this nature should be developed and/or maintained for future generation.

Honourable Speaker, Honourable Members, people and their activities, such as industrialisation and advancement in modern technology place high pressure on and consistently influence the genetic characteristics of the biological diversity of any country.

Comrade Speaker, I recognise the importance and the necessity for industrialisation and modern biotechnology as long as they are in a safe relationship with the biological diversity, so that the biological diversity is not lost because of pollution, poor management and agricultural systems, unsustainable use of the natural resources and many other activities. It is a proven fact that some animals and plants are sensitive to change in their environments and these species very easily becomes extinct if there is no policy in place for bio-safety. If those species become extinct or reduced in number, then the biological diversity of the area is diminished and this should not be allowed to happen.

Comrade Speaker, I believe the Honourable Members of this House will agree with me that the future supplies of food, medicine and raw materials depend largely on biological diversity because all our food, crops and domestic animals originated from plants and animals. Therefore, the Namibian population should reserve a high biological diversity within the bio-safety sphere so that the status quo could prevail or improve.

In a nutshell, Comrade Speaker, bio-safety intends to protect the biological

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diversity, most importantly, human health and the environment from the possible negative effects of the products of modern bio-technology. The challenge for the decrease in biological diversity and the consequent risk for the bio-safety in a country like Namibia is the unwise use of genetically modified organisms, generally known as GMOs, and their products.

In simple terms, Honourable Members, unwise use of GMOs and their products is to be blamed for the degrading and the consequent decrease in resources for food supplies.

Comrade Speaker, Honourable Members, Namibia is an arid and semi-arid country with low productivity and a low biological diversity. Namibia's biological diversity includes a number of indigenous and endemic species. We know that the indigenous plants and animals occur also naturally in neighbouring countries or elsewhere in the world, whilst the endemic species only occur in Namibia and nowhere else. Therefore, Namibia is an interesting country with a wide variance of a desert and semi-arid environment, containing many indigenous and endemic species. They are an attraction for tourism and exactly that they come to see in Namibia.

Therefore, Namibians have the responsibility to protect all our species, but we must make special efforts to protect our endemic species since no other country on earth can ensure their survival.

Comrade Speaker, in conclusion, the crux of the matter is that the Protocol is aimed at protecting Namibia against unwise use of genetic modified organisms and their products. Therefore, the ratification of the Cartagena Protocol on Bio-safety to the Convention on Biological Diversity is very important and needs all our support in order to create a safe haven for the future generation of the Namibian society.

It is against this background that I support the ratification of the Cartagena Protocol on Bio-safety to the Convention on Biological Diversity and in the same vein, urge the Honourable Members of this august House to support the ratification of the Cartagena Protocol that has already been ratified by 88 countries, of which 20 are African countries, including even our SADC neighbours such as Botswana, Mozambique and South Africa. I thank you, Comrade Speaker.

HON SPEAKER: I thank Honourable Minister Amweelo for his contribution. I now call on the Right Honourable Prime Minister to take the Floor.

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RT HON PRIME MINISTER: Thank you very much, Honourable Speaker. I rise to support the Cartagena Protocol on Bio-safety to the Convention on Biological Diversity. 1992 was an eventful year, a year within which, among other things, the Convention on Biological Diversity was successfully negotiated in Nairobi in May 1992 and the next month we sent a high power delegation to Rio, led by none other than our President himself, and it was an occasion where we did not only sign the United Nations Convention, but also had an opportunity in showcasing our Constitution. It was at that time and on that occasion the only Constitution of the countries represented in Rio at the Earth Summit, United Nations Conference on Environment and Development, which covered environmental matters and somehow somebody had the presence of mind or judgment in our delegation to take boxes of our Constitution. People ranging from the Vice-President of the United States, who almost became the President of the United States in 2001, Al Gore, and others rushed to get hold of our Constitution, because our Constitution covers issues dealing with bio-diversity, ecosystem, protection of the environment, which most of the other constitutions did not have. I remember the pride that we exhibited there in having taken the lead in writing in the Constitution the protection of the environment and the empowerment of the people.

The requirements of the Protocol are broad, some of which were just listed by the Minister of Works, Transport and Communication, but there are heavy financial requirements to make real our commitments and the obligations imposed on Member States and the human society generally in implementing those requirements that require Government policy, legislation and financing.

Among some of the bold steps taken by the Member States in Rio was the adoption of Agenda 21. In Agenda 21, both the industrialised countries and the developing countries jointly and severally made commitments and these commitments had to do with how to live in harmony with the environment. The governments and public institutions of developing countries were called upon to sensitise our people to the harm being done against the environment, against the eco-system, against fauna and flora. We use trees for energy, for building materials. The water is not purified, so we devise other means, including drinking dirty water and we contribute in that way, without intending to be harmful to the environment, to pollution and do harm to the environment. It was a charge made to the developing countries to be sensitive to the eco-system and to protect the environment.

The developed countries on their part made a commitment by way of providing technology, capital and technical know-how through advice given to governments of the developing countries, that once we have developed programmes, solar energy would be made available to developing countries and for them not to burn down trees, not to light unnecessary fires to pollute the air and that certain programmes would be funded in order to provide training and capacity-building to developing countries to protect the environment and to assist us in educating the public.

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A commitment was also made that investments in trade would be pooled through which the developing countries would be assisted to grow their economies and to provide employment to our people, to reduce the pressure on our villages that could not carry the weight of many people, particularly youth that are looking for livelihood and that job opportunities would be created for them in what we today call smart partnerships, through investments, joint ventures and through diversification.

I regret in saying that the promises, the commitments and the solemn undertakings given in Rio remain by and large unfulfilled and we continue as poor people and as poor countries to live under circumstances that are not helpful to protection of the environment and bio-safety of our countries. This is yet another commitment that we are here to sign into existence by ratifying this Protocol and I hope that this time, in furtherance of its ideas and the principles that we all share, including the GMO that the Minister talked about, that we would get not only the necessary information about the ill-effects or GMOs to prevent them from entering the genetic pool both of our flora and fauna, but that we will through exchange of experience and information develop capacity to protect the very same bio-diversity of the flora and fauna and the ecosystem of our country.

I shared these few ideas and I support the Protocol.

HON SPEAKER: I thank the Right Honourable Prime Minister for his very informative contribution. Honourable Minister Nahas Angula.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: Thank you, Honourable Speaker. The Ministry of Higher Education, Training and Employment Creation is also responsible for the portfolio of Science and Technology. My Ministry is, therefore, a partner in the implementation of the Cartagena Agreement. It is in that regard that I want to thank my Colleague, the Minister of Environment and Tourism, for bringing this Agreement here for ratification by our Parliament.

The Agreement is dealing with a very important subject. We are talking about life forms, the nature of life. According to the Bible, life was willed by God and the Honourable Konjore will agree with me that we, the Christians, believe it is a metaphysical form, faith, through faith to agree that life was willed by God.

Scientists however think otherwise and Darwin thinks that life came about through spontaneous generation and through the survival of the fittest and the elimination of the unfit.

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Others have gone ahead to probe the nature of life, so much so that a year ago some adventurous scientists managed to map the whole DNA spread, the source of life on earth. If you want to know something about that, go to your computer and find out.

Then others went ahead to probe and started to clone things like sheep and others. I am not sure that if somebody wants to clone Mr Bin Laden he will succeed or if another one wants to clone Mr Bush. That is just to say that the frontiers of knowledge about life are moving all the time and the big thing now is the research in stem cells, the actual basic thing about life.

Through these manipulations people have gone ahead to manipulate animals, plants and even seeds. We now have something called germinator seeds, which you only plant once, harvest and you have to go back and again buy seeds. That is the commercialisation of knowledge about life, by manipulating life. The manipulation of life has some good promise, but there are dangers involved. That is why this Protocol is there to put into effect the Principle 15 of the Rio Declaration on Environment and Development, to make sure that the movement of genetically modified materials is controlled or supervised, so that you do not have somebody out there importing maize terminator seeds into Namibia and next year the people have to go back to the same person to buy seeds and become dependent, so to say.

In addition, the question of the safety of manipulating life forms is a big question. My neighbour here, an exporter of beef to the European Union, is threatened by GMOs in animal feeding systems. Therefore, this Protocol is very important, first to do those kinds of things that would benefit Namibia through the manipulation of life forms, but also to protect us against the harmful effects of the manipulation of life forms.

My Ministry has gone further to establish a laboratory at the University of Namibia to monitor the movement of GMOs, but it is very difficult to control because we do not have a law and I hope that my Colleague, after the Cartagena Agreement, will now bring the actual law which will give us some power and teeth to compel people to declare whatever things they have in Namibia that are life forms.

Another aspect is that Namibia is very rich in biological diversity. We have a lot of plants here. The flora is very rich and our national plant, the Welwitschia, can easily be stolen from here and be cloned somewhere else. There is a big story about hoodia, people are going to make big money out of hoodia because we are not able to protect it. The devil's claw is the same story and there are many other things in the desert. I understand that the !Narra prevents aging and those of us who are advancing so fast must eat !Narra. All these things can easily be expropriated by other people because we are not in a position to control them.

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Therefore, it is high time that we have the legal instruments in place and the starting point is the Cartagena Agreement. Eventually we will have a Bill, which will become an Act, which will put us on the path to be able to monitor and supervise the movement of living things.

On our part, we are training the scientists. Next week we are going to send two young people to the University of Nottingham to go and study biotechnology, so that when they come back we should also start to manipulate our things a bit, perhaps develop drought resistant mahangu, so that we will be able to feed our people. There is a danger and a promise and we want to exploit the promise of biotechnology. Therefore, knowledge is the best thing to have so that we do not make decisions on the basis of fear, but on the basis of knowledge. Thank you.

HON SPEAKER: I thank the Honourable Minister Nahas Angula for his contribution. Honourable Helmut Angula.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

Thank you, Comrade Speaker. I rise to support the ratification of this Protocol. We worked together on this Cartagena Principle and therefore, there is nothing strange to us in the content of the Treaty. I just wanted to respond to provocation that was uttered by some elderly senior statesman, that our fear is only supposedly based on our trade interests, particularly with the European Union, when it comes to accepting GMO products to be imported into this country. That is part of the fear, but the real fear is that we still do not have the capacity to control whatever we bring in here, but the most important fear is in long-term possible effects to the agricultural set-up in this country.

For example, I want to inform you that the majority of the grain producers in the country overwhelmingly depend on the traditional seed that they have come to accumulate. If they are suddenly attracted by these good-looking seeds and they adopt it, it can so happen that in a matter of three years the traditional local variety will disappear from the scene and they adapt to the new one. However, we do not have the capacity yet to produce the new one ourselves, we are going to import it from other nations, which mean we have to buy it commercially from the shops. We do not think our people have the financial capacity yet to be buying seeds on which they have to depend for their livelihood every year.

Strong nations are not reliable, they can be your friend today, but tomorrow you may pick up a quarrel based on political differences, as many of you like shouting “imperialists” and those things, and then they close your border, they impose economic sanctions against Namibia and they will then oblige all other countries not to trade with you, and you will be in limbo once the borders are closed. Where will you get the seeds to plant and to feed your people? There will be nothing.

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Libya was boycotted, they could not sell their oil to certain countries and they could not buy certain technology, but they still survived because Libya depends entirely on the unique environment of the Mediterranean Sea, which is not owned by those who were trying to suffocate them. But if our borders are closed, the people around us whom we today call sisters and brothers, may succumb to pressure and there will be no seeds entering this country and that will be disastrous until this gentleman is overthrown and when he is overthrown it will be Iraq, there will be no peace. There will be continuous struggle, those who are puppets will want to continue to be protected by the foreign power. That is where our real fear is, that we will end up owning something that is not ours, that we are not able to control and you are not empowered to succeed with your own knowledge.

Therefore, I agree with you, Comrade Nahas Angula, that let us first build our internal capacity to manage the situation and after all, our population is not as big as that of India. They are in desperate need to use new methods in order to feed one billion people, but we only need to feed 2,1 million.

We also need to protect our unique variety and I do not need to repeat what was mentioned here already, the Welwitschia Mirabilis or hoodia. If we are not careful, we will one day not own hoodia. We must be proactive in making sure that we jealously guard against the stealing of this plant by other strong and knowledgeable nations.

With this, I support the Protocol.

HON SPEAKER: I would like to thank Honourable Helmut Angula for his contribution. That brings us to the end of those Honourable Members who wanted to take the Floor this afternoon on this item. I shall call on the Honourable Minister of Environment and Tourism or his Deputy to reply. Honourable Iilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: I wish to thank the Members who supported this important Protocol. The Honourable Members only raised their concerns on the importance of Namibia building capacity to monitor and control its resources. I thank everybody who supported this Protocol.

HON SPEAKER: I thank Honourable Deputy Minister Iilonga for his brevity and I shall not put the Question, that this Protocol be adopted. Are there any objections? No objections. Who seconds this Motion? The Protocol therefore is unanimously adopted. I will call on the Secretary to read the Second Order of the Day.

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CRIMINAL PROCEDURE BILL
HON GENDE**

**RESUMPTION OF SECOND READING:
CRIMINAL PROCEDURE BILL**

HON SPEAKER: When this Debate was adjourned on Wednesday, 22nd September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Justice, Honourable Dr Kawana. This Debate was however adjourned by Honourable Member Mr Gende to whom I now yield the Floor.

HON GENDE: Thank you, Honourable Speaker, Honourable Members. I am rising to add my support to the tabling of this Bill in this august House. Let me assure the Honourable Minister of my full support in your effort to address the current state of criminal activities in our beloved country.

During the past 14 years of our Independence, we have seen some quarters of our society demonstrating in front of our Courts because of lenient sentences for criminals, as seen by the public. We have seen people who committed murder being given lenient sentences because of excuses by their defence lawyers. We have seen people stealing diamonds getting higher sentences than those who committed murder in this country. We have seen people raping babies, but given bail and tomorrow walking freely on our streets.

We as Members of Parliament have been accused by the public of passing unimportant and ineffective laws, which do not address the security of the citizens of this country. I can go on and on referring to experiences of the past 14 years but Sir, it is my belief that when passing this Bill in this august House, certainly something will change if well implemented. It is my hope that the people who are used to visiting the prison institutions on a regular basis and being released after three months and commit the same crime again, being sentenced again and be looked after and cared for by the Honourable Minister of Prisons, will know those days are gone.

Mr Speaker, when we address this very important Bill, it is my belief that one cannot address it without touching on some institutions, which are, also relevant in the implementation of this Bill, such as the Police and our Courts of Law.

The Police is the first institution which has to investigate all the cases in order to find the criminals guilty or not guilty. During the past years we have seen dockets going missing, cases being postponed on a regular basis and these excuses only comes in when something is going wrong either in the Police or with the Courts, but mainly because the Investigation Officers are demoralised. If you walk in the corridors and listen to what the police officers are saying, especially those involved in investigations, they are so demoralised. They

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investigate a case and when they bring the case to their seniors, they find that that person occupying that position does not understand anything about the law.

Let me refer you to someone who has recently been appointed in a very high position, which deals with operations, a Deputy Inspector General involved in operations, which deals with all these investigations. If that somebody has not started somewhere, either as a junior police officer to know what is going on in the Charge Office, to write proper statements in order to find somebody guilty in a Court of Law, then there is something wrong and this is when we appoint somebody on a political basis without looking at his experience. (Intervention)

HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES: May I ask Honourable Gende a question? Honourable Gende, are you saying we have a Deputy Inspector-General who is supposed to write in the dockets of accused people and who is not capable of doing that? Is that what you are saying?

HON GENDE: Honourable Speaker, I will answer that question at my last page or even next year.

Honourable Speaker, whatever we are doing... (Intervention)

HON DEPUTY MINISTER OF HOME AFFAIRS: May I ask the Honourable Member a question? Honourable Member, you are specifically referring to a Deputy Inspector-General. To my knowledge, there are only two Deputy Inspector-Generals. Which one? You must mention which one because you stated by implication that that particular person cannot write or he was just picked up in the street. Can you mention the name?

HON GENDE: Honourable Speaker, I said someone involved in Operations and I think there are divisions, Operations and Administration. If she listened very carefully, she would have understood which way I am going. (Intervention)

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HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES:

Honourable Speaker, I think the statement of Honourable Gende is sending a very wrong message, because firstly, he was specific, but then he does not want to elaborate. I do not think we as Parliamentarians will gain anything by trying to tarnish the image of our law enforcement agencies. Let him elaborate so that we know specifically who he is referring to. I know we are about to embark on an election campaign, but lying in this Honourable House will not get the people to vote for us. That is a lie and I think he must be ruled Out of Order.

HON SPEAKER: The House, through its dignity, is only expected to be sincere and to be truthful onto itself and onto the public. Proceed, Honourable Gende.

HON GENDE: I thank you, for your protection Honourable Speaker. Honourable Speaker, as I said, this piece of legislation is a very important document in order to address the current problems, which my party tried to address in 1991, as correctly quoted by Honourable Pretorius. (Intervention)

HON SPEAKER: Honourable Moongo, before you rise, today I feel compassionate, because I do know that this side of the House is under very serious punitive schedule. Therefore as a compassionate Presiding Officer, I will just put the question, does the House wish to rise and come back at 16:00? We have twelve items on the Order Paper. Yesterday we disposed of two. We still have ten. I hear that we can proceed. Thank you, please continue.

HON MOONGO: May I ask the Honourable Member a question? I would like to know whether the Honourable Member is aware that during this year some police members were arrested for robbing Punyu at Oshali and in another incident Bank Windhoek in Eenhana was robbed by members of the Police?

HON GENDE: Yes, I regularly listen to the radio, I also read both newspapers and I am aware of everything that is going on and I know what the police officers are saying. We are living in a democratic world.

Honourable Speaker, I said this Bill is a very important tool... (Intervention)

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HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

On a Point of Order. Comrade Speaker, I have bought the patent for this colour and the gentleman is Out of Order if he wears this colour.

HON SPEAKER: I did not get the gist of either the comment or the question.

HON GENDE: Honourable Speaker, the colour of the tie is not similar to mine.

When this Bill becomes a law, I am of the opinion that it will address most of our problems if implemented very correctly. In this case we need the support of all our Traditional Leaders who are dealing with criminal activities on a day-to-day basis, including our Courts of Law, the Magistrates, the lawyers, the Judges, because I believe it is a new phenomenon for us in Africa to be defended. When I, as an African, committed a crime and taken to the Traditional Leader, there is no defence lawyer. That is why people do not understand the outcome of criminal activities in our Courts of Law. The person pleaded guilty and now he is only getting two years imprisonment. Our people, especially the Africans, cannot understand. We can understand as we are living in a global world, but our parents do not understand it. It now depends on us to educate our people to try to assist the police and the Courts so that we could at least minimise these criminal activities.

Nowadays almost everybody in Windhoek is building high walls around their houses because they are not safe. People are so scared to move on the streets or to talk on a cell phone, because somebody will grab that cell phone and run.

It is so unsafe and I really think when this Bill becomes a law it will solve some of our problems, but then each and every one of us has to support it.

Therefore, my senior brother, as you correctly quoted the late Kozonguizi on the death penalty, my Party still stands by that. We do not even think of bringing back the death penalty in this country, but we think by passing a Bill like this one to become a law will address some of the issues.

Yesterday Honourable Nahas Angula referred to America with all the laws in that very old democracy of more than 200 years, but that is the world of operation in America, they are still operating. Whether it is by injection, you hang them, or you do what, they are still operating effectively.

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With these few remarks, Honourable Speaker, I support the Bill and I hope that the Honourable Members will pass it by tomorrow. I thank you.

HON SPEAKER: I thank Honourable Gende for his contributions. Honourable Dr Abraham Iyambo.

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Speaker, I will be very brief. I would just like to refer to Clauses 58 and 59. Starting with Clause 59, Chapter 10, on the admission of guilt as well as the payment of a fine without appearing in Court, I would like to discuss that in conjunction with Clause 58 that refers to the amount that a person may pay if he or she admits guilt without appearing in court.

The amount quoted is N\$3,000 and I wanted to ask a few questions on how it works and in terms of the diverse nature of guilt a person may admit. If a person was found driving 130 kilometres per hour and another person was found speaking on a Cell phone in the streets of Windhoek while driving or another person dumped 1,000 metric tons of fish, valued at N\$10 million, if these persons were to admit guilt and they each pay N\$3,000, would that mean they would not proceed to court because they have admitted guilt or what does it mean?

The same if a person is intoxicated and we have heard of spot fines, is this admission of guilt and not appearing in Court the same as a spot fine and does it mean that all the spot fines will be N\$3,000 irrespective of the magnitude of that transgression?

Sometimes someone will dump fish or some products that may be detrimental to the environment and then they will be fined N\$300. They will tell you, *“you can tell your Government that this N\$300 I can pay on the spot is what I use for lunch, it is nothing.”* This issue of admission of guilt and paying a fine not to appear in Court, does it mean irrespective of the magnitude? I just want to get some clarity from the Colleagues from the legal world. If it means that, I would prefer that there should be a deferential type of system, depending on the severity of the problem and the value of a certain resources. That is the only question I have and I support the Criminal Procedure Bill.

HON SPEAKER: I thank the Honourable Minister Abraham Iyambo for his contribution by way of questions. Honourable Deputy Minister Kasingo.

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HON DEPUTY MINISTER OF HOME AFFAIRS: Thank you very much, Honourable Speaker. I wanted Honourable Gende to be here while I am speaking, but he has just left. Nonetheless, I am going to proceed.

Honourable Speaker, in making a few comments on the Bill before us, namely the Criminal Procedure Bill which was tabled by the Minister of Justice, I would just like to start with a quotation by Judge O'Linn when he was the Chairman of the Commission of Enquiry into the Combating of Crime: "*Crime is a multi-faceted phenomenon, it has to be assaulted on a multi-dimensional level to facilitate effective deterrence.*" Honourable Speaker, this is a very important quotation by Judge O'Linn and in my own understanding, it is what the Bill before us is trying to achieve.

Criticism has been expressed in this House, in particular when we were debating the Stock Theft Bill, that heavy sentences will never be regarded as an effective deterrent. The question now arises, what should be regarded as an effective deterring mechanism? Individuals will have different answers to this, but I would say in Namibia, a country with a population of 1,8 million people, where we are being kept hostage by criminals, one could not sit and do nothing. One has to try everything.

Yesterday Honourable Pretorius mentioned the death penalty and Honourable Speaker, I do not believe the revival of the death penalty will help Namibia to cope with criminal activities, because I have noticed that by and large the criminals do not respect the lives of others or even their own lives. Daily we hear of somebody killing someone and then killing himself. That means we have lost respect for life and even our own lives.

We therefore have a duty to ask ourselves what is wrong with the Namibian society. I believe prevention is better than cure. Criminal justice institutions, including the Police and the Minister of Justice and the Minister of Prisons and Correctional Services, only intervene after the crime has been committed, but crime is a societal phenomenon and all of us here are part of the society and have a duty to make a difference. I believe an effective method is to start at home, to educate our children to respect others and their property. It does not help to say the police are not doing anything, the question is, what is Honourable Gende, for example, doing in his house, in his constituency in influencing the people to be law-abiding citizens?

The responses to this question could be many. Yes, indeed there is a need for across-the-board research, to research the society from the house, to the church, even the Traditional Leaders who the day before yesterday was asking weapons from the Ministry of Home Affairs to protect themselves against their own subjects. That is just an indication of how sick our society is. The law enforcement agencies and the criminal justice institutions, cannot do without all of us.

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Honourable Speaker, let me now turn to the different Clauses within this Bill. Clause 17, Chapter 3, deals with legal representation of the accused person and of victims in criminal proceedings. This is a very good provision and it is trying to balance the right of the accused person *vis-à-vis* the victim, but the only grey area I have noticed here is that although the victim has the right to engage a lawyer, the lawyer is not allowed to cross-question the accused person and it appears his main responsibility is to ask for compensation on behalf of his client after the accused has been found guilty. In terms of this Clause, he can assist the State Prosecutor, but I would like to propose that as the law progresses, the complainant should also engage a lawyer who would take the case on behalf of the State, also considering the burden of many cases on the State Prosecutor. I know now the State is the principal agent who must lead criminal cases. However, those are things I would hope to see developed in future, so that the rights of victims are balanced with the rights of accused persons.

Honourable Speaker, earlier yesterday you prevented us from talking about something in the Constitution ... (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: May I ask the Comrade a question? You raised very important Clauses, namely 17 and 18. In many cases, the State provides *pro deo* defence to accused persons, but in these Clauses, the victim is requested to cough up his or her own resources to pay the legal practitioner. The question is, what happens if the victim is not in a position to afford a legal practitioner?

HON DEPUTY MINISTER OF HOME AFFAIRS: Honourable Speaker, although the Minister of Justice is the right person to answer that, I can just say that this Chapter 3 is probably aimed at the people in our society who can afford, unfortunately, and that is why I said that if at all we have those people who can afford, why not save the money for those who cannot afford? The State Prosecutor is there to prosecute the case on behalf of the complainant, but sometimes the Prosecutors are not as experienced as the defence counsel is. I however think the Honourable Minister of Justice has taken note of that and will answer. It is a very good question.

Another area I would also like to touch on is compensation. I would also like to see a stage where the legal system would almost be like the traditional customs of solving dispute. In the traditional culture, the compensation is better than this. Take for example the case of a person raping or killing another person. The Traditional Authority's customs and norms provide for compensation, whereas in the Common Law which we inherited from the

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Europeans is silent on this. We should not just leave it to the Traditional Authorities to do that.

The last comment I want to make is on Clause 371, which deals with unreasonable delays in the trial. This Clause, *inter alia*, says that if there is one party who causes unreasonable delays, either the State or the accused person represented by the defence counsel must pay the cost. I am talking here as the Deputy Minister of Home Affairs, dealing with policing and I am talking from experience because I used to be a public prosecutor before I became a politician. Apart from those people who have done research and take time to go to court to find out what are really the procedure to make a case, prosecute and finalise it, it is very easy for many of us, such as for example Honourable Gende, to criticise the police for the long time it takes to complete an investigation, but take the scenario of a certain Martha Kandangara who is living in Babylon, the informal settlement, was stabbed by her boyfriend. She came to complain and the Investigation Officer took her particulars. By that time, she has not completed her medication. This Martha is living just with her boyfriend but she originates from Engela. We are aware that this person does not have a fixed address and when the police went there to finalise the investigation, Martha was nowhere to be found.

The Police go to Court on the date of the case and says, “*Your Worship, I could not trace Martha, I do not know her address, can I humbly request a postponement?*” The police officer cannot leave it at that because it is a serious case. It takes months, the police will go to Engela, go to Oshikoto, Martha is nowhere to be found and that is the problem we have. At the end of the day, the State is going to be cornered by the experienced lawyer who will say the State is going to be cornered by the experienced lawyer who will say the State must pay the cost. There are procedures to be followed here. It will be for the Judiciary to handle this with objectivity, taking into consideration the environment in which we find ourselves and that most of our population are just here to earn bread and they have houses in villages and the villages do not have addresses. That is the biggest dilemma in which the police officers find themselves.

Overall, Honourable Speaker, this Bill is very good. It is a very positive evolution in the criminal justice system and I would like to congratulate the Honourable Minister of Justice, his Deputy and all the staff. I thank you.

HON SPEAKER: I thank the Honourable Deputy Minister, the former Public Prosecutor, for sharing her practical experience with the Colleagues in the Chamber. Honourable Minister Toivo Ya Toivo.

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HON MINISTER OF PRISONS AND CORRECTIONAL SERVICES: Thank you very much, Comrade Speaker. Comrade Speaker, Honourable Members, let me congratulate the Minister of Justice, his Deputy and his staff for bringing up this Bill. I rise here to support this Criminal Procedure Bill wholeheartedly.

Crimes have become rampant and criminal activities have increased dramatically. I, therefore, feel that this Bill will endeavour to reduce or curb the crimes in our beloved Namibia. It has become increasingly unbearable. Crimes are committed, some of the culprits go free because they have money to pay lawyers and the victims are the ones who suffer most. I, therefore, feel that the public cannot go on being impoverished by some people. I have no doubt in my mind that I will receive support from Comrade Speaker and all the Comrades in this Honourable Chamber.

I propose that criminals involved in the following crimes must be given serious and severe sentences: Armed robbery and fraud. In cases where one has committed armed robbery or fraud, their bank accounts must be frozen immediately and after that has been done, the money in the bank account should be taken out to pay the aggrieved persons. Even if the money she owns is more than what she has stolen, the rest should not be given back to her, it should go to support the old-aged homes and the orphans or it should be used to cover the expenses of the aggrieved persons.

In my view, the two cases are similar and I feel that they must be treated equally. Their sentences must not be less than fifty or sixty year's imprisonment to keep the culprits away from the public eye and when they come out of jail one day, they will not be able to go back to the same crimes. Such sentences will not take away the right and the power of the Magistrates and Judges, but it is just a guide for them to know that the public is not happy with the sentences meted out to such criminals.

When passing sentences they should bear in mind that the public is concerned with such sentences meted out to these perpetrators and after a few years, they are out and commit the same crimes again.

Rape cases have increased considerably, particularly in those cases that involve adults against small children. It is immoral for a man of sixty or forty years to rape a child of four or five years. The latest incident is that of the 80-year-old man raping a child of nine years. What is that? Can that man no longer propose to a woman, and expect a yes or no? They resort to the likes of criminals or animals, but even animals do propose. There are many loose women in the streets. (Intervention)

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HON DEPUTY MINISTER OF HOME AFFAIRS: I would like to ask the Senior Minister a question. Honourable Minister, you just mentioned a very important point, which I omitted. You said nowadays that men are no longer proposing. Are you aware that after the majority of men have proposed and a woman agrees, that moment the woman is fed-up with this man she is in danger and if she happens to have a child with this person, the child is in danger. They threaten, say, "*I will kill you and kill myself*". Are you aware of that?

HON MINISTER OF PRISONS AND CORRECTIONAL SERVICES: Yes Madam, I am aware of that, but I must also point out that in some cases women are also a problem. They see Peter with a pocket full of money and when Peter proposes, they agree and if afterwards she is not paid, she goes to the Court and says, "*he raped me.*" Do you know that? (Intervention)

HON MINISTER OF HEALTH AND SOCIAL SERVICES: May I ask the Honourable Senior Minister a very tiny question? When Peter goes to this lady with a bunch of money in his pocket, he knows that lady is doing these things for money, not free of charge and he is supposed to pay. If he does not pay, I think the woman has the right to do what she does. Do you agree with me?

HON MINISTER OF PRISONS AND CORRECTIONAL SERVICES: No, the agreement was love, but money is the root of all evil. When someone sees the money, then he or she feels, "*I can use this so that I can cash in, because he has money.*"

Let me go ahead. If the answer is no, that will not be the end of the world. The perpetrators of such crimes must be sent to jail for thirty or forty years, they must be removed from society to which they are a menace. They should be away from society as long as thirty or forty years. I think these thirty or forty years is adequate time so that when they come out after serving their sentences, the victims would have forgotten about them and they will no longer be able to commit similar crimes.

It is true that some murders occur simply, because a murderer was defending him or herself. Such cases can be treated with leniency, but it is the same murder, one's life has been taken away and the murderer should pay for that crime. Murder occurs under different circumstances. Some occur because of drunkenness and one is perhaps not able to think properly when under the influence of liquor, but still he or she must pay for this crime of taking one's life.

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Murder: There are other murders, which are premeditated and properly planned. This type of murder cannot be condoned in my view, because the murderer planned properly to end one's life. Therefore, I urge members of the Judiciary to take all these into consideration, which led to the murder. I know they do a good job, but I would just like to emphasise this. I do not want to belittle their job, I know they are doing a good job, but whenever they sentence somebody in such crimes, they must take into account the public considerations.

Robbery: It has become a common practice for the unemployed youth to hang around in the streets, looking for the weaker people and to rob them of their cell phones, bags or any other valuable items. We understand that the cause of these is unemployment and poverty, but this does not give them a licence to go and steal or murder other people. These anomalies do not give one a licence to go and commit crimes against other members of society.

Other people made it their policy that they are not going to work when there are other people working for them. This has become their profession, to rob other people. Therefore, such people must receive heavy sentences.

Taxi drivers: There is no country in the world without laws. In particular, we have regulations, even in our homes we have rules and regulations followed by members of our households. We have road regulations and rules, which must be adhered to. That is why drivers in any country are trained to know the traffic rules in order to avoid accidents, but taxi drivers in Namibia, despite the fact that they have passed their driving examinations, once issued with licences create their own rules and they are the bosses of the roads. They stop anywhere they like on the roads and sometimes cause accidents and traffic jams. They should not be allowed to do these types of things anymore and behave as if they are the bosses of the roads. Traffic police, together with the Municipal Police and City Police, should not allow this misbehaviour to occur in our towns and cities again. If one becomes a nuisance by stopping anywhere, the passengers should take the registration number of the culprit's vehicle and time and give it to the City Police to deal with him. If such incidents happen in the presence of the Traffic Police or Police, they can charge the man to pay N\$600 or more. If the driver has no money, the vehicle should be impounded and the owner will pay the fine.

As you are quite aware, most of the accidents in our cities and towns are caused by taxi drivers because of their reckless driving. They should be severely punished, and then they will know that they are not the law on their own. Their licences should be endorsed after the first and second accident and after the third one, the licence must be taken away for good. This, I believe, will teach them a lesson and they will stop doing this.

Urinating in the streets, this crime is committed by my tribesmen. It is surprising to see a normal person standing either along the road or in the streets and he is passing urine, facing

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the road where people are passing. What is all this? Under the apartheid regime, you could not do that and we are the same people and the people obeyed the law that time, they did not do that. We are the same people, why is it that this has now become a normal occurrence in an independent Namibia, our own country? In the apartheid regime, this offence was called public indecency and if you were seen by a policeman doing that, you would go and sit in jail. If you do not pay admission of guilt, you go and sleep in jail and I think the Minister of Justice and the Police can also implement this law. It is barbaric to see a man doing that. Independence does not mean that you can do whatever you like to do, even against the laws of your own country. This behaviour cannot be tolerated.

It is high time that the City Police starts operating so that they can help the Namibian Police to combat some of these crimes. I support the Bill and I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Senior Minister for his contribution. Honourable Moongo.

HON MOONGO: Thank you, Honourable Speaker. First, one of the Colleagues said America has sophisticated Police but the crime rate is still going up. In Namibia, we have the Police to implement the law and the people themselves. Something is wrong somewhere because crime is still increasing and we need to seriously determine the mistakes, the root causes of crime. That means we need to seriously study ourselves and our law enforcement. If we do not find the root causes, the crime rate will escalate. Therefore, I appeal to the Minister of Justice and the Police to find the root causes for the syndicates. (Intervention)

HON DEPUTY SPEAKER: On a Point of Order. I am just wondering whether the Honourable Member is not referring to the Prevention of Organised Crime Bill.

HON MOONGO: No. It will not help to give stiff sentences if we do not discover the root causes for crimes. We have to do that and if not, the whole of Namibia will be wiped out. I appeal to these two Ministries to be serious. (Intervention)

HON MINISTER OF PRISONS AND CORRECTIONAL SERVICES: May I ask the

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Honourable Member a question? You want to find the root causes, if you find the root causes, what will you do.

HON MOONGO: When we find the root causes, then we have to rehabilitate or educate the people to understand that this is Namibia, this is your own country, this is your own property, and you are not supposed to steal.

HON MINISTER OF HOME AFFAIRS: Comrade Speaker, may I ask the Honourable Member a question? Honourable Member, as you are here, your Cuca shops, Uukumwe, are open 24 hours and then there are a lot of young people buying liquor there. Do you not think those people who are buying liquor for 24 hours are going to commit crime? In addition, if they are going to commit crime, are you not contributing to the root cause? Are you not the root cause by selling liquor up to 24 hours and to the under-aged?

HON MOONGO: If those consuming the liquor get drunk, they are supposed to be easily apprehended. (Intervention)

HON SPEAKER: I want to put a question to the House and that is that we have ten orders and once substantive contributions have been made to an item, it is actually the jobs of the Whips. How many people are going to speak on the same subject, repeating exactly what was said by the previous two speakers who broke the ground and thereafter it is just repetition. I am not stopping the Debate because the primary objective of this Chamber is to allow Debate, but I am just saying it in terms of managing the business we have at hand.

HON MOONGO: I am happy to see some elements involved in kidnapping school children, taking some cattle because they were enemy agents and so on, that they realised how very bad their crimes were. I support the Bill.

HON SPEAKER: Any further discussions on this item? Comrade Iilonga.

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HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Speaker, I really wanted to heed your advice, but I wanted to remind the Minister of Justice and his Deputy to very seriously look at Clause 371. If you look at Sub-clause (3) of that Clause, you would see that if this Bill becomes a law, there will be no more cases here, the State will be required to pay. That is why we definitely must carefully look at that Clause. I support the Bill.

HON SPEAKER: I thank Honourable Iilonga for his contribution and drawing the attention of the Honourable Members to that particular Clause of the Bill. I hope it will be taken up accordingly. Any further discussions? Then I will call on the Honourable Deputy Minister of Justice to reply.

HON DEPUTY MINISTER OF JUSTICE: Comrade Speaker, may I please beg the indulgence of the august House, that given the nature of the questions, we need to have time to prepare accordingly and thus I would like to adjourn the Debate until tomorrow.

HON SPEAKER: Any objections to the adjournment? The reply by the Honourable Deputy Minister of Justice will be furnished tomorrow. The Secretary will now read the Third Order of the Day.

**RESUMPTION OF SECOND READING: AGRICULTURAL
BANK OF NAMIBIA AMENDMENT BILL**

HON SPEAKER: When this Debate was adjourned on Tuesday, 28 September 2002, the Question before the Assembly was a Motion by Honourable Deputy Minister of Finance. This Debate was adjourned by the Honourable Deputy Minister of Environment and Tourism and I now yield the Floor to Honourable Iilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Speaker, Honourable Members, I rise to give my support to the Agricultural Bank of Namibia Amendment Bill [B26 of 2004]. Thanks to the Honourable Minister of Finance and her Deputy that they are not deterred by their own appointees who refuse to listen to their advice.

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Comrade Speaker, many Comrades have made their contributions towards these Amendments and I just want to add some points not mentioned by other Comrades.

The Government of the Republic of Namibia, to my understanding, is now starting to rule. Government must rule and have a say in its own business, just like the private sector does. We have been calling for this all the time and we are now starting. What is needed is improvement of the management and only in this way can us as the owners do justice to our business, by having those powers vested in the Ministers to appoint and remove those who are not performing as per the expectation of the owner, which is the State.

Secondly, I hope that all Parastatals' members will be treated the same, so that we curb the mal-administration of our public businesses and properties by people who are employees of those public companies. If we do not curb that, they will in the end come and advise us to privatise those businesses. This is one of the ways we aim to curb that.

Thirdly, it is also high time now that the Government starts holding the shareholder Ministers accountable to the Cabinet and this Parliament on the activities of the Parastatals and the statutory bodies under their control and not only the Ministers to be questioned on things which they were not part of when the companies fail to deliver. In so doing, I can assure this august House that our Parastatals will never find themselves in the situation they are in now. They even tell the Minister, *"I have no right to give you information"* yet he is the owner.

This Amendment must look in that direction. The aim is not to punish the Board Members, but the Board Members should know that they have to account to the Ministers, for the Ministers to account to the public through Cabinet and Parliament.

In conclusion, Comrade Speaker, it is not only Honourable Pretorius who wants to tell us that he was advising Government on this issue of the Board Members, many of us used to call on our Government to take serious action on the running of these businesses and to follow the example of the private sector businessmen and women. The time has come for Government to rule and run its businesses in the interest of the voters. They, the voters, did not give us any mandate to privatise their public assets and services.

Therefore, let us work hard and make sure that the Government employees, including Board members, are running all businesses they are entrusted with by the Government in the interest of the nation towards Vision 2030. Vision 2030 cannot be realised if we are not in a position as a Government to own property and to negotiate. With those remarks, I support the Agricultural Bank of Namibia Amendment Bill and I thank you.

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HON SPEAKER: I thank the Honourable Deputy Minister Ilonga for his contribution on this item. Any further discussion? I call on the Honourable Deputy Minister of Finance to reply.

HON DEPUTY MINISTER OF FINANCE: Comrade Speaker, *Honourable Pretorius* participated yesterday and he said we should learn from our mistakes. It is exactly what we are doing and trying to rectify. The Honourable Member referred to Section 10 and he must read little bit further, it is a limited discretion given to the Honourable Minister. However, I thank Honourable Pretorius for supporting the Amendment. In fact, I think why he is so well informed about this is because the original Land Bank Act 1944 had exactly the same Clause. I think that is why he is so well informed about it. I however want to thank him very much.

Honourable Kamwi also participated yesterday and I also want to thank him very much indeed for his enlightening statement and for stating very clear reasons, as did *Honourable Ilonga*, why this Amendment is necessary. I want to thank both of them for that. I can only mention here to Honourable Kamwi that maybe his contribution of yesterday could be submitted to the new Board so that they can use it as an additional document.

Honourable Ilonga, yes indeed, as you said, we should have consistency. It would then mean that other Ministers would have to come back with their Acts to amend those particular Clauses. I think the Honourable Minister of Works is already busy with the Roads Authority, NAMFISA, the Motor Vehicle Accidents Fund (MVA), and the Electricity Act. Those will have to come back to be amended accordingly.

Comrade Speaker, Sir, I can only mention here that this Amendment will in future avoid programmes and projects of the AgriBank coming to a standstill to the detriment of beneficiaries and to the detriment of the Namibian people. It is of vital importance, Honourable Speaker, Honourable Members, that there are cooperation and a good working relationship between the shareholder Minister and the Board. However, if there is total lack of respect, if there is total lack of trust in a relationship, then such relationship will have to come to an end if it cannot improve. If that relationship is irreversible, that means it serves no purpose and it will have to be brought to an end. So also is self-interest among Board Members. It is found to bedevil the running of that particular institution and it should be avoided by all means.

To the other Honourable Members who did not participate and who silently supported this Amendment, I would like to thank you very much.

HON SPEAKER: I thank the Honourable Deputy Minister of Finance for her reply to the

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Debate that has taken place and I now put the Question, that this Bill be now read a Second Time. Any objections? So agreed. I call on the Secretary to read the Bill a Second Time.

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HON SPEAKER: I call on the Secretary to read the Fourth Order of the day.

**RESUMPTION OF CONSIDERATION OF THE COMMITTEE
REPORT ON AFFIRMATIVE ACTION LOAN SCHEME**

HON SPEAKER: When this Debate was adjourned yesterday, the Question, before the Assembly was a Motion by the Honourable Member Honourable Ya France. This Debate was adjourned by the Honourable Minister of Lands, Resettlement and Rehabilitation, Honourable Hifikepunye Pohamba, to whom I now yield the Floor.

HON MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Comrade Speaker, I wanted to seek your guidance. One Honourable Member asked me if he could speak on this before me and then I would follow thereafter.

HON SPEAKER: Any further discussions? Honourable Hans Booys.

HON BOOYS: Thank you, Honourable Speaker. It is not that easy for a small fish to speak after a senior has spoken and I thank you very much for the opportunity.

Honourable Speaker, Honourable Members, I rise to make a very small contribution on the Affirmative Action Loan Scheme Report by the Parliamentary Standing Committee on Economics, Natural Resources and Public Administration.

Honourable Speaker, Honourable Members, let me make it very clear from the very onset

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that I am a Namibian citizen, a born and bred Namibian who does not own land in Namibia. Therefore, I am continuously being socially disadvantaged and shall continuously be affected by poverty.

Honourable Speaker, I must also join the other Honourable Members in congratulating the Parliamentary Standing Committee for doing a good job by tabling this Report. In the same vein, I must also thank the Government of the Republic of Namibia and in particular, the Cabinet for creating that special scheme, known as the Affirmative Action Loan Scheme.

Honourable Speaker, Honourable Members, as the name of the Scheme indicates, it is a scheme to borrow money from AgriBank to buy land and livestock and you also have to borrow money for farm infrastructure, which includes houses for farm workers, fencing material, rehabilitation of boreholes, drilling of new boreholes, etcetera. If you do not borrow money from AgriBank, you can go to any other financial institution to get money to buy a farm of your choice.

Honourable Speaker, the buyer has to spend a lot of money before and even after the farm has been bought even though the Government subsidises 35 percent of the selling price. These farms, after being bought, are continuously financed through personal loans and overdrafts from financial institutions.

Honourable Speaker, to buy a commercial farm through the Affirmative Action Loan Scheme and to start commercial farming is not everybody's cup of tea or child's play. You have to put on gloves to tackle farming, as this cannot be done barehanded.

Honourable Speaker, Honourable Members of this august House, I said I would be brief and I would like to move some recommendations for the Committee, but before I do so, let me make a comment on page 16 of the Report, Affirmative Action Loan Scheme Beneficiaries. I have a little problem to regard myself as a beneficiary. I have paid for everything with borrowed money and I disagree with the Report that we are being referred to as beneficiaries.

On Page 18, point 22 – farm workers. Honourable Speaker, this issue of the farm workers needs to be discussed and we need to solve this problem. At the moment when a farm is sold to a new owner, the farm workers are left stranded. Right now, we have such cases in Otjozondjupa and Omaheke where the new owners cannot start proper farming because the farm workers of the former owner are still sitting on that land. The Minister has the Regional Councillors and Labour Inspectors but the former farm owners never come to the meetings because they got their money and they are off the land. I support the idea of the Cabinet that this issue needs to be attended to. (Intervention)

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HON MINISTER OF HEALTH AND SOCIAL SERVICES: May I ask the Honourable Member a tiny question? When houses are being built, we keep the retention money for six

months until you are quite satisfied that the house has been built properly. Should the Government not be advised to do the same with the farms and have a retention fee until the problem of the farm workers has been solved. If he leaves the farm workers there, that money can be used to assist the new owner who has to look after the farm workers. Do you not think that is a good idea?

HON BOOYS: Honourable Speaker, I think it is a good idea, but something must be done. For example, before the money is paid out to the seller, the Government could investigate whether the farm workers have been left behind and the Government can even ask the owner to set aside some hectares of land for those farm workers, because some of these farm workers' parents and grandparents have been born there. Some of the farm workers came from other places and they can return there, but there are some farm workers whose parents and grandparents have been born there and who has nowhere to go. (Intervention)

HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES: Comrade Speaker, may I ask Honourable Booy's a question? Comrade Booy's, when you buy a second-hand vehicle, you drive it and satisfy yourself that the vehicle is worth the money being demanded.

I thought when somebody buys a commercial farm, knowing too well that the former owner had employees, one would drive around and ensure that these people leave before you pay. Why are we not doing that? Why you should buy a farm while you do not know whether there are people staying there? Why do we not take the initiative of familiarising ourselves with the farm we want to buy and make sure people are not left there whom we may not be able to employ?

HON BOOYS: Honourable Speaker, the Honourable Member is correct, it is the same question, which was asked by the Minister of Health, but because we have elected the Government, we are saying the Government should go around and see whether people are not left on the farm before the money is paid out. (Intervention)

HON MINISTER OF JUSTICE: May I ask a question? My understanding is that when you are buying a farm, you are buying that property. Is it the understanding of the

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Honourable Member that the labourers are part of the property that is bought and, therefore, he cannot get rid of them because they are part of the property?

HON BOOYS: Honourable Attorney-General, I do not think that human beings are to be bought, but what I am saying is that some of us bought farms without workers and that is why we do not have those problems, but some of my colleagues bought farms with workers on the land. I do not think there was an agreement that the farms will be bought with the workers. (Intervention)

HON SPEAKER: Honourable Booy's, I think you did well in responding to the Attorney-General's question, but if you go into buying a farm with workers, the person reading the transcript may get a very wrong impression.

The Constitution says no Namibian can be classified as a property. That is impermissible from a constitutional point of view. It is a question of buying a farm, provision has not been made for the workers to leave, and you inherit a problem, but not buying workers. That language should not be used.

HON BOOYS: Thank you, Honourable Speaker, to continue, I support the recommendations made by the Committee and I rest my case. I thank you.

HON SPEAKER: I thank Honourable Booy's for his contribution. Are there any further discussions? I call on the Honourable Minister of Lands, Resettlement and Rehabilitation to take the Floor.

HON MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Thank you very much, Comrade Speaker. Comrade Speaker, I want to thank the Committee for the wonderful work they have done on our behalf. I congratulate them for this work.

The reason I asked to say something on this Report is Recommendation 16 on page 16. The heading there is the AALS Beneficiaries and Land Tax. Comrade Speaker, the beneficiaries, in my opinion, should be divided into two categories. We have some beneficiaries who are very well-to-do although they came from the background of the formerly disadvantaged community. In these communities, we have some people whom I refer to as well-to-do, business people, millionaires who go to AgriBank and benefit from this scheme. However,

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when it comes to tax, I feel these people should be put in a different category so that they should not benefit from this for fifteen years. There are some who have only started ten years ago and for those I will definitely agree with the recommendation here, the Ben Amathila's and some of us.

My proposal here is that we should have two categories. I know the rich ones are not that very many but they are there and these people should not be put in the same category of the people who deserve tax exemption. I am appealing to the Committee, particularly to the Chairperson, that we have two categories, so that those who are well-to-do, although from the background of the formerly disadvantaged people, should pay tax. Obviously, I agree that the others should be exempted from tax for fifteen years, but again, if one looks at the fifteen years, maybe we should also try to reduce it from fifteen to ten. I think fifteen years is too long, but I am not very strong on that. I am only strong on the question of the millionaires who went to AgriBank to pay tax to the State. I thank you.

HON SPEAKER: I thank the Honourable Minister for the questions he has raised. Maybe the definition of who is rich should precede the classification of categories. By what criterion is it determined that someone is rich? In terms of the rules, does a millionaire qualify for the Affirmative Action Loan Scheme? That has to be clarified, a person who is already classified as a millionaire to benefit is a contradiction. Honourable Minister Mbumba.

HON MINISTER OF INFORMATION AND BROADCASTING: Comrade Speaker, is that a rhetorical question or do you really want to know whether somebody who is a millionaire can benefit?

HON SPEAKER: No, I was asking to help the Chairman, because if you say "*rich people*", there has to be a clear definition as to where you start that categorisation, but I think information will be helpful to the Committee.

HON MINISTER INFORMATION AND BROADCASTING: Comrade Speaker, we are all from different backgrounds. There are people who know, your Aupa Indongo's will not go to AgriBank for an Affirmative Action Loan and even his own advisors will not advise him to do that, it will be an embarrassment. However, you have small guys in our families, they farm at Mangetti or Omutambawomawe, they have their mini shops and they have more money than anybody here will ever dream of having. He is a millionaire, but if he

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applies, how would you know? It is only when you look at somebody's financial records that you can say that this person is beyond such category and, therefore, should not benefit from an Affirmative Action Loan. Otherwise it is very difficult to know who is who, because the people with money do not talk about it.

HON SPEAKER: I thank the Honourable Minister for the information. Any further discussions? Honourable Deputy Speaker Konjore.

HON DEPUTY SPEAKER: Thank you, Comrade Speaker. I would also like to be very brief.

I fully agree with the previous speaker on the last issue, but there is a criterion that you must have a particular number of animals to qualify for the loan and, therefore, it could also be used as a criterion to disqualify you for the loan. (Intervention)

HON MINISTER HEALTH AND SOCIAL SERVICES: May I ask the Honourable Member a tiny question? Is the Honourable Member alluding that I cannot get an Affirmative Action Loan because I have only four cows?

HON DEPUTY SPEAKER: Honourable Minister, my information and knowledge is that you must have at least 150 heads of cattle or 800 heads of small stock in order to qualify. Therefore, that criterion could be used to disqualify you for a loan. (Interjections)

Another issue, Comrade Speaker that I would also like to add is that sometimes one can regard issues as obvious, which is not obvious. Therefore, I would like to appeal to the Committee that when the recommendations are finalised it should be stated in clear terms that the implementation of these recommendations should be inclusive – and I am not talking about the rich people – of those people who have been affirmed at the beginning of this scheme. Those who were affirmed at the beginning of the scheme, who qualify and who are not rich, should be included and any recommendation be implemented based on this Motion. That is my appeal, Comrade Speaker. (Intervention)

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

May I put a question? I am not clear on what the Honourable Deputy Speaker is saying. He is saying those who are not rich should not be excluded. What if they are affirmed already? Should they not be excluded from the tax exemptions or from what?

HON DEPUTY SPEAKER: It is a very good question. Comrade Minister, what I mean is that once these recommendations are accepted and implemented, then it should not start with the new beneficiaries only, but it should include everybody. I do not know whether I am making myself very clear.

HON SPEAKER: Can I help you? I think the Honourable Minister is saying, those people are already affirmed, so there will not be a distinction, you are making a distinction, and he is asking, where you start and stop. Who are the ones who must be considered after having been affirmed? It is the same scheme, is it not?

HON DEPUTY SPEAKER: If that is the understanding, I am happy. (Intervention)

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

Why it is not clear, if there is a new recommendation for a new interest rate, are you saying that the previous beneficiaries must be included and their interest rate should start today? In our law, there is no retroactive and if the law did not apply to you ten years ago, you cannot make it apply to you today. It will only apply from the date of legislation. Those terms will apply from the date of the new legislation and not backdated.

HON DEPUTY SPEAKER: Comrade Speaker that is why an Amendment is necessary. Apart from what the Honourable Minister said, if the practice up to now was that the interest rate will escalate, starting at 4 percent and ending up 14 percent, and the request is that it should not go beyond 10 percent, I will fail to understand why the implementation of that limit of 10 percent should not apply to everybody. Then we will fail to assist our people out there and here we are not talking about the well-to-do people, we are not talking about the part-time farmers, but particularly about the fulltime farmers who are struggling to pay. That is why I say it would only be fair if they were also included in the implementation of the recommendations as proposed in this Report.

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With these words, Comrade Speaker, I support the Report and once again appeal for the adoption of this Report and ultimately the Motion, which gave birth to this Report, for the speedy recommendation to Cabinet for the implementation of these humble requests. I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Deputy Speaker for his contribution. There being no further discussion, I call on Honourable Ya France to reply.

HON YA FRANCE: Thank you, Comrade Speaker, I would like to request that I reply on Tuesday.

HON SPEAKER: Any objections? Agreed to. The reply by the Honourable Chairman will be furnished on Tuesday. I call on the Secretary to read the Fifth Order of the Day

**RESUMPTION OF SECOND READING :
RESEARCH, SCIENCE AND TECHNOLOGY BILL**

HON SPEAKER: When this Debate was adjourned on the 23rd of September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Higher Education, Training and Employment Creation, Honourable Nahas Angula. The Debate was adjourned by Honourable Hidipo Hamutenya who now has the Floor.

HON HAMUTENYA: Thank you, Comrade Speaker. I rise to register my support for the Research, Science and Technology Bill. I applaud Comrade Nahas Angula, the Minister of Higher Education, Training and Employment Creation for introducing the Bill. Yes, the Bill is actually overdue, but as one of the English language adages has it, it is better late than never. I, therefore, welcome the introduction of the Bill in this august House.

Comrade Speaker, one of the often repeated espials of our days is that we live in an epoch of a knowledge society and knowledge economy. This simply means that it is no longer the abundance of a country's natural resources endowment than its difficult for a Nation to achieve rapid economic growth and development and, therefore, prosperity. Rather it is the stock of knowledge, sometimes called the human capital that a country has, which is

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fundamental for economic growth and national prosperity. In other words, whereas in the past people talked about the competitive advantage of nations in terms of the abundance of natural resources that country possesses, today people talk of the competitive advantage of nations based on scientific knowledge and technological skills which nations command.

The competitive advantage of knowledge has come to replace the competitive advantage of nature. Therefore, developing countries like Namibia that are hungry for progress must embrace this new competitive paradigm as the main source of wealth. They must, in other words, aggressively promote and invest in the rapid acquisition of scientific knowledge and the mastering of technology, which is the application of scientific knowledge for practical purposes. These are the attributes, which distinguished dynamic and progressive developing countries from stagnant ones.

Comrade Speaker, it cannot be denied that we as a Nation have aggressively invested in the education of our young generation over the last fourteen years. Indeed, we have expanded the school environment at primary, secondary and tertiary levels. We expanded the teachers training colleges to raise the Nation's level of literacy to new heights, but we did not pay sufficient attention to the imperative needs of infusing our education system with a spirit of scientific enquiry and technological orientation.

Therefore, as technology advanced and continued to make quantum leaps over the last decade and a half, Namibia was essentially being left behind. Of course, technological advance always leaves a lot of people behind, but with more conscious and considered efforts to catch up with those other developing countries, such as Singapore, we could have made phenomenal progress in the development of our human capital, we could have made a starting point earlier than now.

The Research, Science and Technology Bill is indeed an issue whose time for prioritisation has come and the Bill provides the necessary institutional framework for implementation. Funding is of course always an obstacle to progress and there is no doubt that money is going to be a big hurdle in the implementation of this very important legislation. Without sufficient financial allocation, this truly noble programme will not be realised and Namibia will remain on the periphery of human progress in this first quarter of the 21st century.

Comrade Speaker, I am pleased to note that the Bill provides for the establishment of the National Commission on Research, Science and Technology among whose functions and purposes is the mandate to coordinate and facilitate the development of research, science, technology at national, regional and local levels.

At national level the programme for research, science as well as the acquisition and adaptation of technological expertise we will have to grapple and, indeed, grab the bull by

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the horn and plunge in the global trend about the development of new technologies, namely new electronic and bio-technological expertise. Namibia needs to reap the fruits of the new bio-scientific discoveries to treat major diseases. (Intervention)

HON MINISTER OF HEALTH AND SOCIAL SERVICES: May I ask the Member a tiny question? Now that the bulls are being dehorned, where are we going to grab the bulls? (Laughter).

HON HAMUTENYA: Let us grab the bull by the neck. Namibia needs to reap the fruit of new bio-technological scientific discoveries to treat major diseases and thereby to save human lives. With respect to information and technological know-how our country needs to become more and more wired and wireless, thus making exchange of ideas and sharing of information more and more efficient and rapid in this complex and ever more connected world in which we live.

Our institutions of learning, especially those of higher learning like the University of Namibia and the Polytechnic of Namibia, must now redouble their efforts in the context of this new legislation to generate more and more scientific knowledge and technological know-how. They must help to build up relations with the scientific community.

Comrade Speaker, I mentioned at the beginning of my intervention that we as a Nation have invested aggressively in the education of our young people, but it needs to be admitted that we have lost focus of the fundamental importance of science and technology in the development of our country and the growth of our economy. For instance, we have built many secondary schools, which have no laboratories, and they are not equipped with appropriate laboratories, leave alone the employment of teachers who are competent in the teaching of science. How can we then expect such secondary schools to produce future scientific and technology personnel? The educators our teachers training colleges are producing remain largely efficient in the basic understanding of science and research methodology.

Recognising this serious problem, Comrade Speaker, I proposed at the December 2000 Cabinet Retreat in Swakopmund that we should seriously consider the possibility of recruiting science teachers who are university graduates from some of our fellow Commonwealth countries, like Zimbabwe, Ghana and Nigeria. Such teachers will help hold the fort while we are training our own critical mass of science teachers. These countries have surplus of well-qualified teachers. Such teachers could be recruited so to say for three to four years and could be here on local conditions of remuneration and benefits. The

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proposal was accepted, but today it has not been implemented. It needs to be revisited because the problem of qualified science teachers is still with us.

In an effort to promote the teaching of science, Ghana has introduced a system of mobile laboratories that is caravans or vehicles equipped with laboratory tools that visit different schools throughout the country several times a week in order to facilitate the teaching of science. Those Comrades in charge of our education system need to consider this possibility and adopt a strategy as a way of stimulating and ensuring curiosity in the minds of our new generations.

Comrade Speaker, I congratulate Nahas Angula for the introduction of this legislation and I support the Bill. Thank you.

HON SPEAKER: I thank Honourable Hamutenya for his contribution to the Debate. Are there any further discussions? There does not seem to be any Honourable Member who wants to take the Floor and I, therefore, call on the Honourable senior Minister, Honourable Nahas Angula, to reply.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: Thank you, Comrade Speaker. In the first instance, I would like to thank all the Honourable Members who took great interest in the contents of the Research, Science and Technology Bill.

The overall goal of the Bill is to provide our country with the legal framework, resources and a clearing house for research and development, knowledge creation and knowledge application, as well as technology leveraging and adaptation.

As we are all aware, the driving force for economic growth and competitiveness is knowledge. Knowledge creation, knowledge acquisition, knowledge adaptation and application are, therefore, critical to reaching the goals of Vision 2030. To launch ourselves on the path of a knowledge society, we must emphasise the importance of education and training and the creation of an infrastructure for research and development and technology leveraging and adaptation.

Through the Government of Namibia's human resource development programme, my Ministry is offering opportunities for our citizens to study for advanced degrees in order to create a cadre with the capacity for research and knowledge creation. This Bill will create the necessary infrastructure for research and development.

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Honourable Members, I shall now proceed to respond to some of the concerns expressed by Honourable Members and I would like to start with *Honourable Comrade Hidipo Hamutenya's* remarks this afternoon.

I thank you for supporting the Bill, for commending our efforts, and for recognising that knowledge is the key to create national competitive advantage. I would like further to commend you for making the proposal to recruit teachers for science and mathematics from other Commonwealth countries. We used to have this programme and it was supported by the Nigerian Peace Corps Group, which were maintaining the teaching of science and mathematics especially in our rural areas, and also by the UN Volunteers who were recruited from Ghana, Zambia, Sierra Leone and others. We used to have this programme in the nineties, but I am not quite sure what happened to this programme, but we introduced a new initiative and the new initiative is to send many young people to be trained as teachers for science, agriculture and mathematics in Zimbabwe. Right now, we have close to 200 of them being trained there, because our own institutions have failed to provide the opportunity to train science and mathematics teachers.

His Excellency the President himself approached the President of Zimbabwe to accept our young people for training in this vital area. Therefore, we have taken some initiative in this regard, but that does not prevent us to go out and attract teachers from even Zambia or Zimbabwe to augment our teaching force for science and mathematics training.

Honourable Amweelo was the first to take the Floor and I thank him for his overall support. The goal of the Bill is indeed to build up a national capacity for research within the framework of Vision 2030.

Honourable Katjita, you are correct to emphasise the importance of knowledge in the national growing process. The Bill will create a research fund, which will support research efforts on a priority basis. The Bill will also create mechanisms for researchers to share their findings and a clearing house to make research findings accessible to everybody. Thank you for your support.

Honourable Ndaitwah, your observations are noted. Your emphasis on indigenous knowledge is particularly appreciated. I want to assure you that the Bill will protect and build on traditional knowledge as well as to enhance the national capacity to leverage technology. Some of the technologies we need for national development are available in the open market. We should however build up a national capacity to access such technology. Mostly knowledge is porous or knowledge leaks, as the saying goes. You cannot protect scientific knowledge forever. I am quite sure, Honourable Ndaitwah, you are familiar with the concept of creative destruction, which accepts that new knowledge destroys existing technologies. In fact, creative destruction is the basis for technological progress. On our

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part, we must create a capacity, first of all, for adapting and applying existing knowledge. New knowledge builds on existing knowledge and that is the challenge.

With regard to the popularisation of science in the general population and the creation of incentives for knowledge creation, my Ministry just held a National Science Week in which scientists were able to highlight their projects. My Ministry has also created a system of awards aimed at recognising scientific achievements.

Honourable Kamwi, I take note of the efforts of the Ministry of Health and Social Services in terms of the engagement in health related research. I also appreciate your concern with regard to the fact that the Ministry of Health and Social Services is not a member of the National Commission on Research, Science and Technology. This was an oversight on our part. Indeed, the Research Fund should be able to support research in priority areas and promote collaboration among researchers. Thank you for your overall support.

Honourable Nghidinwa, thank you for your support. Indeed, our research efforts should support economic development and find solutions to our national challenges, such as HIV/AIDS, poverty eradication and data development. We shall promote research on local products. Last month our President launched a food research facility at Ondangwa, which is producing enriched processed cereals from pure millet. I would like to inform persons on Anti-Retroviral therapy to contact Olute Foods at Ondangwa for pre-cooked enriched products.

Honourable Mbuende, I fully agree with you that many of our national problems can be addressed through science and technology solutions. The National Research and Technology Fund provided for in this Bill aims at promoting research and technology application in many fields of our national lives, such as health, food production, mineral beneficiation, development of labour-saving devices, etcetera. Yes, we must build up a national technological culture. I am quite sure that you are familiar with the concept of cultural capital. Pastoral cultures are rich in knowledge of animal husbandry, agronomic cultures on the other hand are rich in knowledge and technologies associated with cereal production, storage and processing. However, these cultural capitals need to be modernised. In fact, the lack of technological advancement in our communities is to be blamed on the absence of creating destruction forces with new knowledge and change.

Honourable Lucas, thank you for your support. I fully agree with you that we should encourage our knowledge workers to stay in the country. We should give them special recognition as well as awards for their efforts. The proposed Fund will provide research endowment funds for national laboratories whether in institutions of higher learning or in Government Ministries. I agree that the Ministry of Foreign Affairs has a role to play in the promotion of research collaboration. You are aware of the international research

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programmes in our country. These include the Institute of Science Energy Technology in short (HERTZ) in the Gamsberg area and the one by the Chinese at Swakopmund.

Honourable Abraham Iyambo, thank you for specific observations. The overall goal of the Bill is to provide a connecting framework, while at the same time allowing entities to conduct research without interference. The Commission will set broad policy frameworks, but research institutes will supervise research endeavours in various fields. The idea is to strike a balance between coordination and autonomy in research.

With regard to the means of the institutions of higher learning, an improvement will be effected to the current draft. The Commission is the umbrella representative body. Students will be represented at institutions level. We shall look into the specific issues you have raised. Thank you for your support.

Right Honourable Prime Minister, thank you for your encouragement. We appreciate your efforts in presiding over our science awards and the launching of HERTZ yesterday. We agree, we must launch a concerted effort aimed at demystifying science and technology in our general population. It is against this background that my Ministry has decided on Annual Science Week and Annual Science Awards.

Honourable Ulenga, you complained that the Bill is lukewarm on the popularisation of research, science and technology. The Bill aims to create an enabling environment for research and development. Specific activities will be carried out by institutions and councils provided for in the Bill. Indeed, the Bill is aimed at providing incentives to scientists and other science workers. We are creating role models by giving science awards to scientists and researchers on annual basis.

Honourable Mutorwa, thank you for your support. We agree that innovation, knowledge generation and research are critical to national development efforts. We do appreciate the UNESCO Declaration on Research and Development.

Honourable Dr Libertine Amathila, thank you for the substantive statement you made in this House. We appreciate your advice on research management and regulation. The health sector will be incorporated into the Commission. Indeed, the health sector should be able to form its own research council for institutes to coordinate research in this vital field.

With regard to issues of confidentiality and ethics, specific councils will work out rules for their own sectors. We shall look into the specific technical issues you also raised.

Honourable Katali, we appreciate your inputs. The size of the Commission is big, but this is the problem of representative bodies because you try to include everybody. The Commission

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is an umbrella body and represents various interest groups. The Commission is not there to control research but rather to promote research. Control and regulation will reside in institutes or councils.

Honourable Dinyando, thank you for your support. Yes, the role of traditional healers should be recognised. Traditional healers can form a council of traditional healers. Such council should, however, be approved by the health sector.

With regard to the gifted children, the education and training sector is considering to establish Magnet schools with a view to attract gifted children.

Honourable Sioka, thank you for your support. We agree that HIV/AIDS should receive priority attention in research. It was against this background that My Ministry established the Olute Food Research Centre at Ondangwa with a view of developing precooked food to support nutrition for vulnerable children and people on Anti-Retroviral Treatment.

Honourable Kasingo, we agree with you that we should produce a critical mass of scientists in our country. My Ministry gives priority to science students for sponsorship and fellowships. The Fund proposed in the Bill should further enhance the national capacity to promote the training of scientists.

Honourable Kaapanda, we congratulate your Ministry for teaming up with Habitat to establish a research facility into affordable housing. We must solve the problem of rural housing and sanitation. You, therefore, have our support in these endeavours.

Honourable Malima, thank you for your support. We congratulate your Ministry for its active research in biodiversity and environment. Your queries are about the President mentioned in the Bill. Where the word “President” appears without describing the type of President, we are referring to the Head of State.

With regard to the registration of research institutions, this will be provided for in the regulations.

Honourable Nghimtina, you raised important issues of coordination, consistency and systems of innovation, ethical dimension, biological agents and farming. The Commission of Science, Research and Technology will take care of all these important issues. You proposed the inclusion of the Ministry of Defence in the Commission. Our view is that the Ministry of Defence can use institutes or councils of the Commission to carry out defence related research. This is what happens in other countries. That is why we speak about military industrial complexes in the United States. Thank you for your support of the Bill.

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Honourable Amukugo, you raised a number of issues in a rather confused manner. The Bill does not take away the role of any institution or entity in research. The Bill is an umbrella framework for the purpose of coordination and funding. The Commission is not there to do research. Research will be done under the supervision of institutes and councils as proposed in the Bill. There is, therefore, no threat to academic freedom as you claimed. There is a clear balance between research institutes' autonomy and the Commission's mandate to provide broad policy framework. I suggest you read the Bill again.

We recognise that the Non-Governmental Organisations can make a contribution to research, especially in monitoring whether ethical issues are being adhered to. In this regard, we do not want to compromise the vital role of Non-Governmental organisations by including them in the Commission, they should do their oversight.

Honourable Chata, thank you for your kind words. I fully agree with you that Namibia should develop its technological readiness capacity. This is the reason for this Bill. Your query was about the role of the President. The President will be the patron of the National Science, Research and Technology Commission.

Honourable Members, I thank you all for your interest and support, and I recommend the Bill to be read a Second Time.

HON SPEAKER: I thank the Honourable Minister for his reply. I put the Question, that this Bill be read a Second Time. Any objections? None. So agreed. The Secretary will read the Bill a Second Time.

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HON SPEAKER: The House stands adjourned in terms of Rule 90 of our Standing Rules and Orders until tomorrow at 14:30.

HOUSE ADJOURNS AT 17:45 UNTIL 2004.09.30 AT 14:30

**ASSEMBLY CHAMBER
30 SEPTEMBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Reports of Standing or Select Committees? Other Reports and Papers?

TABLING: REPORTS OF THE AUDITOR-GENERAL

HON DEPUTY MINISTER OF FINANCE: Comrade Speaker, I lay upon the Table, Reports of the Auditor-General on the Accounts of:

1. Ministry of Basic Education, Sports and Culture for the Financial Year ended 31 March 2001;
 2. Town Council of Rehoboth for the Financial Year ended 30 June 2003;
 3. Municipality of Outjo for the Financial Year ended 30 June 2003;
 4. Municipality of Grootfontein for the Financial Year ended 30 June 2003;
 5. Municipality of Gobabis for the Financial Year ended 30 June 2003.
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HON SPEAKER: Will the Honourable Deputy Minister please table the Reports? Other Reports and Papers? Notice of Questions? Notice of Motions? Ministerial Statements? We start the business in this Chamber this afternoon with the business initiated by the opposition benches, but before I put the Questions, there are some Questions that I would have to rule Out of Order and I do not want to exercise that power of ruling questions Out of Order. Therefore, I will just skip them and that means we will have to meet so that the question would have to be rephrased.

However, before that, I just want to remind the Honourable Members that according to our Rules, the Members have the right to put Questions, but that right is, of course, subject to the

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Rules of this Chamber and it says very clearly that the purpose of a question is to seek information or to ask for action on the part of the implementing Ministry, but not a statement and most of the questions here start with a prefacing that does not meet the requirements of the Rules. Since this class is about to graduate, we can no longer allow the leeway that we wish to allow when we are all freshmen and of course, this term includes women.

Question 93 is put by Honourable Member Pretorius to Honourable Minister of Basic Education, Sports and Culture. Honourable Pretorius, do you put the Question?

QUESTION 93:

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Thank you, Comrade Speaker. By way of introduction, before I come to the Question, Honourable Pretorius has started campaigning. This Manifesto is circulated. I want to pose a question before I answer his questions. I see here he is appealing to the voters and he is also using the languages of various language groups, may I pose a question to the Honourable Member, whether he understands my language, which I see, is also here, whether he understands what is written here, "*karamuntu kunjunga nge Torowora MAG.*" What does it mean? (Interjection).

To come to the question, it will be extremely difficult and probably unnecessary to attempt to provide accurate, reliable and credible statistical information on the number of white Namibian teachers appointed since 1990. I am also not enthusiastic about venturing to fall into the trap put up by the Honourable Pretorius. Even though it could be possible to make a head count of the number of teachers belonging to specific ethnic groups currently employed in our public schools, it would be a very laborious, useless exercise, serving no specific meaningful purpose in the end.

We only have two categories of staff in our Public Service, Namibians and non-Namibians. The Namibians we know are composed of different cultural, language and ethnic groups. Teachers, including other Civil Servants, are not appointed based on their ethnic configuration, neither the colour of their skin, but based on their professional and academic credentials.

What does Honourable Pretorius really want to prove or demonstrate with the statistical information? To reach false conclusions that whites are discriminated against? Well, if that is the case, let me pose the following counter-question to Honourable Pretorius: How many Namibia whites were trained as teachers at our country's national training institutions since 1990? How many are at our university, at the various Colleges? It is important that the Honourable Member establishes these facts and provide the Namibian public through this

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House as to what is the state of affairs. This would help all of us, not only him, not to harbour unfounded and false perceptions.

The answer of how many whites are trained at our university and Colleges is almost zero. I know they are maybe trained at institutions outside Namibia, but why is it so? Make no mistake, there are very good dedicated teachers doing excellent work in our schools, proud Namibians from different ethnic backgrounds, including the whites. I thank them for the wonderful work that they are doing to prepare, mould and equip Namibia's present and future leaders. Our concern is that more young people, especially from Honourable Pretorius' main constituency, should also join our teacher training colleges, our Polytechnic and UNAM to become teachers and trainers and eventually to be appointed as such in our schools and other institutions.

Namibia is our country, our border are fixed and determined as per Article 1.4 of our country's Constitution. In accordance with our policy of national reconciliation and national unity, all of us are called upon to stand up, stand together and contribute meaningfully to the development of our country and people. Our schools and other educational and training institutions are open to all and shall remain open to all Namibians. We have finally buried artificial separation of people based on ethnicity and race on the 21st of March 1990. That is the answer that I can give to this question. Thank you.

HON PRETORIUS: I thank the Honourable Minister for the answer, because it is one of the main purposes of my Party to help to clarify false perceptions. He asked me a question and I am afraid that I am not allowed according to the Rules to answer the question, but I am sure if you will allow me, just to tell him that two of my daughters are at UNAM.

HON SPEAKER: I thank Honourable Minister John Mutorwa. Question 94 is put by the same Honourable Member Mr Pretorius. Is there any Cabinet Colleague who has been assigned to respond on behalf of the Prime Minister? None. The question will stand over.

HON PRETORIUS: Mr Speaker, on a Point of Order. I just want to put it on Record that I put the question already a month ago and it has already been postponed three times.

HON SPEAKER: We note the concern by the Honourable Member. Question 102 is by

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Honourable Member Tsudao Gurirab. Does the Honourable Member put the Question?

QUESTION 102:

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Speaker, the answer to the question by Honourable Tsudao Gurirab from the CoD group is a pertinent one and the question is whether any foreign investor has ever been requested to grant shares in companies as a precondition to investing in the marine resources sector.

Honourable Speaker, from the time of Independence, Government has encouraged the formation of joint ventures between Namibians and foreign investors. May I, however, provide a little background on this matter?

Currently we have 159 right holders operating in Namibia's various fisheries. All fishing companies are corporate bodies who have established their businesses here. By 1999 only one company was 100 percent foreign owned. Currently this company is working in a joint venture with a Namibian Company.

Let me also comment on the validity and appropriateness of foreign investment in the marine resource sector as being questioned by the Honourable Member from the CoD group. All fishing and fish processing companies, whether joint ventures or not, employ our people and invest in our future in line with our policies and laws. Such companies, therefore, invest in land-based facilities as well as in vessels. They continue to provide support to social development projects throughout the Land of the Brave. In addition, they pay taxes, quota levies and other dues to the State.

Honourable Speaker, foreign investment is what we preach and we welcome it. Indeed, considerable opportunities exist for expansion of foreign investment with Namibian partners in the Namibian marine sector. This is in line with the Investment Act, quoted by the Honourable Member from the CoD. It is also in line with the policies of the Government. Policies have been put in place and they have worked and continue to work.

I, therefore, express my appreciation to Honourable Tsudao of the CoD group for having posed this relevant and sound question. I thank you.

HON SPEAKER: I thank the Honourable Minister for his reply. Question 104 is by Honourable Mr Pretorius to the Honourable Minister of Labour.

QUESTION 104:

HON DEPUTY MINISTER OF LABOUR: Honourable Speaker, I would like to answer the questions posed by Honourable Pretorius on whether, as a matter of urgency and in national interest. The Report and the recommendations of the Cabinet Committee on the Eviction of Farm Workers Report will be made public before the adjournment of this august House on the 15th September 2004?

Honourable Speaker, Honourable Members, I would like to thank Honourable Pretorius for his interest and urgent request on the Report on the Recommendations of the Investigation Committee on the Eviction of Long-serving Farm Workers. I am sure that all of us in this august House are eager to see that problems which have been haunting farm workers are appropriately addressed. However, although it is an urgent matter, due to the consultation process, which has to take place with Line Ministries, and social partners involved, the process may still take some time. Therefore, the possibility does exist that the Report will not be tabled before the adjournment.

Nevertheless, I am happy to inform the Honourable Member that the work of the Committee is at an advanced stage, which is looking at the plight and the well-being of the farm workers. The Committee sat on the 27th of October 2004 to discuss the final Report, which will be tabled before Cabinet in the near future and, thereafter, will be tabled before this august House. I hope that the response above has captured the concerns and the request by Honourable Pretorius. I thank you.

HON SPEAKER: I would like to thank the Honourable Deputy Minister of Labour. Question 105 is by Honourable Pretorius to the Honourable Minister of Justice.

QUESTION 105:

HON DEPUTY MINISTER OF JUSTICE: Thank you, Honourable Speaker. I rise to respond to the question asked by Honourable Pretorius, whether just as in the case of corporal punishment, it is not possible to get a legal opinion about what kind of mental torture, inhuman or degrading treatment or punishment is not allowed according to the Constitution.

Our response to the Honourable Member's question is as follows:

In terms of Article 79(2) of the Namibian Constitution, it is only the Attorney-General who is empowered to refer matters under the Constitution to the Supreme Court for that Court's

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decision. As I understand it, the matter in the case of corporal punishment, to which the Honourable Mr Pretorius makes reference in his question, that is *Ex parte Attorney General in re: Corporal Punishment by Organs of State*, 1991 No. 178, was referred to the Supreme Court by the then Attorney-General. Consequently, the Ministry of Justice cannot answer for the Honourable Attorney-General who is also a Member of this august House. I, therefore, kindly request the Member to refer the misdirected question to the Honourable Attorney-General for any further action she might wish to take on the matter. I thank you.

HON PRETORIUS: Honourable Speaker, I am sorry if I was misguided, but I want to ask the Honourable Deputy Minister whether it is not true that the Line Ministry has to ask the Attorney-General, as was the case with Basic Education to ask the Attorney-General fourteen years ago about corporal punishment. It was not us that asked from the Attorney-General, it was the Ministry. Therefore, I am not a bit confused. I however have no problem to put it directly to the Attorney-General.

HON SPEAKER: Do not explain, put the question.

HON PRETORIUS: I just want to know whether the Ministry of Justice will not be so kind to put the question to the Attorney-General.

HON DEPUTY MINISTER OF JUSTICE: Honourable Speaker, in that case we may consider the request, but I was merely stating the constitutional position as provided by the Supreme Law of this country and that is that only the Attorney-General can approach the Supreme Court for a legal opinion. Thank you.

HON SPEAKER: I thank Honourable Pretorius and the Honourable Deputy Minister of Justice for his response. Question 106 is put by Honourable Member Moongo to the Minister of Health and Social Services.

QUESTION 106:

HON MINISTER OF HEALTH AND SOCIAL SERVICES: Honourable Speaker, I

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would like to respond to the first question, which is quite a relevant one.

The Minister is aware of the problems related to United Africa with their payment equipment, but it is not always a problem. I think once in a blue moon they have a problem with equipment. My Colleague says always, but it cannot be always, because otherwise we are never paying anybody.

There is a Steering Committee comprising of the staff members of my Ministry and United Africa, whose Chairperson is my Deputy Director of Social Assistance. The Committee meets once per month and deliberates on problems experienced and corrective measures are taken. It should be noted that the machinery being used for payment is very sensitive to dust and undue movement. Therefore, when these machines travel to places like Opuwo on a day the wind is blowing and you can hardly see in front of you, you can imagine how these machines are affected by the dust. As a result of poor roads, especially in the rural areas, the paymasters do experience some delays related to breakage of these machines.

Question 2: In the light of fraud experienced in the past, fingerprints are now taken when one qualifies as a beneficiary. Unfortunately, almost every month we find that more and more older people do not receive their funds as a result of the condition of their fingerprints.

At the inception of this programme, the Minister launched an awareness campaign, informing the pensioners to pay special care to their hands and fingerprints when working as the machines may reject their fingerprint patterns and define them as unknown. When this happens, no payment can be made as the beneficiary would be unknown to the software.

We also went on and lowered the allowable fingerprint verification level on the software in order to accommodate these beneficiaries. Currently we find ourselves at a stage where if we have to lower the verification levels more, then we will have a security breach. The machines will not be able to distinguish between the fingerprints captured at the payment and those that are already part of the software package used as means of verification.

Against this background a press release and awareness-raising exercises were started, which are still ongoing, to inform pensioners to appoint trustworthy members of their families as procurators or to change their pay point to either NamPost or a bank so that we can stop this problem of the fingerprinting. However, the beneficiaries do not trust these members. When I was in Oshigambo, opening my clinic, these points were raised by beneficiaries.

In some instances, people have positively responded to our request, however the majority of the people, especially those in the remote areas do not want to identify someone as procurator. In some cases, they do not even have confidence in their Headman, or in the Councillor, or in their own township children. When I was opening the clinic in Oshigambo, the old people raised that point and said that when they send their beneficiaries, half of their

pension is taken by these beneficiaries. Sometimes they take up N\$200 and the old person is only left with the rest of the pension money. I think the solution is to use NamPost.

To this end, it would only be proper to request “to whom it may concern”, including Honourable Moongo, to help us convince the beneficiaries to appoint procurators in instances where they experience problems with the verification. It is a very serious problem.

Just to tell you that the fingerprint story is very serious, because the old ladies are digging in the garden, their fingers are cut and when they do the fingerprinting, you find that cut there and the pattern has changed. It is really a difficult problem and in future, we have to encourage our people to get the money from NamPost. That again is a problem with transport and then the children are stealing their money. I do not know what the solution is.

Question 3: When payments are prepared, specific areas and Regions are grouped on the system and sufficient money as per payment schedule, taking into consideration the number of pensioners at these pay-points, are loaded. Provisions to effect payment are made for the people being hospitalised from other areas other than Oshakati Hospital pay-point. When the nursing staff, on the request of the beneficiaries, make such an arrangement with the paymaster, we can take it to the hospital, but arrangements must be made way in advance. However, there are other beneficiaries who would come from the pay-point of Okatana and Ongwediva when the payment programme started earlier in Oshakati. They cannot wait because they feel that pay-point is open, we will rather go there.

It should be noted that the money paid out is controlled as a security measure. These people cannot be helped unless the legitimate beneficiaries of that specific pay-point are assisted. You come to a pay-point which has the community of that area who are receiving their money from the pay-point. If you now rush to Oshakati, they have to first pay the people who are supposed to be paid at that pay-point and only then can they be helped if they sign. This is why they should be told not to run around from their pay-points to another pay-point.

It should be noted that the money paid out is controlled. As a security measure, these people cannot be helped unless the legitimate beneficiaries of that specific pay-point are assisted. In actual fact, everybody is supposed to receive his or her grant at a designated pay-point.

Question 4: The Ministry of Health and Social Services on numerous occasions had demonstrated its commitment towards the senior citizens through a number of efforts, which are reported in this Chamber. I will summarise the steps taken by the Ministry to address the Honourable Moongo’s concerns.

Prior to Independence specific grants were paid in terms of the Social Pensions Act 37 of 1973. This is somewhat characterised by extreme inequalities where the advantaged group received R382 per month, compared to as little as R55 per month by the disadvantaged

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grouping. In 1992 after Independence, the National Pensions Act 10 of 1992 was promulgated by Government Notice 46. Through the introduction of this Act, the Government brought about harmony and eliminated all forms of discrimination and put all beneficiaries as equals.

In 1994 the rates were equalised to N\$135 per month for all Namibians of 60 years and older. This implied a 145% increase in just four years. In April 1996 the amount was again increased to N\$160, which represented 19% increase in just two years. In the year 2000 the amount was again increased by 12,5% from N\$160 to N\$200. In 2002 it was again increased by 25% to an amount of N\$250 per person. On the 1st of April 2004 it was again increased by 20%, amounting to N\$300 person per month.

Currently the Ministry has almost 130,000 pensioners, of which 115,000 are old-age pensioners. This number of pensioners requires about N\$467,860,400 per annum. The Ministry also anticipates processing about 5,000 new applications this year, thus an additional amount of N\$18 million would be required to effect the payment.

Complementary to the above, the Ministry introduced a funeral benefit plan in 2001. Under this plan all pensioners are covered and entitled to a claim of a funeral benefit of about N\$2,000. Currently an amount of N\$18,712,665 is spent per annum on the insurance premium and with the addition of the projected new applicants up to the end of this Financial Year, an amount of N\$19 million would be required to effect that payment.

Honourable Speaker, should the current pension be increased to N\$500 per month, as implied by the Opposition Party, this implies that the Government will need N\$809,694,435 for the pensioners who would be on the payroll, including the children's grant and new applications anticipated to be received in the following year.

When you add the amount needed for the funeral benefit, the sum total will be N\$829 million. The Budget of the Ministry is about N\$1,3 billion and adding the abovementioned costs, the Budget of the Ministry will exceed N\$2 billion. Thus payment of pensions alone will take 50% of the total Budget of the Ministry in relation to the 33,9%.

To this end, the aforementioned would warrant that an increase of basic State grants up to N\$500 in the foreseeable future is virtually impossible and do not come and make a speech on it, I am explaining.

Honourable Speaker, it is only South Africa, which is paying more than Namibia in the SADC Region. By the way, Honourable Moongo is aware that Namibia is the only country offering funeral benefits of N\$2,000.

Before I conclude, I think we are giving some dignity to the lives of our old people and give

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them dignified funerals, rather than putting them in body bags as is happening elsewhere.

With these few remarks, I thank the Honourable Member for posing these very important questions.

HON MOONGO: Honourable Minister, I thank you for the detailed answer, but I would like to know whether it would not be a good idea for security reasons that if the machines do not accept the fingerprints, we can use the Councillors, Headmen and also the Magistrates, rather than an elderly person staying without pension for three to five months. Would that not be a good idea?

HON MINISTER OF HEALTH AND SOCIAL SERVICES: Yes, the idea has been tested and the old people themselves have lost trust in their Headmen, in the Councillors, in their own children, because apparently these people are taking half their pension for that service. It is better to try to help them than them losing their money.

HON SPEAKER: I would like to thank the Honourable Minister for her response. Question 109. Question 4 is ruled Out of Order. Does Honourable Chata put the Question?

QUESTION 109:

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Comrade Speaker, in Question 1 the Honourable Member would like to know whether I am aware that the road contractor has destroyed crop fields around Liselo for the gravel used in the construction of the said road.

The answer is as follows: No borrow pits were identified for gravel in the area of Liselo community. Before we start with the borrowing pits, we take samples to the laboratory for testing to see whether those materials meet the specification. If not, we just continue to try to find good construction materials. The same applies to the road between Kongola and Katima. There are no good construction materials in that area and, therefore, we approached the Government of Zambia in order to help us with construction materials.

Question 2: I may say that that every farmer whose crop fields around Liselo or elsewhere in the country are destroyed by gravel use in the construction of the road will be compensated.

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That is the policy and not only on the roads, have we also done the same with the railway. Fruit trees are also compensated.

Question 3: The Colleague would like to know whether there is a policy. Of course, there is a guideline in place for compensation of the affected communal farmers with regard to road and railway projects. Thank you very much.

HON CHATA: I would like to thank the Minister for his answers. Of course, I realise he is fed with information, but I have different information. Thank you.

HON SPEAKER: The purpose of the question is to seek information and to demand official action on positions stated. I thank Honourable Minister Amweelo for his response to questions put to him. Question 111 is put by Honourable Namises. Does the Honourable Member put the Question?

QUESTION 111:

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Thank you, Honourable Speaker, Honourable Members. Question 1 by Honourable Namises is: How many Regional offices have been opened to cater for women and children by the Ministry since its establishment? The Ministry has Regional offices in all 13 Regions, which are catering for gender mobilisation and awareness, community development, awareness of the rights of the children and their welfare and the establishment of early childhood development centres.

Question 2: What is the staff complement? The Ministry has gender liaison officers in some Regions, namely in Omaheke, Erongo, Oshana, Karas, Hardap, Otjozondjupa, Omusati, Oshikoto and Ohangwena and community liaison officers in all Regions. We are in the process of appointing gender liaison officers in the remaining Regions of Khomas, Kunene and Kavango.

On the side of Child Welfare services, we have appointed Social Workers in eight Regions, namely Erongo, Oshikoto, Oshana, Caprivi, Hardap, Khomas, Omaheke and Otjozondjupa. We could not fill vacant positions in Omusati, Karas, Kavango, Ohangwena and Kunene due to social workers' unavailability. The Social Workers at the headquarters are therefore assigned to cater for those Regions where there are no Social Workers.

Honourable Members, we have community activists at constituency level in all Regions and support staff to ensure smooth running of administration in all regional offices. The regional staff complement is, therefore, 161.

Question 3: What training do they have? The Ministry of Women Affairs and Child Welfare, when established on 21st March 2000, was made up of various components from other Ministries, like the Department of Women Affairs from the Office of the President, Community and Early Childhood Development from the Ministry of Regional and Local Government and Housing, Child Welfare from the Ministry of Health and Social Services and Administration and General Services from the Ministry of Youth and Sport. All new staff members joining the Ministry are taken through an induction course and in addition, attend various short courses to equip them with the necessary knowledge and skills to enable them to perform their duties.

As a part of our capacity building, the Ministry has made plans with UNAM, which is offering Gender courses to train our officials in Gender courses. NAMCOL offers courses in Community Development through UNISA and arrangements for next year are made for some of our staff members to enrol for that course. The Ministry has realised the importance of personnel training and encourages its staff members to enrol, for Diploma courses in Gender and Community Development.

All Social Workers have university training and are professionals registered with the Board of Social Workers of Namibia.

Comrade Speaker, Honourable Members, the Ministry also has arrangements in place to pay for staff members who want to further their studies with UNAM and Polytechnic of Namibia. These far four staff members have finished their courses in Community Development, seven in Gender and three in Public Policy and Administration with the Ministry's assistance at different institutions of higher learning.

Question 4: What kind of programmes are carried out and what impact does it have on women and children? The programmes include gender participation and awareness creation, including sanitation in the domestic violence as well as literacy workshops for communities and Traditional Leaders. This has resulted in awareness being created among communities about their rights and the rights of the children, which were not really regarded as a priority in Namibia before Independence.

Thus far 11 Regions were covered, namely Oshana, Omusati, Ohangwena, Oshikoto, Otjozondjupa, Hardap, Erongo, Kavango, Karas, Omaheke and Kunene. The Ministry has set up a National Gender Mainstreaming Task Force to encourage implementation of a multi-sector approach of gender mainstreaming programmes at all levels of decision-making and in all sectors of development.

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HON MUHARUKUA**

The training for women and men in business has been conducted since the Department of Women Affairs and is still continuing to empower them with skills how to run their businesses. The Ministry supported many projects with money and sent them to Regional and National Trade Fairs where they exhibited their products and networking with entrepreneurs from other countries. The following are eleven successful projects, which are ready to pay for themselves when attending international fairs: Erongo: Pangu Textiles, Nakana Tailoring Project, Peneyambeko Pottery, Hardap Tannery, Khomas : Hangatene Project, Ngatumunike Nawa Project. Oshana: Annelie Fashion Design. Otjozondjupa: Veino Textile Otjozondjupa Project. Ohangwena : Tuyakula. Okavango: Kayumbi Co-operative Tailoring

The Ministry has also mainstreamed gender into young people, sexual and reproductive with support from UNICEF. Under the programme, training has been provided to young people on reproductive issues, including education on HIV/AIDS and the male and female condoms. As a result, young trainers were trained.

The Ministry is mobilising and educating parents in communities on the importance of establishing early childhood development centres or kindergartens, especially in formerly disadvantaged. Community parents are encouraged to enrol all their children, including those affected by and infected with HIV/AIDS and other vulnerable children. As you all know, many schools nowadays are reluctant to accept children who did not go through pre-schools. As a result, ECD centres are there to prepare young children from the age 1 to 6 for formal schools. We thus far have 71,309 children of which 53,000 are girls, including you, Honourable Namises. She has her own children. (Interjections).

I am responding to the questions asked by Honourable Namises, not by you, because Namises has children with you. Sit down! (Laughter).

HON SPEAKER: Order in the House! Can we hear the Honourable Member?

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: With the assistance with the Ministry of Basic Education, Sport and Culture.

HON SPEAKER: No, we cannot allow a Point of Order, because the Honourable Member is responding. The opportunity for a Point of Order by the person put the question comes through the supplementary questions. However, no one can raise a Point of Order.

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HON ULENGA: Honourable Speaker, I know I can always rely on your judgment at all times. On a Point of Order. Seeing that inferences and argumentations and insinuations are not allowed on the side of the question, they would definitely also not be allowed on the side of the answer. Honourable Speaker, I think the Speaker should rule the Deputy Minister Out of Order on that account.

HON SPEAKER: Honourable Ulenga, you are Out of Order. Proceed.

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE:
Comrade Speaker, Honourable Members, the ECD curriculum is finalised and will be tabled during next year, 2005, before introduced to all ECD Centres.

Honourable Speaker, Honourable Members, the OVC Programme is also picking up. The OVC Permanent Task Force was established to coordinate OVC activities at national level and to help Regions and constituencies to ensure implementation of OVC activities and information. Thus far the Ministry has established OVC Forums in ten Regions, Karas, Erongo, Omaheke, Otjozondjupa, Oshikoto, Kavango, Caprivi, Kunene, Omusati and Oshana, to attend to the needs of the children's rights in their Regions. Social grants are also provided to 22,000 OVCs in need and now new applications are being added daily on the grant system.

Honourable Speaker, Honourable House, I think those who oppose because of the campaign, even Honourable Ulenga does not want me to answer and I want to tell this Honourable House that from today on, no questions because of the political campaign. I thank you.

HON SPEAKER: I thank the Honourable Deputy Minister Muharukua for her response. I shall now ask the Secretary to read the First Order of the Day.

**COMMITTEE STAGE : AGRICULTURAL BANK OF NAMIBIA
AMENDMENT BILL**

HON SPEAKER: Does the Honourable Deputy Minister of Finance Move that this Assembly now goes into the Whole House Committee? It is therefore moved that I leave the Chair. Any objections? Who seconds? Agreed to. I shall now call on the Honourable

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Deputy Speaker and Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOSE HOUSE COMMITTEE: The Committee has to consider the Agricultural Bank of Namibia Amendment Bill.

Clauses 1 and 2 put and agreed to.

Clause 3 put.

HON PRETORIUS: Mr Chairman, on Clause 3, the words, “*subject to Section 3 that a member holds office at the Minister’s pleasure*”. Honourable Chairman, the Honourable Deputy Minister very much reminds me of my wife. My wife usually says that I am answering her questions like a politician, she does not know what I have said after I have answered her questions. Therefore, just for the sake of the Record, what I said is that I support this Bill in principle because that was my point of view twelve years ago, but I cannot support the political motivation and more in particular these words, “*at the Minister’s pleasure*” because that is not legal language and I would like to have it changed to legal language and not political rhetoric.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussions. Would the Honourable Deputy Minister like to respond to the contribution by Honourable Pretorius on Clause 3?

HON DEPUTY MINISTER OF FINANCE: Comrade Deputy Speaker, Sir, yesterday when I responded to the Honourable Member Pretorius, I did say he is stopping at the word “*pleasure*”, but he should take cognisance that the sentence is much longer than that and it is giving the Minister a very limited discretion. The Honourable Member is also saying that this is not legal language. That language was used by lawyers and when we discussed it with them, they did inform us that they normally use that word when they refer to appointments. Thank you.

HON PRETORIUS: Mr Chairman, just for the sake of clarity, I am not aware that it was used in the past, I may be wrong, but in our Constitution, no appointment by His Excellency the President is indicated as at the President’s pleasure. It is a power given to an official in a

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certain office, but not in that sense. That is political rhetoric, not legal language.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussions?

HON DEPUTY MINISTER OF FINANCE: Honourable Speaker, I think the Honourable Member can have his own interpretation. He has the right to have his own interpretation.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any objection to Clause 3?

HON PRETORIUS: I just want to record my reservation.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clauses 3 to 7 and the Title put and agreed to.

ASSEMBLY RESUMED:

Bill reported without Amendment.

HON SPEAKER: Before I put the Question for the Third Reading, let me just say this: When one is operating within the Rules and Rule of Law, it is not how powerful you are or how articulate you are, it is a question of one hundred percent conformity to the Rules. Conventionally we can function as long as nobody brings any word to our attention of inefficiency in our operations. If we hear it, then obviously if we proceed, then we are already on the wrong side of the Rule of Law and the reason why I am asking is, if the person the next day comes and say, "*did we have a quorum on this day at this hour*" and it is confirmed that indeed there was not, then the validity of what we are doing gets negated and it is really a waste of energy and time, then just to be told that the work that you have invested so much energy in is null and void. This is why I am explaining what I am explaining, because we had a whisper from one side, calling for that secret word. It does not matter who it is, but it is a question of what we do if he insists. Since we heard it and to be

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honest with ourselves and with myself, I will ask the Secretary to ascertain that we have a quorum. Let the Whips go outside, some people may be smoking out there or in the Restaurant. We may proceed, we have the validity that the Constitution accords us.

Does the Honourable Deputy Minister of Finance move that this Bill be now read a Third Time? Any objections? Who seconds the Motion? Agreed to. Any further discussion?

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HON DEPUTY MINISTER OF FINANCE: Comrade Speaker, thank you very much. I would just like to use this opportunity to thank Honourable Members for allowing this Bill to go through.

HON SPEAKER: I now put the Question, that this Bill be read a Third Time. Any objection? So agreed. The Secretary will now read the Bill a Third Time.

**COMMITTEE STAGE:
RESEARCH, SCIENCE AND TECHNOLOGY BILL**

HON SPEAKER: Does the Honourable Minister of Higher Education, Training and Employment Creation move that this Assembly now goes into the Whole House Committee? Any objections? Who seconds the Motion? I therefore call on the Honourable Deputy Speaker and at the same time the Chairperson of the Whole House Committee to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Research, Science and Technology Bill.

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TECHNOLOGY BILL
HON N ANGULA**

Clauses 1 to 5 put and agreed to.

Clause 6 put.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION: Honourable Chairperson, in clause 6:

(a) substitute the following paragraph for paragraph (e) of sub-Clause (1):

“(e) a person with experience or expertise relevant to the functions of the Commission nominated by the National Council for Higher Education established by Section 4 of the Higher Education Act, 2003 (Act 26 of 2003);”
and

(b) insert the following paragraph after paragraph (i) of Sub-Clause (1), and renumber the subsequent paragraphs accordingly:

“(j) a staff member with experience or expertise relevant to the functions of the Commission nominated by the Minister responsible for Health;”.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Will the Honourable Member table the Amendments?

Amendments put and agreed to.

Clause 6, as amended, agreed to.

Clauses 7 to 17 put and agreed to.

Clause 18 put.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION: Mr Chairman, in clause 18, substitute the following Sub-clause for Sub-clause (3):

“(3) The Commission must submit a national programme to the Minister for comment who –

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- (a) *after any change made to it, if any, will submit it to Cabinet for approval;
and*
- (b) *As soon as practicable after approval by Cabinet, must table it in the
National Assembly.”*

Amendment put and agreed to.

Clause 18, as amended, put and agreed to.

Clauses 19 to 21 put and agreed to.

Clause 22 put.

**HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION:** In Clause 22, substitute “*Commission*” for “*Minister*” wherever it appears in
Sub-clause (3).

Amendment put and agreed to.

Clause 22, as amended, agreed to.

Remaining Clauses and the Title put and agreed to.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I shall report the Bill with
Amendments.

ASSEMBLY RESUMED:

Bill reported with Amendments.

HON SPEAKER: Does the Honourable Minister of Higher Education, Training and
Employment Creation move that this Bill be read a Third Time? Any objection? Who
seconds the Motion? So agreed. Any further discussions? I will call on the Honourable
Minister to make a few remarks by concluding the Third Reading.

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HON SHIHEPO**

**THIRD READING :
RESEARCH, SCIENCE AND TECHNOLOGY BILL**

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: Thank you, Comrade Speaker. Knowledge is power and wealth and this Bill will go a long way when it becomes an Act to empower Namibia and to contribute to the alleviation of poverty and unemployment. I thank you.

HON SPEAKER: I thank the Honourable Minister for his concluding remarks at the Third Reading Stage and I now put the Question, that this Bill be now read a Third Time. Any objections? So agreed. I call on the Secretary to read the Bill a Third Time.

RESEARCH, SCIENCE AND TECHNOLOGY BILL

**RESUMPTION OF SECOND READING:
PREVENTION OF ORGANISED CRIME BILL**

HON SPEAKER: When this Debate was adjourned on Thursday, 23rd of September 2004, the Question before the Assembly was a Motion by the Honourable Deputy Minister of Justice. This Debate was however adjourned by Honourable Member Mr Chata who adjourned on behalf of Mr Shixwameni.

HON CHATA: Honourable Speaker, as the record indicates, I adjourned on behalf of my Colleague.

HON DEPUTY MINISTER OF INFORMATION AND BROADCASTING: Thank you very much, Comrade Speaker, Honourable Members. It is indeed an honour for me to stand in front of you today in this august House in support of the Prevention of Organised Crime Bill. The tabling of this Bill, to me, is long overdue and I am in full support of the establishment of a Criminal Asset Recovery Fund as well as the Criminal Asset Recovery

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Committee. However, I should thank the Honourable Minister of Justice, her Deputy and the entire staff of the Ministry.

Namibia is a country, which tourists have always found to be very attractive because of its natural beauty, its animals and its tranquil and safe environment. The Tourism Industry is very important to the country due to the income derived from it. We are all aware that tourism is amongst the top foreign currency earners for Namibia and should, therefore, be guarded and protected with all resources at our disposal. However, its assets will vanish if we allow criminals to rule in this country.

In the same vein, the authorities, through established institutions, are hard at work to attract foreign investment to Namibia and will surely succeed if it can, not only guarantee but also ensure that investments are safe and the environment is stable and crime free.

Lately in Namibia, whenever you listen to the news or open a newspaper, you learn about one or the other crime that has been committed somewhere in the country. The criminals are gradually becoming bolder and have no respect for the law. Systematic robbing of banks, shops and other institutions, which are becoming more visible in Namibia, are matters of concern and something worthwhile fighting against in order to stop it.

Presently doing the rounds in our Courts are several transit robbery cases. There is this case where some Namibians teamed up with two South Africans and robbed a security vehicle with about N\$5 million. Although the culprits were apprehended, only a small part of the money was recovered in South Africa.

There are different types of crime – petty crime, serious crime and organised crime, of which the last is the worst type of crime to combat.

With the first two types of crime, the crime stops once you have caught the criminals, but organised crime works like an industry. For every criminal you catch, another one steps in and for every activity you stop, organised crime will look for other outlets. Organised crime, as such, is not new, but they always operated on the fringes of society. Modern organised crime has, however inserted itself in the nerve of our economy and social lives, exploiting human weaknesses regardless of the cost in health and suffering or profiting from the artificial limitation we have imposed by law in order to protect health, safety and the environment. Thus, organised crime has become a corrupting power both by disregarding the law and by the investment of illegal profits in normal economic activities.

Another evil that has a similar effect, if not a more devastating effect on our economy is money laundering. Money-launderers, especially from more advanced countries where there are better legal and regulatory regimes for criminals to avoid those countries, will seek

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countries like Namibia because they think it is less sophisticated. It has less sophisticated symptoms. Whether we like it or not, the issue of money-laundering and underlying criminal activities are real, as they affect our day-to-day socio-economic and political lives in Namibia.

Trends in money-laundering techniques are increasing in sophistication and there is a need to pursue a multi-disciplinary approach. The Government should consult and cooperate with relevant international and regional bodies as well as other countries on these criminal activities.

A comprehensive legislation on these criminal activities should be put in place as a matter of urgency before the country's economy is plundered completely. The absence of such legislation to prevent these activities can result in loss of confidence in our system.

Comrade Speaker, Honourable Members, the idea that organised crime, like other evils ancient and modern, can and should be combated through prevention. The authorities, therefore, should adopt the strategy which is not only reactive, but also anticipatory. It must also be able to adapt to the evolution of the different forms of criminality. The Prevention of Organised Crime Bill makes provision for just that.

Honourable Speaker, Honourable Members, the passing of this Bill will give the Namibian Crime Prevention Authority ammunition to combat crime, which will allow the Namibian people and their visitors to sleep comfortably at night. My wish, therefore, is that this august House approves the Prevention of Organised Crime Bill at its earliest.

Comrade Speaker, I thank you very much and I rest my case.

HON SPEAKER: I thank Honourable Deputy Minister Shihepo and I now call on Honourable Nambinga.

HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES:
Thank you, Comrade Speaker, for the opportunity. I am rising to contribute to and to support this important legislation, the Prevention of Organised Crime Bill.

It is a well-known fact that after Independence, the Government has been doing its level best to ensure that peace and stability, which is the foundation of economic development, prevails in the country. However, it is also a well-known fact that Namibia, formerly known as South West Africa, was a country closed to the international community. After Independence and

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when it became part of the international community, it, like any other country, opened its doors to the international community.

As a consequence, it is my opinion that it fell prey to international organised criminal activities.

Criminal activities like armed robberies, car hijacking, gang rapes and so forth have an element of foreign influence alien to this country. I say so because I believe that they were unknown in Namibia before independence. Today as we are seated here, many Namibians, especially those in the cities, have become hostage of organised crimes, which are mostly perpetuated by gangsters. I am, therefore, happy that the Honourable Minister of Justice has thought it proper and appropriate to introduce this piece of legislation, as I mentioned earlier.

Much as I appreciate the efforts of the Honourable Minister of Justice to address this problem, I have a few concerns regarding the Act and I remain doubtful as to the possible effectiveness of some of its provisions when it is enacted as a law. I would especially like to point out and speak on certain provisions, which to me are worrisome, not that they are bad, but I think as I speak you will get what I am saying.

In Chapter 2, Clause 2(1) reads: *“Any person who within Namibia or elsewhere receives or retains any property derived directly or indirectly from a pattern of racketeering activity knows or reasonably to have known that that property is so derived and uses or invests directly or indirectly any parts of that property”*, etcetera, *“commits an offence.”* Comrade Speaker, my doubt regarding the soundness of this provision is that how easy will it be for the law enforcement agencies firstly, to detect, to arrest, but most importantly to prove in a Court of Law beyond what the legal-minded people term *“reasonable doubt”* that this in fact was received from people who were engaged in organised crime?

Equally, Comrade Speaker, much as we know that the Namibian community is crying out to be rescued from these activities of criminals, we are also aware that the same community is the very one which will make it very, very difficult for the law enforcement agencies to succeed. It is our community that has fallen victim to these dirty and evil activities, which harbours, which buys things from criminals.

In addition we also have people in our community who are parents and who are benefiting directly from these criminals, so much so that they make it difficult for the law enforcement agencies and that is why I am saying it is a very good piece of legislation but I anticipate problems that our law enforcement agencies are going to encounter.

My further concern, Comrade Speaker, is on Clause 14 of the Bill which says: *“In considering whether a person is a member of a criminal gang for the purpose of this Act, the*

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Court may have regard to all relevant factors, including the following: (a) that the person commits to criminal gang membership; (b) is identified as a member of a criminal gang by his or her parents, guardian or relatives.” As I said earlier on, given our lenient laws, that sometimes our law enforcement agencies have their hands tied and when they interrogate, they are sometimes accused that they went to the extreme or they will be blackmailed as having beaten, etcetera, now for us to expect this member who admits he is a member of a gang or for their parents to admit that their children belong to a gang, is something that I doubt. However, I am not saying we should not try, I very much appreciate the production of this Bill. I am just airing my concerns.

Comrade Speaker, Honourable Members, when we come to the penalties in this Bill, we are told that people who are found guilty for perpetuating these ill-deeds are to be punished accordingly. Clause 3 for example says that *any person convicted of an offence referred to in this Bill will be liable to a fine not exceeding N\$1 billion and to imprisonment not exceeding 100 years or both.* My worry is that this provision, good as it is, may not stand the challenge of the Namibian Constitution’s interpretation.

When you look at the prisons and imagine we are talking of people engaged in these criminal activities whose age is either 18 or above and when you speak of a person sentenced to a term of hundred years without any possibility of parole, then the question is, will this stand the Namibian Constitution’s interpretation?

I remember, for example, that at one point in time while I was already at the Ministry of Prisons and Correctional Services, we wrote a letter to the Office of the Attorney-General, soliciting a legal interpretation of a life sentence and we were told that if someone has been sentenced to life imprisonment, it is expected that after having served 25 years, such a person must be considered for parole. It was said that life imprisonment should never be interpreted as saying that one should spend his or her whole lifetime in prison.

A reference was also made to apparently an interpretation, which was made by the late Chief Justice Mohammed who said: *“Life imprisonment is a punishment of discretion severity. It could be a prohibitive punishment if it means to incarcerate one for the rest of one’s time. A person’s right to dignity, which would include his right not to live in despair and hopelessness would be infringed if there was no hope of release regardless of the circumstances. Namibia’s legislation permits lifers to be considered for parole, thus a sentence of life imprisonment without the prospect of release would not pass the constitutional master. The same principle applies to the imposition of long terms of imprisonment in excess of the prisoner’s life expectancy in order to prelude the prospect of parole.”*

This is where my fear is, that much as the Bill sounds good and I am sure that all of us would

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like to support it. One honestly wonders whether we will be successful with the first person to be sentenced to hundred year's imprisonment and N\$1 billion or both. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: May I ask Comrade Nambinga a question? How do you expect those people to be punished who steal millions of the Namibian Government's dollars? How do you expect them to be punished? Is it not for the purpose to retrieve that money?

HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES: I said, and I hope I am understood, that I think all of us will support this piece of legislation, but my fear is the constitutional interpretation. You and I are not legal-minded people and that is why I wonder whether the sentence of the first person who would be sentenced to one hundred years plus N\$1 billion or both would not be challenged. However, we wish that it would succeed, I wish it could succeed.

Comrade Speaker, I hope this piece of legislation has passed the Office of the Attorney-General who is the Government's legal adviser and that is why I am optimistic. If you look at the interpretations, you as a lay person wants to believe that these interpretations are based on provisions in our Constitution. I, therefore, feel that unless we would have the political will to address the constitutional provisions, that we know will hinder us from implementing this legislation, we may not be able to succeed. Some of our Colleagues will say we should not talk about the Amendment of the Constitution, but to me a Constitution can only be good if it is a hundred percent reflection of the will of the people of this country. I know we are being applauded as a country, apparently we have a very good Constitution, by developed countries who failed to have the same Constitution, but at times our hands are tied, apparently because it is not in line with the Constitution. Why can we not have the political will to amend the Constitution? A Constitution can be rewritten.

I remember one day I was speaking to Honourable De Waal during a tea-break and we were discussing the crime rate. We agreed that certain things are not possible, because our Constitution has made it impossible to do certain things. (Intervention)

HON DEPUTY MINISTER OF HOME AFFAIRS AND IMMIGRATION: On a Point of Order. May I pose a question to the Colleague? Are you aware that you have my full support concerning your sentiments on the Constitution?

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HON SPEAKER: Honourable Nambinga, may I share this on a lighter note so that you can continue with a lighter heart on the very serious questions you are putting. I am told that sometime in the seventies or eighties there was a monarch who was advised by educated lawyers. He asked them, *“what is going on with my nation, why are these problems not being solved, I sent you to school, you are educated, and you have to solve these problems”*. Then the educated lawyers said, *“Your Majesty, it is the constitution that is tying our hands.”* The monarch said, *“Next meeting, bring me a copy of the Constitution”*. He took the constitution and tore it up and the Permanent Secretary of the Ministry of Justice went out and said the monarch has suspended the Constitution. It is part of us. I just want to share the information.

HON DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES: What I was saying, during the discussion with Honourable De Waal we agreed that much has to do with our Constitution and I said that the Members of the Opposition are the ones who proposed the entrenched chapters because they were fearful of the SWAPO Party and he agreed. He said, *“it is true, but now we know each other, we know the SWAPO Government is good.”*

Comrade Speaker, in conclusion, I want to say that this is definitely a very good piece of legislation because our people have become hostages of criminal activities. The gangsters are known, they are there, but whenever the law enforcement agency wants to do something, you are told that will be unconstitutional and you can be sued successfully, the Government will pay. It is time that we as lawmakers be very honest and serious and if there is a need for us as lawmakers, we should do everything possible to make sure that the implementation of this piece of legislation is not prevented by anything. I thank you, Comrade Speaker.

HON SPEAKER: I thank Honourable Nambinga for his very passionate contribution this afternoon. Honourable Jerry Ekandjo.

HON MINISTER OF HOME AFFAIRS: Comrade Speaker, I also want to support the Bill and support Comrade Nambinga. The Constitution is not God, the Constitution can be quoted, can be criticised and the same with the Judges, the Judges are not God. I am saying this because the Judges sit there in the Court, saying Jerry Ekandjo should be tried for something when I was a Deputy Minister. In the *Republikein* of Monday they wrote(Intervention)

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HON SPEAKER: Honourable Jerry Ekandjo, is that not *sub judice*?

HON MINISTER OF HOME AFFAIRS: Yes, it is a Judge that said that. They can be criticised

HON SPEAKER: The case is over?

HON MINISTER OF HOME AFFAIRS: It is not over, I will say it. I will say it!

HON SPEAKER: No, I know you will say it, but you cannot say it under my authority, because that is what put you in trouble in the first place. We have the separation of powers and what Honourable Nambinga was talking about is so sound, he argued very well. We cannot deliberately defy that which we have created, but we can move for Amendment.

HON MINISTER OF HOME AFFAIRS: Yes, separation of power but they say I should be tried, in 1994 I was the Deputy Minister for Local Government and Housing.

They cannot say they are going to sell my property. For what? Now my children read the *Republikein* and they are asking, “*Father, is our property going to be sold?*” For what? I am still going to say it in the public, let them come, I will lock them up, whatever. Let them come with their police! Judges are not God. They must not provoke me. If war broke out in this country, they will be the first ones to run. They must not come and talk nonsense and say Jerry Ekandjo what-what. Who are they? (Intervention)

HON SPEAKER: Honourable Minister, I know this thing is really difficult, but I do not think that the manner in which you are expressing and the forum is the right one. That is a very specific case and as I was reading, my impression was that it is ongoing, because it is not finished. I may be mistaken or I have misread it, that you are expected to. I do not want you to reflect very negatively as if this Chamber will not work with the Judges. We are all tied into the same struggle for nation-building. Please proceed, Honourable Minister.

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HON MINISTER OF HOME AFFAIRS: I went for eight years to Robben Island to bring them where they are today, I did not suffer for nothing. Some of them were reactionaries, including that reactionary Judge Badenhorst who sentenced me for eight years for nothing. Today they are talking nonsense and says Jerry Ekandjo's property should be sold. For what? I am waiting for them, let them come.

Comrade Speaker, let me now come to this Bill. There is a Clause here on money-laundering and I am very pleased because it is overdue, because if, for example, someone robs a bank in Karibib of N\$1,5 million, then that person can just come to one of the banks in Windhoek with a briefcase full of money and bank it, no questions asked. The bank does not ask, "*where did you get the money, where do you work*", they just bank. Today one can go to any car dealer with a briefcase full of money and buy a Mercedes cash. No one will ask, "*Where did you get this money?*" This is money-laundering, because somebody robs a bank and then he or she invests that money legally. This Bill will give power to the law enforcement agencies to trace that money if they suspect something.

For instance, someone works at Oranjemund, his monthly salary N\$1,500 per month, he works for only three months and then he comes to Windhoek and buys a Mercedes Benz, a 4X4 or whatever. Now this Bill will give power to the authorities if they suspect to trace that money. Money-laundering is rife in Namibia and all of us should support the Bill. The Bill will only be effective if our Judges and Magistrates add their weight. They should add weight to things, which are valuable, not come with unnecessary judgments for things one did not do. I support the Bill.

HON SPEAKER: I thank Honourable Jerry Ekandjo for his contribution to this Bill. Honourable Dr Amathila.

HON MINISTER OF HEALTH AND SOCIAL SERVICES: Thank you, Honourable Speaker. I am speaking after the people who work with criminals have had their say. First of all, I would like to wholeheartedly support the Bill. Secondly, I would like to take this opportunity to congratulate our police officers who have successfully apprehended criminal gangs. You all remember we had the Red Eye gang and I do not hear anything about them anymore. Maybe they have changed their name, but they do not exist anymore. At least the Red Eye gang has been apprehended, they do not exist anymore.

There are also this marauding gang we are receiving letters from in Nigeria to share in the loot of the late President Abacha. We hear that if we give our bank account numbers we can share in that money. The other day I received a letter to also share in Mobutu's money if I give my bank account. I think that is also money laundering, is it not? Many Namibians fall

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for that and some have lost all their savings, because we are so greedy, we want money we did not work for. Therefore, we give our bank account numbers and then we are asking the Government to increase the pension because the pension money is gone.

Then we had this marauding Angolan gang of females dealing in cocaine from Brazil. The Police has successfully arrested that innocent-looking stupid girl with 21 kilograms of cocaine. To kill who? Our kids. I am glad that she has been apprehended and I hope they are tracing where that cocaine is coming from. It must be destroyed. I think she is still in jail.

Lately we are also getting murderous gangs. I heard a rumour, I am not sure...
(Intervention)

HON MINISTER OF MINES AND ENERGY: May I ask the Honourable Minister a question? Honourable Minister, this girl that has been apprehended, and there are so many of these small people that are apprehended in the end, do you not think these are only the couriers and the big fish remain in the background and maybe this Bill could be strong enough that those big ones be linked and be caught and not only for the innocent ones to suffer? Do you think that would be a good idea?

HON MINISTER OF HEALTH AND SOCIAL SERVICES: I agree. I think that is the job of our police officers. If they know this girl has a suitcase full of cocaine, they should follow her and find out where she is handing over that suitcase and arrest the one receiving the suitcase. But they may find out who sent her through interrogations, because such a poor-looking girl could not have money for a ticket to go to Brazil, come back and then have that big suitcase. I think it is obvious that these big gangs must also be arrested.

I was relating a rumour. We know we lost one of our best football players. This boy was beheaded and in that group you found our little ones plus, of course, Big Brother from the south. Now they have Al Qaeda, they have beheaded our football player. The other day one beheaded two women with a panga that was not a gang. I therefore think crimes are escalating and I am very happy that the Police are working very hard.

Comrade Nambinga mentioned the role of parents. I know of a case where stolen goods were found under the bed of the mother of this boy. Do you want to tell me she did not know that somebody has dug a hole under her bed? She knew! The parents paid bail, he came out and now he is involved in stealing the car of my sister. When they came to my house, he had tied newspapers around his feet so that you do not see the footprints. They are clever gangs

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of young kids.

In the small villages, the Police know this particular woman is selling dagga, but they will not go there. Some of the police officers plus the parents are involved in the gang activities of their children.

I will not waste time, I only want to ask a question for clarity's sake. We had the Ramatex case here, we were told some of the people are illegal and they were cleared at some point by ourselves without the permission of Home Affairs. Clause 16 says: "*Any person who participates in, or aids and abets the smuggling of migrants, as contemplated in Annexure 3 of the Convention, by land or sea...*". We know these people came through some point and our people were involved in facilitating their entry into Namibia without proper arrangements with the Ministry concerned, would that also be known as trafficking as persons and what are we going to do? Does that story form part of this Clause 16, smuggling of migrants.

The other point is in Chapter 4, on page 14. The Criminal Procedure Bill makes provision for life sentence and here in Chapter 12, Section 1(b) they say: "*...threaten or commit, bring about or perform any act of violence or any criminal activity by a criminal gang or with the assistance of criminal gangs.*" *The punishment for that is N\$250,000 or imprisonment for a period not exceeding three years.*" Violence can include murder and they are not qualifying what violence they are talking about. Violence can include the killing of a person and here we have less than three years as punishment for that and in the Criminal Procedure Bill, we have life sentence. How do you marry the two? If you could explain that to me, I am not a legal mind but I feel that it must be harmonised.

I think I will stop there because I do not want to talk too much about these things and I will support the Bill if they can harmonise those Clauses because violence can include murder. Thank you very much.

HON SPEAKER: I thank Honourable Dr Amathila for her contribution. Honourable Moongo.

HON MOONGO: Thank you, Mr Speaker, mine will be very short, as usual. First of all, I would like to remind the House that if, according to this Bill, investigations can be launched into how you became rich that could cause more trouble because according to the Constitution we have the right to own property. We in Namibia know that jealousy plays a role. If a police officer sees you with an expensive car, he already becomes suspicious and he wants to intervene and this will be very dangerous. If you work hard and become rich,

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like other people here – not those who are stealing – then the one who is not working hard wants to intervene and prevent you from becoming rich. I think this can cause laziness and we must be careful on that point. Every Namibian has the right to own property and through hard work, you can become rich. (Intervention)

HON MUSHELENGA: May I ask Honourable Moongo a question? Honourable Moongo, through the Speaker, there was a time when I was in the bank in Ondangwa and there came a poor lady, wanting to bank her little money and she was asked for a document to prove where she got this money or where she worked. Can that not also apply to those who earn a lot of money or is it just good for the poor ones to be asked where they got the money?

HON MOONGO: It should be balanced, poor and rich, but it must not hinder those who are working hard. Syndicates and organised crime are becoming a serious problem in Namibia. (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: May I ask the Vice-President of the DTA a question?

HON MOONGO: I do not want to waste time on somebody who wants to politicise crime and people are dying. I decline the question. (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: On a Point of Order, Honourable Speaker. I think we have a problem with our own Namibian Constitution today because when the Constitution was written the DTA thought that when SWAPO becomes the Government they are going to kill all the white people, including you. That is why we have a problem with the Constitution.

HON SPEAKER: The Honourable Deputy Minister is Out of Order. Honourable Moongo, I think we did very well because Honourable Nambinga set a very good example, he never made generalised statements and then my brother from my hometown, Honourable

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Ekandjo, tried to get out but I brought him back. In addition, Honourable Amathila stayed on the Bill, so please do not be too general. Make reference to the document before you and let us have a discussion.

HON MOONGO: On page 12 it deals with organised gangsters and I am looking for a solution. I feel Namibia is under threat of organised crime and I would like to propose that we have a special Committee with specialised people to determine how we could eradicate syndicates and organised crime. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: I think the Honourable Member needs to read the Bill. He said page 12, but he should refer to Clause 12.

HON MOONGO: Clause 12(b), “... *threatens to commit and perform.*” That is what I am dealing with and I propose that there should be a special committee to deal with organised crime and eradicate organised crime. (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: On a Point of Order, Honourable Speaker. I support my brother, but as I said earlier on, the DTA caused the problem. I think it would be better to take the Bill to your Party and to decide that you are not going to oppose any Amendment. Thank you.

HON SPEAKER: The Honourable Deputy Minister is Out of Order for the Second Time.

HON MOONGO: I was proposing a special branch in the Police to deal with organised crime and gangsters. The ordinary Police do not have special skills to deal with it and if we have people with the necessary knowledge, we could eradicate organised crime. We also need people with special skills to rehabilitate the gangsters, such as psychologists, bishops or ex-Judges to help rehabilitate hard-core criminals. If we could manage to get those two Committees, we will be a step ahead.

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There is a suspicion that some members of the Special Field Force are committing similar crimes. The other day I mentioned the one in Epunyu and there was another one involved in the Bank Windhoek case in Eenhana. Therefore, we need special branch in Police, which are better than the ordinary police is. There was the one in Etunda who disrupted the classes because of juju and I can term it organised crime, because Education cannot function. Do not make a mistake it is a well-organised thing and it will happen in every Region. We must make provision for all those issues in this Bill and for the burning of people's property. Houses are burnt down and it is organised crime. We can handle many things through this Bill. Thank you very much.

HON SPEAKER: I thank the Honourable Member for his contribution. Honourable Kasingo.

HON DEPUTY MINISTER OF HOME AFFAIRS: Honourable Speaker, in making my short intervention on this Bill, I would like to associate myself with the sentiments expressed by Comrade Shihepo, Comrade Nambinga, Comrade Ekandjo and Comrade Dr Amathila. Honourable Speaker, my intervention is specifically on Chapter 7 concerning Criminal Assets Recovery Fund.

I welcome this Fund, more specifically since its function is to assist the law enforcement agencies in performing their duties, because we are all aware that the budgetary provision for the Department of Police in Home Affairs currently is not enough and I hope and wish that by the time this Bill becomes operational, the Cabinet will decide in favour of the Police Force.

Honourable Speaker, I would now like to ask some questions to my Colleague. In Clause 74(2) the Minister of Justice is required to appoint an Accounting Officer to manage this Fund, after consultation with the Minister of Finance.

When I look at this Bill, I do not get a clear picture on the status and level of this Accounting Officer and I would like to know whether this Accounting Officer would be subject to the Public Service Act. The reason why I am worried that the conditions of employment are not clearly spelled out is that we are dealing with a Fund, which in future will administer billions of dollars, and I would like to know what kind of salary and other conditions of service this person would get.

I would also like to alert my Colleague that that person should be of high standard, because he is going to deal with a lot of money recovered from international and local criminals.

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Another question is on Sub-clause 74(3), which states that the staff member or person referred to Sub-section (2) is accountable to the committee. It is referring to the Accounting Officer. Why is this person appointed by the Minister of Justice, but he is accountable to the Committee? What justification can my Colleague give concerning this?

Another query is on Clause 75(d), which deals with the source of funds. It is stated: “*The domestic and foreign grants to the Fund*”. I am afraid that, when we have that Fund and we allow it to be funded by sources outside, would we not be falling into a trap where the Mafia would be giving us a grant and you find yourself eating food from the spoon of your enemy?

Otherwise, I will support the Bill and I congratulate the Minister and the Deputy Minister. Thank you.

HON SPEAKER: I thank the Honourable Deputy Minister Kasingo for her contribution. I call on Honourable Iilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Thank you, Comrade Speaker. I rise to contribute to the Prevention of Organised Crime Bill, a Bill which is in the interest of the Nation and I want to echo a sentiment by previous speakers, especially Comrade Nambinga, that the Ministry of Justice should really consider the interpretation of late Chief Justice Mohammed and further advise us on that.

I also have something on Chapter 7, Clause 74, and crime asset recovery. I just want to find out how this Recovery Fund is going to be operated. We had the Social Security saga, it was public moneys deducted every month, the brokers came, money was invested and the State who is the owner of that money, received no report that “*from your twenty cows we have twenty calves.*” The money went to another person, but you just have a cow without a calf. How will the Recovery Fund recover the money?

Another concern, Comrade Speaker, is on Section 20 which deals with realisable property and that can be read together with Section 28. That is an instrument, which was very weak in our legal system, and if this Bill is going to be implemented, anything realisable must be confiscated and when confiscated, the State must be reimbursed. Then we will not have people driving big cars while that person has not worked in two years. Comrade Speaker, you have been the Speaker since Independence of this country, but you are not in a position to buy a Mercedes, you cannot afford it. This Bill must be supported and the research Comrade Nambinga did will help us to amend that Article in our Constitution and I hope Article 100 on ownership will also be included in that, so that land, water and natural resources below and above must be the property of the State and not to be owned by

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individuals.

Clause 43 stipulates that the High Court may exercise the power conferred upon it. This is read together with Clause 28 which means decided to be confiscated must be taken before those crooks remove it. I hope that our police officers and the Master of the Court will work as a team to ensure that anything, which is suspected to be stolen property, must be confiscated and kept at a safe place, so that the criminals cannot remove it. Later when the law has taken its course, the property may be returned to the rightful owner.

With those few words, I support the Bill and Honourable Moongo must not be offended, because I think he is part of the gang.

HON SPEAKER: I thank Honourable Iilonga and this House now stands adjourned in terms of Rule 90 until Tuesday, the 5th of October 2004.

HOUSE ADJOURNS AT 17:45 UNTIL 2004.10.05 AT 14:30

ASSEMBLY CHAMBER
05 OCTOBER 2004
WINDHOEK

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Reports of Standing or Select Committees? Other Reports and Papers? Notice of Questions?

NOTICE OF QUESTIONS

HON PRETORIUS: Mr Speaker, I give Notice that on Thursday, the 14th of October 2004, I shall ask the Honourable Minister of Basic Education, Sport and Culture:

1. Whether his Ministry has submitted an Affirmative Action plan to the Employment Equity Commission; and
2. Whether it is possible to make a progress report for the last three years available.

HON SPEAKER: Will the Honourable Member please table the Questions? Any further Notice of Questions? Notice of Motions? Any Ministerial Statements? Honourable Prime Minister.

MINISTERIAL STATEMENT

RT HON PRIME MINISTER: Honourable Speaker, in keeping with the established tradition in our august Assembly, I rise in my capacity as the Leader of Government Business in the House to congratulate the SWAPO Party for successful deliberations that culminated in the decisions taken by the Electoral college and congratulate the leadership and Members of the Ruling Party to wish it well in the forthcoming elections in November and that at the end the best Party will win and that all that would be done in the spirit of reconciliation in keeping with our democratic culture and everything will be clean. Thank you.

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**MINISTERIAL STATEMENT
HON DR AMATHILA**

HON SPEAKER: I thank the Right Honourable Prime Minister for his statement. Honourable Dr Amathila.

MINISTERIAL STATEMENT

HON MINISTER OF HEALTH AND SOCIAL SERVICES: The Ministry of Health and Social Services' Equity Principles state, "*All Namibians shall have equal access to basic health care and social services provided by the Government through the Ministry of Health. Particular emphasis shall be placed to resource distribution pattern in Namibia to accelerate the correction of disparities.*" Since Independence the Ministry of Health has used between 10 to 16% of Government public expenditure on health and social services. Although receiving such an allocation, there has been no marked shift in regional comparisons of expenditures towards poorer Regions.

Key initiatives for the health sector in an integrated poverty strategy thus include, continue to reduce resources allocated to specialised services and to redirect such resources towards primary health care, to reduce inter-regional disparities in health expenditure per capita.

The Poverty Reduction Strategy further states: "*The Ministry of Health and Social Services will address regional disparities in health services to ensure that there are minimum standards for the direct public funding of health services for the needy.*" This will be done through the design of a funding formula that allows for a quantitative regional comparison of expenditure.

The Ministry of Health and Social Services is in the process of developing a resource allocation formula within the public health sector and developed a questionnaire to solicit stakeholders' views and preferences on equity and resource allocation. The views and preferences generated by this exercise will be used in weighing the formula for resource allocation. The Ministry of Health thus needs to consult people at the helm of decision-making as a formula which does not take care of public opinion might not be well-accepted by the public.

Similar questionnaires were sent to Regional Councillors and we have received their responses a long time ago. The problem is to get these responses from the Members of this august House, who happen to be the highest lawmakers.

I am therefore appealing to you all, Honourable Members, to kindly complete the questionnaires and give them back to me. If you have lost your copies, I do have some additional copies here, which will be again distributed. Please fill them in. They will be

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**MINISTERIAL STATEMENT
HON DR AMATHILA**

circulated. Otherwise, tomorrow you will stand here and complain that the Ministry is not doing this, that and the other. We need your opinion. Thank you very much.

HON SPEAKER: I thank Honourable Amathila for her statement and we shall now go into the work of this Chamber as scheduled for this afternoon. The Secretary will now read the First Order of the Day.

**RESUMPTION OF SECOND READING:
PREVENTION OF ORGANISED CRIME BILL**

SECRETARY: Resumption of Debate on Second Reading – *Prevention of Organised Crime Bill*.

HON SPEAKER: When this Debate was adjourned on Thursday, the 23rd of September 2004, the Question before the Assembly was a Motion by the Honourable Deputy Minister of Justice. The Debate was adjourned by Honourable Chata on behalf of Honourable Shixwameni. Is there anyone who wants to take the Floor? I will call on the Honourable Deputy Minister of Justice to reply.

HON DEPUTY MINISTER OF JUSTICE: I thank you, Comrade Speaker. May I, through you, beg the indulgence of the House to respond tomorrow, the 6th of October?

HON SPEAKER: Any objections? So agreed. The reply by the Deputy Minister will be furnished tomorrow afternoon. The Secretary will now read the Second Order of the Day.

**RESUMPTION OF CONSIDERATION: REPORT ON VISITS TO
RESETTLEMENT AND OSTRICH FARMS**

HON SPEAKER: When this Debate was adjourned on Thursday, 23 September 2004, the Question before the Assembly was a Motion by the Honourable Member Ya France. This Debate was adjourned by Honourable Dinyando who now has the Floor.

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VISITS TO RESETTLEMENT/OSTRICH FARMS
HON YA FRANCE

HON DINYANDO: Comrade Speaker, I adjourned the Debate on behalf of Honourable Ya France for his reply.

HON YA FRANCE: Comrade Speaker, Honourable Members, allow me to thank you very much for allowing me to reply to some of the responses, and queries by Honourable Members on our Report on the ostrich and resettlement farms in some of our Regions.

Comrade Speaker, our response has been made very difficult since the HANSARD Division is apparently not functioning well and they are very much behind. I therefore want to beg for your understanding that we may not respond to every query the Members have put.

Firstly, a question was put as to what criteria and formula the Committee has used to identify farms to be visited. The answer to this is that we have taken a cluster of resettlement farms based on a scientific formula of taking data and research and we then visited resettlement farms in those clusters at random. I am sure every Member knows that in data collection, research, you cannot go to every person in order to get the correct information. Therefore, we took a cluster of the Regions and then went randomly to specific resettlement farms.

The Honourable Minister of Lands, Resettlement and Rehabilitation gave the chronological aspects of the resettlement farms and it is appreciated. What we would like to say here is that resettlement in itself cannot be regarded as a total failure. It is not a total failure, it is definitely a good experiment and like any good experiment, you always learn from what you have done so far. In fact, it is recognised that there have been many challenges in the process of resettlement, but I think good results have been achieved on some of the farms. Those who had a little to start with at least made a success out of that, but those who had nothing could not make a success.

As has been pointed out, the lease agreements on these farms has been a big problem and we recognise that the Ministry has also identified that and measures have been taken for leaseholds to be granted to the emerging farmers, which would solve many of the problems.

Another problem is training and many of you have pointed out that no success could be expected if a person does not have any experience in commercial farming. The Ministry has realised this and we have learned that 20% of the Land Acquisition Fund is to be allocated for training and infrastructure development.

Honourable Amathila mentioned dual grazing. It is true that this is a problem and I do not think it will be resolved until those who are given these farms are making use of them. If they are not making use of them, then we expect those who have the means, to make use of those idle farms. On the other hand, it is true that there is a weakness on the part of the Ministry, and it is probably a fundamental problem of the Namibians, that there is no

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HON YA FRANCE**

cooperation between the Ministry and the Traditional Leaders to determine where the people are coming from, to identify that they have really taken out all their stock from the communal land to the commercial farm.

The biggest problem we have faced on the other side of the red line is for people to sell or slaughter their cattle in order to reduce the burden on the land and we cannot find an answer, because traditionally it is a problem for Namibians to see your cow dying.

Secondly, what is happening now is that a person is resettled and because his cows cannot be transferred to the so-called commercial area, they are left there and the burden on the grazing is not reduced, thus that person is involved in dual grazing. The solution does not lie with the Ministry alone but with all of us as politicians and national leaders. In fact, it is a big problem.

When it comes to the question of schools and clinics, we are not necessarily saying that there should be a clinic or a school on each resettlement farm, but there are people that were resettled in big groups on some of farms like Gam, Skoonheid and Queen Sofia, you would find about a hundred children and I think that warrants a clinic and a primary school.

There is something people are complaining about, which I do not really understand myself. You have two farmers, one an emerging farmer and the other an established one, then it is said that the cows or goats moves from one farm to the other because the infrastructure is weak. I however do not understand it. If your infrastructure is weak, because you are new, what about the infrastructure of the well-established farmer? Maybe we could find a common answer here, but that is the problem. My own suspicion is these neighbours do not accept each other completely. I am sure previously he would have phoned the neighbour to say his animals are there, but since the relations are not good now there are complaints. That is my personal opinion because infrastructure cannot be the problem.

Skoonheid is a problem in itself. The view of the Members of the Committee is that if we want to resettle the San people, who are traditionally and historically disadvantaged with no means of production, and we want to bring them into the mainstream of owning property, we cannot do it by isolating them and develop them that way. They should be resettled among the others so that they can learn from others. That is how we view it. You have however put them on Skoonheid and I do not think it could work that way. They will go back to their old way of living. We have specifically pointed out Skoonheid, because the San are one of the priorities of the Government and the situation we found there was not very good, although the San settled in the Mangetti Block are doing well. I do not know whether there is a different pattern of resettlement.

Finally, Comrade Speaker, on the question by Honourable Schimming-Chase. Honourable Schimming-Chase, I think your comments were dramatising and over-magnifying every

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HON KAIYAMO**

weakness you perceived. While I understand that you are in the Opposition, I sometimes think you do not only dramatise issues, but also to a certain extent become a political demagogue. No project on earth can be hundred percent successful, never. Not all of those resettled will be a success. Even if you do research at the banks, not everybody who got a loan from the bank will be a success, but definitely some would be successful. There are those resettled people who are doing very well indeed.

Some of the people said they came with seven cows and a bull and five years later he has sixty, seventy. Then the question is asked, how he happened to have that number. This is irrelevant to me, but what is important is that now he has seventy cows. It is not a question of how, to me that is irrelevant, but there are those who are doing very well indeed and they are happy. Some of them are in Hardap, most of them are in Otjozondjupa, they are doing very well indeed, and there is hope. Most of them have already graduated to commercial farming, buying their own farms while others are problems, the problem is the lease agreement, and a person resettled with absolutely nothing. Of course, if we have funds and give them something, I think they will be doing well.

Comrade Speaker, I hope that I have touched on the responses by Members and I am ready to answer more queries. Thank you very much.

HON SPEAKER: I thank Honourable Ya France for his reply. I now put the Question, that this Report be adopted. Any objections? So agreed. The Secretary will now read the Third Order of the Day.

**CONSIDERATION: REPORT ON NATIONAL
HERITAGE BILL**

HON SPEAKER: Does Honourable Kaiyamo move that the Report now be considered? I call on the Honourable Member Kaiyamo to take the Floor to motivate the Report.

HON KAIYAMO: Honourable Speaker, Honourable Members of Parliament, it gives me immense pleasure to be granted an opportunity to motivate the Report of the Committee on the National Heritage Bill.

The Committee on Human Resources, Social and Community Development wishes first to express its gratitude to the National Assembly for being mandated to take the Bill to the people for their input. The Committee also wishes to express its appreciation to all stakeholders who made oral and written submissions, especially the Ministry of Basic

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Education, Sport and Culture, the National Monuments Council, the National Arts Gallery of Namibia, etcetera.

Further, the Committee appreciates the contribution in terms of briefing made by the Ministry of Basic Education and the Ministry of Justice that enabled it to complete the task assigned to it by the Assembly.

Honourable Speaker, I would like to extend a special word of thanks to the Members of the Committee for their hard work and dedication to the Report. I am not going to read the recommendations, the recommendations are in the Report that was tabled in this House in the last two weeks. I only want to underline some issues of the Report.

On the 22nd of June 2004, the Committee invited senior officials from the Ministry of Basic Education, Sport and Culture and the Ministry of Justice to brief it on this Bill, to enable us to be on the same level of understanding. The briefing was followed by an invitation to the public through the media to give input on the Bill. The Committee conducted Public Hearings on the Bill on 6 July 2004 in the Pink Room in Parliament. Among those who made submissions to the Committee were Mr Strauss, Mr Gunda, Mr Hohmann of the Scientific Committee on the National Monuments Council, Annaline Eins, Director of the National Arts Gallery of Namibia, a representative of the National Monuments Council and Dr A Voigts, an expert in the field of Heritage. As I said, all the recommendations are in the Report.

Although the public was invited, as alluded earlier, to give their input, due to the specific nature of the Heritage Bill, only those stakeholders operating in the industry managed to give their input on the Bill.

Honourable Members, I now have the honour to request this Honourable House to pass the Bill with Amendments proposed in our Report for consideration. I would also like to mention that there were consultations with the Minister concerned on the final Report and I hope the House will adopt the Report. Thank you.

HON SPEAKER: I thank the Honourable Member for the motivation of this Report. Honourable Mr Pretorius.

HON PRETORIUS: Mr Speaker, I want to support the Report, I welcome it, but there is one little problem on page 4 and on page 7. If I may quote the sentence: *“Since culture is a dynamic phenomenon and that some of the objects and places may lose their heritage value in future, it was the view of some participants that the Bill should make provision for*

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de-registration”, and then on page 7: “The Bill should provide for de-registration of those objects and places that have lost their heritage values.”

Mr Speaker, heritage to me is not so much about culture but about history and history is the way to understand the past so that you can better see the future. History, which neglects facts, good or bad, is no history anymore but propaganda. I just want to warn that we must be very careful not to change it and to make it possible to abuse the whole idea of heritage. Thank you.

HON SPEAKER: I thank the Honourable Member for his contribution. I now call on Honourable Buddy Wentworth.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:
Thank you, Comrade Speaker. In general, the positive findings of the esteemed Committee are highly appreciated. I am responding in detail to the specific recommendations made in the Report.

Firstly under Definitions: We feel that it is possible to include a definition of “*museum*” as follows: “*Museum means a non-profit-making permanent institution in the service of society and its development and open to the public, which acquires, conserves, researches, communicates and exhibits for purposes of study, education and enjoyment material, evidence of people and their environment.*” This is the UNESCO definition.

It should be noted that not many institutions in Namibia that call themselves museums will fully comply with this standard definition. This will correctly limit the Council in entrusting protected objects to their care as provided for in Article 5(2)(a).

I do not think that there is a need to define heritage-related institutions, as I do not find this term used in the Bill. However, heritage and heritage significance are defined. In addition, Article 5(1)(i) makes it a function of the Council to liaise with other bodies responsible for, or engaged in activities relating to the protection, conservation, management and promotion of Namibia’s heritage. Similarly, I do not think that it is necessary to insert a definition of “*performing and living arts*”, as these are not directly mentioned in the Bill. This Bill is primarily about physical objects and sites. However, often the intangible values associated with such objects or sites give them their significance. The definition of “*heritage significance*” therefore does include aesthetic, cultural, historical or social significance.

I believe the concern expressed by the Committee is, therefore, to some extent captured and provided for. I also suggest that Section 58(3) could have a new Section added as follows, with renumbering of subsequent subsections: “(e) *The provision of information and*

education about the site which will lead to an understanding and appreciation of the heritage significance and values associated with the site.”

The wider issue of intangible heritage can probably not be dealt with in this Bill unless considerable delay and rewriting is contemplated. Intangible heritage is undoubtedly important, but it is a relatively new field that UNESCO and other bodies are still grappling with. Recordings of oral traditions, performances etc. can of course be made heritage objects in terms of this Bill.

“*National monument*” is actually defined in the body of the Bill in Section 25(2) and 34(4). One could perhaps add a definition such as the following: “*National monument means a heritage place of major significance and importance in relation to the national heritage, as provided for in Sections 25(2)(a) and 34(4).*” Legal advice could perhaps be obtained on the broadening of the definition of “*owner*” in relation to the national heritage, as provided for in Sections 25(2)(a) and 34. However, I assume that the term “*owner*” is well-defined elsewhere in Namibian law in respect of the various kinds of bodies that are listed.

It should be noted that the definition of “*possess*” seems to cater for the concern expressed in the Report about items that are held in trust by museums and other bodies.

Permits: I agree with the Committee that Section 54(5) should be improved, for instance through the addition at the end of the words: “*and apply for a permit for such work in terms of Part 5*”.

Concerning trade in protected objects, I would suggest an addition to Section 46(2) to read as follows, and this has been discussed with the Committee: “*Export or attempt to export works of art and cultural artefacts can be declared protected objects and so do not need to be specifically mentioned*”. It would not seem to be logical to ban the import of a protected object. If it were Namibian cultural heritage, we would presumably welcome its return to the country. This Bill does not deal with objects that might be the property of another country. Normally such matters are dealt with in terms of the relevant UNESCO Convention and by agreement between the relevant countries rather than by law. It should also be noted here that preventing the export of an item might be challenged in the Courts, as the owner may say that his or her constitutional right to that property has been affected and that he or she should therefore be compensated by the State. A prohibition will, however at least bring to light what might leave the country and create an option for the State to retain the item if possible.

In Part 6, special provision for protection and management of certain heritage resources: Here again I agree with the changes and headings proposed in the Report by the Standing Committee regarding paragraphs 6.5 and 6.6.

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Then finally, let me call it miscellaneous, the issue of intangible heritage has been dealt with above. The Council Members must in any case exercise their minds as to the historical significance of an object or site and this is no doubt one of the factors that they will have to consider. I think that should also take care of the concern by Honourable Pretorius regarding paragraphs 4 and 7.

Section 40 of the Bill does provide for de-registration of an object or site. A correct concern is also expressed by the Standing Committee that communities be involved in the management of heritage sites. Section 58(2)(c) provides for the Council to agree for a site to be managed by any person, institution or undertaking with the approval of the Minister.

It might be possible to insert the word “*community*” in that list. A legal opinion should however be sought as I am not sure that a community is always sufficiently well defined for one to be able to enter into a legally enforceable agreement with it.

Comrade Speaker, I would once again like to thank the Standing Committee for a most thorough job and a job well-done and I would like to move that in terms of Rule 65(1)(d), this Assembly now proceeds to the Third Reading stage of the National Heritage Bill. I thank you.

HON SPEAKER: I thank the Honourable Member for his substantive contribution. Are there any further discussions? I thought I should maybe clarify something here. If a report by a Committee, such as this, does not include Amendments, we will proceed along the lines that Honourable Buddy Wentworth proposed, straight to the Third Reading and then it will leave the Floor of this Chamber. If, however, there are Amendments recommended by the Report and those who participate, then we revert to the Committee Stage for the Amendments to be accommodated. I am just correcting that for the HANSARD, so that it will not be said it was said it should go straight to the Third Reading. There being no further request on the part of the Members to take the Floor, I would like to call on the Honourable Chairperson, Honourable Kaiyamo, to reply to the discussions that have taken place on the Report.

HON KAIYAMO: I would like to thank those who have contributed to the Debate and I would like this Bill to be passed. Thank you.

HON SPEAKER: I thank the Honourable Member Kaiyamo for his response to the comments made on the Report and I now put the Question: That this Report now be adopted. Any objections? So agreed. The Report, therefore, is unanimously adopted. The Secretary will now read the Fourth Order of the Day.

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HON PRETORIUS**

**RESUMPTION OF SECOND READING: FORMER PRESIDENTS'
PENSION AND OTHER BENEFITS FUND BILL**

HON SPEAKER: When this Debate was adjourned on Wednesday, 22nd of September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Justice, Honourable Dr Kawana. This Debate was however adjourned by Honourable Namises and she now has the Floor.

HON NAMISES: Thank you, Honourable Speaker. I adjourned the Debate I have not been here, therefore I ask that if there are no other Members who want to take the Floor, the Debate be adjourned until Thursday.

HON SPEAKER: Honourable Pretorius.

HON PRETORIUS: Honourable Speaker, it is a pity that this Bill was only submitted at such a late hour of the day and it is thus creating problems.

In the first place, notwithstanding what the Honourable Minister of Justice said, my copy of the Bill creates the impression that the Bill is meant for a specific President. The apostrophe "s" is between the "t" and "s" in the word "*President's*".

Furthermore, in the definition there is reference to "*the President*" instead of "*a President*". I was also shocked by my own conclusion that should His Excellency, our President die today, the only covering his pension and other benefits would be the Presidential Emolument and Pensions Act, 1990 (Act 70 of 1990). All calculations would then have to be made on the salary of N\$180,000 a year.

I find it very difficult to discuss legislation concerning a specific person instead of a specific office. So, let me emphasise the fact that I am trying very hard to look at the Bill before the House in an objective but honest way. Allow me to highlight only a few problems without being complete.

In the first place, there are tremendous differences between the Act of 1990 and the Bill of 2004, not only as far as monetary value is concerned, but also benefits, this notwithstanding the fact that the gratuity of two times the annual salary was reduced to only one time. In monetary terms, it will make no impact, taking into account what was added.

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In the second place I found myself in a very difficult situation. As a Member of the National Assembly, I do not know what the remuneration of a President in Namibia is today. It appears that our newspapers in Namibia also did not know. The *Republikein* of 23rd September 2004 is giving it as N\$395,695, while the *Namibian* of the same date indicates an amount of more than N\$600,000 and it is also stated that it was N\$440,000 in 1998.

It was then that one of my few supporters phoned me and asked which one of the amounts is the correct figure. He wanted more detail because according to him the point of departure for the calculation of a President's pension is the monthly basic salary. When I said I am not sure, he wanted to know what I was doing in Parliament for fifteen years. I tried to defend myself by saying that ordinary Members of Parliament are never consulted, except for being asked to adopt the Budget of the Office of the President as a lump sum. He then read Article 33 of Namibia's Constitution... (Intervention)

HON DEPUTY MINISTER OF GENDER EQUALITY AND CHILD WELFARE:

May I ask my brother and father, Honourable Pretorius, a question? Honourable Pretorius, you are complaining about the former President's money, but in today's *New Era* they wrote that MAG received N\$107,164 from Parliament and I want to know where is MAG in Namibia, because we do not have those people, only you and you received that amount. To do what with a big amount like that?

HON SPEAKER: Notwithstanding that, you are responding to the question, I think it might be useful on your part, Honourable Pretorius, to add whether the figures you mentioned are per annum or is it on purpose.

HON PRETORIUS: Thank you very much, Honourable Speaker, it was not on purpose, it is per annum. Nevertheless, I am not going to be derailed in a very serious and complex situation like this of talking about the pension of a President, not the President.

The supporter of mine then read Article 33 of Namibia's Constitution to me and I realised that I was honoured. Under the heading of "Remuneration" reads: "*Provision shall be made by Act of Parliament for the payment out of the State Revenue Fund of remuneration and allowances for the President as well as for the payment of pensions to former Presidents and in the case of their deaths, to their surviving spouses.*"

To my shame I then had to admit that the only legal amount was decided upon in 1990 and that was R180,000 a year. I could not find any Act of Parliament making provision for any

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other monthly basic salary for a President. I am pleading with the Honourable Minister of Justice to please help me to prove that I was not a party to unauthorised spending for fourteen years. Under these circumstances, I am afraid that there is no sense in for me to discuss the detail of the Bill any further before I am convinced by legal opinion about what amount we are talking about when we discuss the phrase, "*the monthly basic salary*".

In any case, for the last fourteen years I have been opposing all legislation, which have been introduced without financial planning. About what amounts are we talking and are all our good intentions affordable to our country with many other priorities screaming for help?

More in general, Mr Speaker, I have a standing order from my party never to support public financing for political purposes, which is not fairly applicable to all Political Parties in Parliament. We were and are, therefore very seriously opposed to the paying...
(Intervention)

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: May I ask the Honourable Kosie Pretorius a question? Honourable Pretorius, are you aware that the WASCOM Report did mention the salaries and benefits of all Members of Parliament, including the President? And in the same vein, Honourable Speaker, is it allowed for an Honourable Member to mislead the public by saying that for 14 years there were no salary adjustments made for His Excellency and all of us? Is it allowed?

HON PRETORIUS: Honourable Speaker, I do not know whether the question is to you or to me. If it is to me, I want to say that even the WASCOM Report cannot overrule the Constitution and any law of this august House. There is no law making provision for even what was said in the WASCOM Report as far as His Excellency the President's salary is concerned.

Mr Speaker, more in general, I repeat, I have a standing order from my Party ...
(Intervention)

HON SPEAKER: Before I give the Floor to the Honourable Member, I fully agree with the initial opening statement of Honourable Pretorius that we are discussing the office, the presidency and in it, we are not bringing in a *persona*. However, maybe because of the construction of language, if you are beginning to say "*His Excellency*", that means it is a *persona*, it is no longer the office. If we keep to the discussion of the presidency as an institution and not the person who is currently occupying it, I think it will do justice to the process. Any one of you is of course aspirant presidents.

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HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Honourable Speaker, I wish to pose a question to the Honourable Pretorius. Honourable Pretorius, if we look, for example, at the retirement package of a President four or five years ago in South Africa, and I am referring to P W Botha, the "*Groot Krokkedil*" as they call him, if we look at the value of his retirement package those years ago and we look at the retirement package proposed in this Bill, we will discover that the presidents of Namibia will still have a retirement package inferior to the retirement package of nearly twenty years ago. On which basis would you feel that the Namibian President should receive an inferior package to that of a President of a country twenty years ago, which is closer to that of a Deputy Minister of South Africa, with the security aspects taken out?

HON PRETORIUS: Mr Speaker, in the first place, just for clarity of the record, I was reacting to a question by Honourable Esau, which refers to a specific President. That is why I used the word "His Excellency", but if it is necessary, I will withdraw that.

In the second place, as far as Honourable Wentworth's question is concerned, I said very clearly I do not think we can discuss the detail before we have solved the legal situation. I am not on detail, absolutely not, I have not mentioned anything or made any reference or even said it is too little or too much. I have not said that.

Honourable Speaker, more in general, I have a standing order from my Party never to support public financing for political purposes, which is not fair and equitable to all Political Parties in Parliament. We very seriously opposed the paying of a salary and other expenses of, for example, the Secretary General of the ruling party from taxpayers' money. We are also opposing the formula for the funding of Political Parties as well as the way that Government resources are used for political purposes. This will also concern the paying of a pension to any other Political Office-Bearer, including retired Presidents who remain in politics. That will not be in national interest that will solely be in Party interest. (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: May I pose a question to Honourable Pretorius? Honourable Pretorius, you are making a policy statement about your Party in relation to pensions of retired Political Office-Bearers. You are equally a Political Office-Bearer yourself. You are also an aspiring president and when you get to that big house on top of the hill, I am quite sure you will be there, delivering a public service and you expect the public to thank you by giving you a monthly salary and a pension when you retire.

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If you yourself will one day retire and demand a pension from this Honourable House, why are you denying that to another person who has also delivered a public service?

HON PRETORIUS: Mr Speaker, I said my orders from my Party are to oppose it if it is not applicable to all Political Parties in Parliament. Therefore, I have no problem if I would get the same pension as the President after I have retired, but it will not be the same and that is my problem. (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: Honourable Pretorius, I know to be a person of consistency. For sure, you know that the pension of a Minister will not be the same as the pension of a backbencher if they retire on the same day and they entered the Parliament on the same day. You do not expect the pension of a Minister to be the same as the pension of the President, because their functions are so different. Now you want to receive the pension of a President while you are a Parliamentarian. What logic is that?

HON PRETORIUS: Honourable Speaker, the Honourable Minister is now again trying to get me to deviate to the detail. I am not interested in the detail at this stage, we will come to that point.

Mr Speaker, I repeat, this will also concern the paying of a pension to any other Political Office-Bearer, including me, including retired presidents who remain in politics. That will not be in national interest that will solely be in party interest. That will be the end of democracy claiming equal opportunities, even about protocol treatment, such as a political retired president will overrule every other competitor in status, even a retired or fired Minister or Prime Minister who are no longer in politics. A pension out of taxpayers' money can, therefore only be justified for a neutral President, acting in national interest and not in Party interest.

I am also confused by Clause 5 of the proposed Bill. (Intervention)

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: On a Point of Information. If the Honourable Member had studied the Pensions Bill carefully, he would have noticed that if, for example, a Minister retires, that Minister will get a retirement package and a monthly pension, but the moment that that Minister re-enters politics, the pension ceases. He would not receive that pension anymore the moment he returns to active

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service. He would then be earning a salary for that position. Therefore, it will not be a case of a president returning to politics, getting his monthly pension and a salary.

HON PRETORIUS: I am quite aware of that, but I do not think it is relevant in this case and I think the Honourable Deputy Minister will realise what I mean when I continue with the rest of my speech.

Clause 5 reads: “*All expenditure to the payment of a pension and gratuity and the provision of other benefits under this Act must be defrayed out of the State Revenue Fund from money appropriated by Parliament.*” However, according to an answer that the Right Honourable Prime Minister gave me about two weeks ago, His Excellency the President is also a member of the Political Office-Bearers and Other Office-Bearers Pension Fund. I have it black on white. How can a President be a Member of two schemes at the same time? (Intervention)

RT HON PRIME MINISTER: I did not say that. Thank you.

HON SPEAKER: It is a denial, the Right Honourable Prime Minister did not utter the words that you said he did.

HON PRETORIUS: Honourable Speaker, quite correct, the Right Honourable Prime Minister did not say it, but it was in the document he gave me. That was the answer and he gave me the document.

Mr Speaker, also Clause 9 is tickling me to death. Clause 9 is amending Section 3 of the existing law, Act 17 of 1990. It is further deleting Sections 4, 5, 6 and 7 and then again amending Sections 8, 9 and 10. The two sections, which are left untouched, are Sections 1 and 2. Section 1 is about the definition of the word “*President*” and section 2 reads, “*There shall be paid to the person holding the office of President a salary of R180,000 per annum.*” Even the money unit, Rand, is untouched.

To me as a layman our President now has two salaries, a *de jure* salary of R180,000 per annum and according to the *Namibian* of the 23rd September 2004, a *de facto* salary of N\$600,000 per year. The latter is not covered by an Act according to Article 33 of our Constitution.

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I also have serious problems with the Schedule. It is a well-known fact that I am continuously warning this august House not to abandon or to hand over our legislative powers by way of legislation to the Executive or to the bureaucrats. Apparently, nobody, even the legal advisors, is trying to understand that I am fighting for the maintenance of a democratic process. That is now exactly what is proposed in the Schedule, namely a proposed surrendering of the powers of this august House to the Executive. The whole Schedule is built on the phrase, "*as may be determined by the Cabinet*". This phrase is repeated not less than four times. However, this time I really hope my message will come home. Even in a political sense, the messenger is shot again. This time I as a layman hope that I am covered by the Constitution.

According to Article 33 of the Constitution, that responsibility to decide about the remuneration of a President is very specifically given to the Parliament and not to the Executive. For this Parliament to delegate that power to the Cabinet, will mean that the wording of the Constitution must first be changed. Again as a layman, I am sure that ordinary legislation, like the Bill before the House, cannot overrule the Constitution. Article 1 of the Constitution clearly reads, "*The Constitution shall be the Supreme Law of Namibia*".

Mr Speaker, I therefore move that the subject of the Former President's Pension and Other Benefits Fund Bill be referred to the Parliamentary Standing Committees on Privileges and Public Accounts for enquiry and report back to this Assembly. I Move so, Mr Speaker.

HON SPEAKER: Will the Honourable Member please table the Motion? I thank Honourable Pretorius for his contribution. Honourable Sioka.

HON SIOKA: Comrade Speaker, Honourable Members of this House, I rise to contribute to the Former President's Pension and Other Benefits Fund Bill. This Bill is of great importance because the Bill addresses a great leader, the Father of the Nation and the hero of Namibia. Before I dwell on the Bill itself, I would also like to thank Honourable Kawana and the entire Cabinet for their brilliant idea to bring this Bill for discussion. Comrades, you are really wise leaders who really have the care of the elder people at heart. We will follow a great example you have set and you are really setting a good example to our young generation. Us who have been with you for so long should in future remember you and we have to relate the history to the generation-to-come.

Comrade Speaker, Honourable Members, this has been a tradition in the SWAPO Party since

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its inception. There is no Political Party in independent Namibia, which could claim to be super human like the SWAPO Party. For instance, every year the SWAPO Party commemorates Heroes Day in respect of their fallen heroes and heroines who initiated the struggle for liberation.

Comrade Speaker, places such as Ongulumbashe and the Heroes Acre are places visited yearly to honour our heroes and to report to them that Namibia is now free.

Coming to the Bill, I have only two points. Pension payout and other benefits, including gratuity, is somehow not in balance with what His Excellency has done for this country, due to the fact that most of his lifetime was spent in exile, fighting for liberation from foreign domination and he never went to school, but he sacrificed for the young generation to go and study to come and lead their own country, without even earning any salary, including these Minister we are seeing here and other heroes outside there.

The former President started his normal life on the 21st of March 1990 up to 1995 and the pension accumulated was not enough. The pension payout is not on par with what he has done for this country. That is why I am requesting the Cabinet to consider giving the old State House to the former President as a gift. If the new one is completed, the old State House has to be given to the former President.

Comrade Speaker, think of all Honourable Toivo Ya Toivo there. Who is Ya Toivo? He spent most of his time on Robben Island without earning any salary, but what he accumulated from there was only torture. These are the people for whom we could consider to build better houses.

Comrade Speaker, Honourable Members, the news media knows how to kill a cat, they know how to prevent hippos from entering the river. They were the first to announce that maybe one of the gifts to be given to the President is the State House. This is to prevent the Government from respecting our leaders, so that we should struggle with what we should give him. I, therefore, request the Cabinet again to consider that the old State House be given to the former President.

With these few words, I support the Bill.

HON VENAANI: I Move that the Debate be adjourned until tomorrow

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HON SPEAKER: Any objection? Agreed to. The Debate stands adjourned until tomorrow. The Secretary will read the Fifth Order of the Day.

**RESUMPTION OF SECOND READING :
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HON SPEAKER: When this Debate was adjourned was adjourned on Thursday, 23rd of September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Works, Transport and Communication. The Debate was adjourned by Honourable Member Mr Moongo.

HON MOONGO: Mr Speaker, Honourable Members, allow me to raise my concern on the misuse of power by many ministers in Africa after being given certain powers by their presidents. I would like to challenge the SWAPO Government for allowing the Parastatals and some Directors of public institutions to pay themselves huge salaries, even more than N\$80,000 per month while the majority of Namibians are suffering as a result of unemployment, hunger and disease. I call upon the Government to adjust the salary structures of Parastatals without being influenced by political affiliation and nepotism.

Section 7(2) stipulates “*a Minister can remove a Director from office for any reason*”. I feel this is draconian and I propose that before the Minister removes any Member from the Board, he or she must first refer the matter to the Public Service Commission for a proper hearing in accordance with Article 113. (Intervention)

HON DEPUTY MINISTER OF WOMEN’S AFFAIRS AND CHILD WELFARE: On a Point of Order, Honourable Speaker. May I ask the Vice-President of the Official Opposition a question? Honourable Moongo, the Minister does not consult you when he appoints the Board of Directors, so why do you want to be consulted when he removes them from office?

HON MOONGO: I think I will rather ignore the question, because you did not read the Bill. Honourable Speaker, The Public Service Commission has to advise the Government on the appointment of a suitable persons on specific categories of employment in the Public Service with special regard to the balanced structuring thereof and exercise adequate

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disciplinary control over such a person in order ensure fair and transparent administration.

Mr Speaker, on the other hand, I would like to challenge some corrupt Board Members who enrich themselves through fraudulent means. We have put the law in place to eradicate corrupt practices, which we suspect are taking place in the Roads Authority and other departments.

Mr Speaker, I challenge the system used by some members of the Roads Authority countrywide to approve tenders on the basis of favouritism and nepotism. The current tenders are won by friends and brothers and this must come to an end. We have the Anti-Corruption Act and the law must take its course.

After 14 years of Independence SWAPO has failed to construct a proper tarred road from Ruacana to Kamanjab, to Outjo, to Rundu, Nkurenkuru, up to Ohangwena, from Karasburg to Warmbad, from Tses to Berseba, from Gobabis to Aminuis, from Okakarara to Otjinene, to mention only a few. (Intervention)

HON DEPUTY MINISTER OF WOMEN'S AFFAIRS AND CHILD WELFARE: On a Point of Information. I want to inform this House, including the Vice-President of the DTA that the SWAPO Government did well in the remote rural areas. In the Kunene Region, we now have the construction of a road from Opuwo to Omakange, from Omakange to Okahao and from Ruacana to Kamanjab. If you want to score political points, you should no more refer to Outjo, Ruacana and Kamanjab.

HON MOONGO: The SWAPO Party has ignored the corrupt Board Members for a long time and now SWAPO is using it as a political campaign to replace corrupt Board Members. (Intervention)

HON MINISTER OF HOME AFFAIRS IMMIGRATION: May I ask the Honourable Member a question? Honourable Member, when are you going to collect your pension money in Rehoboth?

HON MOONGO: They are replacing the Board Members with their fat cat Comrades who were not given positions in the forthcoming elections.

With the above proposals, I rest my case. I thank you.

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HON DR AMWEELO**

HON SPEAKER: I thank Honourable Moongo for his contribution. Any further discussion? I call on the Honourable Minister to reply. Honourable Amweelo.

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Thank you very much, Comrade Speaker. I think *Honourable Moongo* is contradicting himself because he mentioned huge salaries, adjustment of payments, corruption and all those things and at the same time he says it is not fair to remove the Board of Directors. I would have thought that he would appreciate the decision by Government to remove those Board Members.

Comrade Speaker, what we are doing is exactly what Honourable Moongo mentioned. It is high time for the Government to act and this Bill in Section 6 the Minister is given the power to remove the Board of Directors. Section 7 stipulates that the Minister may at any time remove a Director from office for any reason, which the Minister considers sufficient. In other words, if the Minister feels that the Board of Directors are not operating according to the regulations and the procedures and do not perform their job, then the Minister can remove them. At the moment it is a problem, because you employ the Board of Directors and they are not performing their duty during their term of office or maybe they are involved in corruption and when you decide to remove them, they will approach their lawyers and take you to Court. That is why I thought Honourable Moongo would have appreciated this Amendment Bill, which provides that the Minister may remove them if they are not performing and appoint other Members. I feel it is good that the Minister is given the power to do that, because the Board of Directors are the people who have to look at the management.

I would like to thank everybody, Comrade Speaker, who supported me so that we can remove the Directors who are not doing their job. Thank you very much, Comrade Speaker.

HON SPEAKER: I thank Honourable Amweelo for his reply and I now put the Question, that this Bill be read a Second Time. Any objection? Agreed. I call on the Secretary to read the Bill a Second Time.

ROADS AUTHORITY AMENDMENT BILL

**RESUMPTION OF SECOND READING :
WATER RESOURCES MANAGEMENT BILL**

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WATER RESOURCES MANAGEMENT BILL
HON MOONGO / HON MALIMA

HON SPEAKER: When this Debate was adjourned on Thursday, 23 September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Agriculture, Water and Rural Development. This Debate was adjourned by Honourable Member Moongo and he now has the Floor.

HON MOONGO: Thank you, Honourable Speaker. I was disappointed to learn that Namibia is still using a South African Act of 1956 and I appreciate that the Minister has tabled the new Water Bill. Late is better than never.

According to Section 26, the Minister must ensure that all Namibians are provided with an affordable and reliable water supply that is adequate for basic human needs. However, the SWAPO Government is doing the opposite as not all people are provided with an affordable and reliable water supply. The majority are still drinking salty and contaminated water, especially at Mangetti, Okongo, Okalongo, Opuwo, etcetera. Rehoboth and Okakarara were without water for humans and livestock for six months.

Mr Speaker, we are aware that one has to spend millions of dollars to have purified and well-treated water. According to Section 25 of the Bill, the Minister responsible for Health must ensure that the water supply is safe for all Namibians, but the people of Opuwo are still drinking contaminated water. In order to fulfil this national obligation of providing affordable and a reliable water supply, this function must be under the Government of Namibia and not under NamWater, so that the disadvantaged, disabled, elderly as well as poor people could get free water.

Honourable Speaker, the Minister has given the legal framework to establish Water Tribunals, which would issue licences to obstruct and use water. In the minds of many Namibians who suffered under colonial rule it is naïve to establish water tribunals and that Namibians have to beg for licences in order to get water for basic needs. With this proposal, I rest my case.

HON SPEAKER: I thank Honourable Moongo for his contribution. I now recognise Honourable Minister Malima.

HON MINISTER OF ENVIRONMENT AND TOURISM: Thank you, Comrade Speaker, Honourable Members. I rise to support the objective and the fundamental principle of the Bill on Water Resource Management and also at the same time to congratulate my Colleague, the Honourable Minister, his Deputy and the entire management of the Ministry of Agriculture, Water and Rural Development for tabling this Bill.

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This Bill is in harmony with the Environmental Management and Assessment Bill that my Ministry is preparing, which also calls for fair and equitable access to natural resources, equitable access to sufficient water of acceptable quality and adequate sanitation, water needs and functional integrity of ecological systems to ensure sustainability of such systems and to prevent harmful downstream effects.

Comrade Speaker, my contribution to this very important Bill will focus on the aspects of equity, efficiency and sustainability as raised by the Honourable Deputy Minister in his motivation speech. I will also seek clarity from the Honourable Deputy Minister on sections and subsections of the Bill that may not be clear to me.

Certainly, in an arid country such as Namibia the sound management of our limited water resources is of paramount importance and critical to ensure the sustainable development of Namibia as envisaged both in the Second National Development Plan as well as in Vision 2030. It will also help fulfil the resolutions taken by the Heads of State and Governments during the Johannesburg Summit on Sustainable Development in South Africa in 2002 where targets to be met by 2015 were set regarding access by all to clean water, to sanitation and clean energy. This was identified as a priority for developing countries and the countries in an economic development transition as a prerequisite to sustainable development. It is only when these requirements are being met that we can truly be claiming to have overcome the fight against poverty.

Comrade Speaker, water is one of the basic necessities for human life and well-being and clearly, no development can take place in the absence of water. At the same time, we must recognise that water is a finite resource and that management decisions taken today will have a direct impact on the Namibia of tomorrow. It is in this light that I wish to highlight that this draft Bill on Water Resources Management is the first of its kind since the Independence of Namibia 14 years ago, seeking to address the constitutional sovereignty over Namibia's natural resources by the State.

Comrade Speaker, Article 100 of the Namibian Constitution provides that, *“land, water and natural resources below and above the surface of the land and in the continental shelf and within the territorial waters and exclusive economic zone of Namibia shall belong to the State.”*

Comrade Speaker, Honourable Members, I deliberately ignored the remaining words, because those words to my interpretation, do not belong to the sovereign ownership of the natural resources of the State of Namibia. Water and land are inseparable State-Owned natural resources and, therefore, cannot be privately possessed in the normal situation. I will leave this argument here, Honourable Members.

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The disciples of history will agree with me that since time immemorial water resources have been the source of intense disputes all over the world. Strong kings and queens have conquered other nations in search not only of mineral resources, but also on many occasions of water resources. Many clans on the African continent were displaced from water resources by other strong and united clans. Historically there has not been equal access to water resources, hence the importance of aiming for equitable sharing of water resources in an Independent Namibia.

It is unfortunate, Comrade Speaker, that currently economically strong private owners, particularly in the commercial farming area – where I will find myself one of these coming days – control access to water resources in many parts of Namibia. Through damming, freehold farmers have blocked the water flow of many seasonal rivers, leaving more marginalised farmers downstream struggling with declining water yields from boreholes and the lowering of underground water tables. This trend has also had a detrimental impact on the environment downstream, leading to widespread dying of mature trees and the subsequent impact on not only the people and their livestock, but also on wildlife resources.

It is, therefore, most welcome that through the Bill the State is now mandated to play a central role in the management of these valuable and essential resources.

Honourable Speaker, Honourable Members, the first question that I wish to put to the Honourable Deputy Minister relates to the existing Parastatal, NamWater. The Bill appears to be silent regarding the role of NamWater and no definition, as is the tradition in other laws, was provided for NamWater. I would be pleased if the Honourable Deputy Minister could clarify whether any of the numerous bodies envisaged under this Bill indeed refer to NamWater.

Comrade Speaker, at the time when Namibia is promoting a shift from subsistence farming to more diversified commercial farming, it is of concern that the definition of “*domestic use*” excludes the watering of crops or livestock for commercial purposes.

While we realise the necessity to regulate the extraction of water, it would be regrettable if an incentive were created that discourages emerging farmers from producing crops or livestock for commercial purposes. I would, therefore, suggest that Clause 13 sets an upper limit beyond which water use would not be considered as domestic use, for example an area of cultivation greater than X-number of hectares or the watering of more than X head of livestock be considered. Such a clause would ensure that small emerging farmers are encouraged to produce optimally, whilst large commercial enterprises, using high volumes of water, would be required to register for such water use.

Honourable Members, Part 5 of the Bill refers to the formation of Local Water User

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Associations. It is not entirely clear what incentives there are for communities to form these associations, given that there are significant responsibilities attached to the associations. The Bill clearly indicates that such associations are not profit entities, yet they are to be responsible for maintaining and protecting water points, law enforcement related to the use of the water points and convening regular meetings all require the use of funds. Where would the funding for such activities come from? That is the question I would seek some clarity on by the Honourable Deputy Minister. Would these associations act as Non-Governmental Organisation? What, if any, is the operational relationship between these associations and Traditional Authorities?

If members are required to pay a membership fee, how will the State ensure that such fee is affordable to all individuals and households near the water source? Furthermore, Comrade Speaker, it is unclear how the State will ensure that such associations do not become a mechanism for excluding access by individuals or sectors of the community to such water points. It might be preferable to consider the use of Committees under the umbrella of the Regional Authorities rather than Associations for this purpose.

Part 8 of the Bill gives clear guidance regarding the abstraction of water and the necessity for a licence to abstract water unless for domestic use only. Section 136 requires all persons currently abstracting and using water or discharging it effluent with a licence or permit to reapply for a licence or permit within 24 months. This re-registration is strongly supported and I sincerely hope that Ministry of Agriculture, Water and Rural Development or delegated body will be suitably equipped to deal with the initial rush for applications that will most certainly be received to license the hundreds, if not thousands, of boreholes and dams already existing throughout the country.

Comrade Speaker, Honourable Members, I must here again raise my deep concern about the impact on the environment and on the natural ecological process caused by the unrestrained use of dams. I strongly hope that every effort will be made to use this Bill to address this impact and if at all possible, to substantially reduce the number of dams within drainage basins. I would also caution that every effort must be made to ensure that dams are not used on the assertion that they are simply collecting water as permitted under Section 31 of the Bill.

Regarding the lease of licences to abstract and use water, it should be recognised that such leases will be necessitated on many occasions due to financial difficulties and the period of approval should, therefore be reduced from sixty days to at most thirty days. This has reference to Section 43(5) of the Bill.

Comrade Speaker, Honourable Members, we are happy to note that this Bill in Part 11 pays close attention to water pollution control. It is important that this matter be taken seriously,

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as the health of our water supply is otherwise at serious risk of contamination. Non-compliance with safety measures concerning the discharge of effluent cannot be tolerated as it will have a detrimental effect on our scarce water supplies. Control measures are expensive and it is likely that commercial enterprises producing toxic discharge might be tempted to take shortcuts. For this reason, Honourable Members, punishment need to be severe enough to act as a deterrent and enforcement must be effective.

Under Section 132 the Bill proposes a fine not exceeding N\$4,000 or imprisonment of a period not exceeding twelve months or to both such fine and such imprisonment and a Court may in addition to any penalty order the person to pay compensation for any damage suffered as a result and such compensation must be paid as the Court may direct. I personally feel that the basic fines should be much higher if it is to act as an effective deterrent, especially given that the Courts might find it difficult to quantify in monetary terms the environmental damage caused or the long-term impacts of contamination and the fact that once contaminated, many water sources cannot be effectively decontaminated.

Honourable Members, for the past two years the State has undergone considerable expense in emergency relief to communities who have permanently settled in the flood plains of perennial rivers. It is, therefore welcomed that Section 84 of the Bill makes provision for determining the geographic extent of flood plain areas and for the regulations of development and the use of land within such areas. Use of such areas should be considered seasonally.

Comrade Speaker, Honourable Members, my last comment regards the number of bodies created through this Bill. There are eight different types of bodies defined:

1. Water Resources Management Agency;
2. Irrigation Board;
3. Water Advisory Council;
4. Basin Management Committee;
5. Water Point User Association;
6. Local Water User Association;
7. Water Regulatory Board;
8. Water Tribunal.

This is a complex management structure and I cannot help but wonder whether it would not be possible to simplify the structure by combining and streamlining some of the functions of the various bodies. For example, I have already raised concerns about feasibility about the Water Point User and Local Water User Associations. I would recommend here that these be replaced, for example, by a Regional Committee under the leadership of the Regional Council, under which Sub-committees could be created to deal with specific areas or water

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points, if necessary.

Another thought is whether the proposed Water Resource Management Agency could not also fulfil the responsibilities of the Water Regulatory Board. I, of course, appreciate that considerable thought was clearly given to the proposal and that there may be good reasons for the current structure.

In conclusion, Comrade Speaker, I support the Bill and I once again thank the Honourable Minister, Comrade Angula, his Deputy, Honourable Paul Smit and the staff members of the Ministry of Agriculture, Water and Rural Development for a job well done. I thank you.

HON SPEAKER: I thank Honourable Minister Malima for a very detailed contribution to the item under Debate. Honourable Minister Nahas Angula.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: Thank you, Comrade Speaker. I rise to make a contribution to this very important Bill, a Bill discussing the basis of life. Water is life, water is a vital resource, and in Namibia water is a scarce resource, therefore the importance of this Bill I would like to commend the Minister of Agriculture and his Deputy for bringing this Bill to the House. I know a lot of work has gone into this Bill to cover all the sectors, which fall under the water management, utilisation and control.

I want to make my contribution on three issues, which are covered in the Bill in one form or another and first start with water and regional fees. In southern Africa, especially in the southwestern part of Africa, water is a scarce commodity and it can easily lead to conflicts over the use of water. I would like to thank the Minister that in Part 10 he has provided for certain measures of cooperation among the neighbours and reiterated the international and regional instruments which are in place to provide the basis for neighbours to cooperate and manage their water resources to the benefit of everybody. This is commendable and it is a starting point.

My next point is on water and human welfare. I would also like to commend the Ministry for ensuring that all Namibians are provided with affordable and reliable water supply that is adequate for basic human needs. That is a serious commitment the Government is making, that now access to water is a human right in Namibia, according to this Bill, and the Minister will ensure that there is affordable and reliable water supply. This has serious implications for financial resources.

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I know that somewhere in the Bill it is provided for that if you want to dig your well you can do so, if you want to harvest rainwater, you can also do so. I am trying to think in the situation where people live in areas where the water is salty and brackish, what the Government is going to do to make sure that these people have reliable, affordable and adequate water. I am trying to see how the Government is going to meet this commitment, because I can take you to Court if I find in my village there is no reliable, adequate and affordable water and you have made a commitment in this law to provide me and my family and my village and my community with affordable and reliable water and I do not see it here, especially affordable water. Right now, water is not affordable, that is why we have our internal water wars.

In fact, at my village, there is piped water, but few people make use of that piped water because they cannot pay the monthly water charges, which is about N\$10 or N\$15. Therefore, they went out and dug their wells and they are getting water from wells. In fact, according to Section 25 of the law the Ministry of Health has to make sure that water supply is healthy and safe for all Namibians. I do not know what the Ministry of Health is going to do about the people in my village drinking from a well. I hope that something will be done to make sure that this law is adhered to.

The principles are good, they are humane, to declare water as a human right, but I do not know whether, in terms of cost, it is affordable. It is just a question to the Honourable Minister that it is not enough to make promises in a law, the law has to be implemented and I can see litigation. As Honourable Malima has said, we have established many institutions to make sure that everybody has a say. You have the Water Resource Management Agency, which is made up of members of various Basin Committees, and I want to ask the Minister, how many basins are there in Namibia, because a basin is defined as any place where water is at a certain time of the year. A small depression near my place, which fills up with water, can also be declared as a basin and I want to know how many basins are there in Namibia.

You have this Water Resource Management Agency made up of members of these Basin Committees to make sure that they are not short-changed by the water supply agencies, like NamWater.

At the same time you have the Water Regulatory Board which will make sure that the prices are right and I think this is progress, because I am not quite sure whether what these monopolies, such as NamWater for water and NamPower for energy, are charging us is really a fair price or just a way to make profit and line their pockets. This is progress that at least there is a Water Regulatory Board, to ensure that the prices are fair.

On the other side, you have these Water Point User Associations, which I think will also protect the interests of the local people in terms of access to the promised reliable and

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adequate water, which is safe. In that, respect I think the people's interests are well represented in this Bill and I hope the promises made by the Bill will be achieved.

Water is however also a means of socio-economic development and that is where the challenge is. We say we want to move Namibia into an advanced

economy according to Vision 2030. That means that we have to add value to our raw materials and I want to take only one example such as leather. You need a lot of water and chemicals to process leather and you must have ways and means of using that water economically and also to dispose of it. I am also happy that the law provides adequate measures to make sure that people like Ramatex who are disposing of contaminated water will now be taken to task. Perhaps there was no law for the citizens to take action. Now there is a trade-off between protecting the environment and the health of people and embarking on industrialisation. We must be aware of this. If I want to put up my leather factory, I will definitely pollute somewhere and I hope the law will not go to the extent that you are not allowed to do this and that, to the point that people who want to manufacture cannot do that because of the law. I can see Ramatex closing down when this law is properly applied.

On the other hand, it would require high standards of environmental protection which is important for the health and the future of the country, but I am just appealing for some kind of balance, that we do not go to the extreme that it prevents investors from carrying out their economic activities which will eventually give jobs to people so that they will be able to buy water.

I also have the same concern as Honourable Malima about too many bodies in this law. These bodies are dealing with the same resource. You have a Minister, he is providing the political leadership in the water resource management, which is important, and I want to thank him for promising affordable water to every household. Then you have the Water Advisory Board.... (Intervention)

HON DEPUTY SPEAKER: Comrade Speaker, I am terribly sorry to interrupt the Minister dealing with such an important issue. I was just wondering whether the Honourable Minister responsible for Water has a water bulletin in his hand, which he can share with us, whilst he is listening to the contribution by the Honourable Minister.

HON SPEAKER: Yes, the Honourable Minister is found guilty.

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HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION: The Minister is reading about farmers' use of water. I was talking about these bodies in the Bill, the Water Advisory Council, the Water Resource Management Agency, Water Point Use Association, Water Regulatory Board, Water Tribunal and many others. I am not quite sure how these bodies are going to interact. I know some of them are just about pricing, some of them are for licensing. (Intervention)

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: I just want to ask the Honourable Minister a question for clarity. Is he aware that there are already in 300 Water Point Associations in existence and over 600 Local Water Associations? Does he want them to be destroyed now? We are trying to legalise bodies existing. Is he aware of that?

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION: Yes, I am aware because I do pay my dues to the Water User Association, but I am talking about the water basin body and the Water Resource Management Agency. The Water Point User is a good thing, but they are not functioning. I still have to pay my bill to NamWater.

I am not quite sure how these bodies are going to function and support each other. Perhaps there is a new way to make them efficient by putting some of the functions into one body and this will go a long way to avoid confusion in our minds. Otherwise, the Bill is comprehensive enough and I think it goes a long way to provide a framework for the management of this resource and on that basis I support the Bill. Thank you.

HON SPEAKER: I thank the Honourable Minister for his contribution to this Debate. I now call on Honourable Iilonga to take the Floor.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Thank you, Comrade Speaker. I rise to contribute to the Water Resources Management Bill, a very important Bill dealing with life.

I have the same concern as the previous speakers. I thank the Minister, Deputy Minister and all those involved in drafting this Bill. My one concern is with Section 4, which deals with

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Article 100 of the Constitution. Comrade Malima deliberately omitted a word, which is very dangerous to be omitted, because that one needs to be dealt with in order for this Bill to be functional. Otherwise, people could use the Supreme Law to defend their personal interests. Those seven words are, *“they are not otherwise lawfully owned.”* If they are lawfully owned, you cannot claim that water that belongs to the State. I ask this Honourable House that Article 100 of our Supreme Law must be amended by deleting those seven words and then from there we will have what we want to achieve. (Intervention)

HON SPEAKER: Honourable Iilonga, I think it was just last week that I ruled a certain Honourable Member Out of Order in this Chamber. No Member may reflect negatively on any provision of the Constitution without making a major motion to amend it. You have referred to the deletion of certain words, he did not do that, he said he is leaving those ones out. I think that will be Out of Order.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Speaker, I did not move a Motion to amend, this is just information as we did with the Criminal Procedure Bill when we said the Minister of Justice must also consult the Constitution in order to harmonise what we want to bring in. (Intervention)

HON SPEAKER: Comrade Iilonga, let us understand one another. If you had a Motion, you would have been in order. Now that you do not have a Motion, you cannot reflect negatively on a provision of the Constitution to say it may be deleted.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: I take note of the advice by the Honourable Minister. That has always been my position and we will bring a Motion one day.

The other concern is on these many Committees. The executive agency is going to be known as the Water Resource Management Agency and I want to find out from the Deputy Minister how this Agency is going to be established. Is it private? Is it Ministerial or what, so that we know exactly what the position is, because as was mentioned by Honourable Nahas Angula, water is not affordable at the moment. Water points have been closed because the communities are not in a position to pay. Therefore, when creating these bodies it must be clearly stipulated whether it is private and then we will as usual hear about cost recovery. I

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also want to know how NamWater is going to regulate and harmonise the functions of these water committees in order to assist the public to have affordable water.

Then you have another Advisory Council, maybe in the form of the Board, I do not know and we need clarification. The Honourable Minister said that there are over a hundred Committees and we know that there are those Committees, but sometimes there are problems and the water points are closed and the people have no water.

As I said, many of my concerns have been raised by the two speakers before me and I hope this Bill will reduce the exorbitant price of water even here in Windhoek. NamWater increases the bulk water price and then the municipalities also increase and we are working only to pay for water and electricity. One pays over N\$1,000 every month. Where are we heading?

They say things are expensive. Yes, it is expensive, but let us try to do something, otherwise the State must take over and subsidise rather than leaving this in the hands of a privatised entity. I want to know what will be the relationship between these many Committees and NamWater, how are they going to help us or will they still say they are working on a cost recovery basis? Are we going to give them another weapon so that they can defend their salaries?

Comrade Nahas Angula asked what would happen to those who still dig their own wells, sometimes the water is brackish, and how this Bill will help us to have clean and affordable water. Are we also going to be asked to register our old traditional wells? We have to make sure that if it becomes a law, we must have mechanisms to make people understand that they are not allowed to have wells unless they have a licence.

With those few words, the Bill is in order but we are waiting to see how it is going to be implemented.

HON SPEAKER: I would like to thank Honourable Iilonga for his contribution and I now call Honourable Ya France to make his contribution.

HON YA FRANCE: Comrade Speaker, thank you very much for the opportunity. I rise to support the Water Resources Management Bill. I consider it to be one of the most, if not the most important Bill I ever had to pass here in this House. It is so because water is the most valuable natural resource a nation has, especially we in Namibia who are living in a dry, arid country like this. Water is so important and needs to be regulated. It is also important

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because there can be no industrialisation, no development, no investment in this country, in fact, no life if there is no water developed and properly regulated. This makes this Bill to be the most important Bill to pass this House.

Comrade Speaker, the Bill seeks to establish various bodies to regulate water. I am more interested in rural water supply and the regulatory bodies in the rural areas. I am concerned because, like Comrade Ilonga, I have a problem with privatisation and NamWater and others are not very much my friends. But a human being is such an impossible animal. If, before the establishment of NamWater and the establishment of various Water Committees and the introduction of water fees, you travelled on the Oshivelo-Ondangwa highway, you would find rivers of water running like nobody's business. Apparently people just open the tap and then they go because it is free of charge. With the introduction of fees, you will not find a drop of water there being wasted.

It therefore makes it difficult for a human being to take care of something, which does not cost anything. Maybe for this reason we have to accept evils like privatisation of water and paying for water.

Comrade Minister, it is true, it is only Comrade Nahas Angula who did not notice it, all these bodies are already in operation, the Water Committees, etcetera, but there is a problem in this respect. While the idea was to put management and ownership of water into the hands of the communities who make use of the water, these are the communities who are also making things difficult. They are responsible for the collection of fees and they are at liberty to determine how much the people have to pay. The water seems not to be too expensive because it ranges from N\$16 to N\$17 per month for household consumption and from N\$50 to N\$60 for animal consumption. One could consider this to be reasonable.

I attended several meetings at my village and the people were saying it is very expensive. I asked if anybody amongst us can stand up who spends less than N\$50 per month on tombo, nobody, because everybody spends more than that on tombo. It is not an insult, but it is a fact and for the poorest one who does not have any livestock, N\$16 is a lot of money, especially if not a pensioner. The pensioners are the richest people in the village because they get money. I told them that a farm chicken in the village does not cost less than N\$25, therefore nobody in the village, does not own a chicken and if you are not can just sell a chicken every month, you can pay for the water. I think it is affordable. It is difficult for those who have cattle because of the traditional norm of owning cattle.

Anyway, the problem here is that water is sometimes made more expensive by those who manage it. They impose fees, they embezzle fees and then when the bill comes, they have nothing to pay with. As a result, they increase the fees. Comrade Minister, there is no control over these Water Management Committees and that is making things very difficult

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for the people. Otherwise, it might not have been so expensive, but they misuse the money and because they are indebted, they impose increased fees to get more money. I feel these needs to be looked into. Otherwise, I think it is not too expensive and to a certain extent, we support the Bill, it is still affordable. Water could be free of charge but then it is wasted. (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: May I ask Honourable Ya France a question? You are saying that water is affordable to every villager and you claim that every village has a chicken. If you go to a village, how many chickens will you find there? Will you find twelve chickens in one Village? And if you sell those chickens and you have me as a guest, what are you going to do? The chickens are there for guests, not for selling to buy water.

HON YA FRANCE: The Minister is contradicting himself. The chickens are there but not for guests.

What I am saying is that we only hope that the objective of this formalisation of bodies is to control, manage and verify the usage of water. At the moment, something is not going well. I support this Bill and I hope it will solve many of our problems. Thank you.

HON SPEAKER: I thank Honourable Ya France for his contribution. Are there any further discussions? There being no further requests on the part of the Members to take the Floor, may I call on the Honourable Deputy Minister, Honourable Smit, to reply?

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: I request that we adjourn the reply until Thursday this week.

HON SPEAKER: Any objections? So agreed. Therefore, the Honourable Deputy Minister's reply will be forthcoming on Thursday. The Secretary will now read the Seventh Order of the Day.

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**SECOND READING: CRIMINAL PROCEDURE BILL
HON DR KAWANA**

**RESUMPTION OF THE SECOND READING:
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HON SPEAKER: When this Debate was adjourned on the 29th of September 2004, the Question before the Assembly was a Motion by the Honourable Deputy Minister of Justice and I now yield the Floor to Honourable Minister to reply.

HON MINISTER OF JUSTICE: Thank you, Comrade Speaker. Allow me to thank all the Honourable Members who have contributed to the Debate as well as those who supported the Bill in silence.

number of Honourable Members, such as my senior Minister, *Comrade Toivo Ya Toivo, Honourable senior Minister Comrade Nicky Iyambo, Dr Iyambo junior, senior Member and veteran, Honourable Pretorius*, my Colleague, *Comrade Loide Kasingo* contributed to the Debate. Since most of their interventions addressed the same issues, my response will be general.

Government, as I said in my motivation speech, is determined to ensure that crime in our country is addressed in order to maintain peace, security and stability. Justice is like a scale, cases are determined according to the scale of justice. That is why we say in law that each case should be determined on its own merits.

If I take one example of murder, prison sentences would be different, contrary to the concerns by my senior Colleague, Honourable Pretorius. In cases where one murderer shoots a woman to steal her handbag and in another case where a father murders a rapist, he catches this rapist in the act of raping his daughter, there is mitigation and this father will get a lesser sentence than the other one. Therefore, in the Bill there is a leeway to give discretion to the Courts to take these factors into account before sentencing. The fears of Honourable Pretorius are adequately addressed in the Bill.

There is also the issue of admission of guilt fines. This has been raised by Dr Iyambo Junior and the amount has been raised to N\$3,000 and it is expected that our Courts will deal with cases in a manner that there will not be a backlog of cases, as is the case now.

In short, I plead with this Honourable House to approve this Bill so that we begin the real war, the war against criminals. I also take note that this law alone will not really solve the problem, and I agree with the Honourable Members who have spoken. This law is but one of the elements that we need to deploy in order to address crime. In my view, we need to empower our disadvantaged Namibians economically, those who are poor and unemployed,

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particularly the youth and women, and this is the second phase of the SWAPO Party's struggle in the next Government, as we are going to win the election.

I however also plead with this Honourable House to give my Ministry human and financial resources, because in this war financial resources are my jet fighters, my artillery and my soldiers.

With these few remarks, Comrade Speaker, I thank all the Honourable Members who have supported the Bill. I thank you.

HON SPEAKER: I thank the Honourable Minister of Justice for his reply and I now put the Question, that this Bill be now read a Second Time. Are there any objections? No objections, so agreed. The Secretary will read the Bill a Second Time.

CRIMINAL PROCEDURE BILL

RESUMPTION OF SECOND READING : NATIONAL DISABILITY COUNCIL BILL

HON SPEAKER: When this Debate was adjourned on the 28th of September 2004, the Question before the Assembly was a Motion by the Honourable Minister of Lands, Resettlement and Rehabilitation and he adjourned the Debate for his reply this afternoon. Honourable Katali.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I would like to adjourn the response until tomorrow, Honourable Speaker.

HON SPEAKER: I call on the Right Honourable Prime Minister to adjourn the House until tomorrow afternoon, 14:30.

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ADJOURNMENT

RT HON PRIME MINISTER: I Move the adjournment of the House until tomorrow afternoon, 14:30.

HOUSE ADJOURNS AT 17:43 UNTIL 2008.10.06 AT 14:30

**ASSEMBLY CHAMBER
06 OCTOBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Reports of Standing or Select Committees? Other Reports and Papers? Notice of Questions? Notice of Motions? Ministerial Statements? The Secretary will read the First Order of the Day.

**COMMITTEE STAGE :
ROADS AUTHORITY AMENDMENT BILL**

HON SPEAKER: Does the Honourable Minister of Works, Transport and Communication move that the Assembly now goes into the Whole House Committee?

HON MNISTER OF WORKS, TRANSPORT AND COMMUNICATION: I so Move Honourable Speaker.

HON SPEAKER: It is therefore moved that I leave the Chair. Any objection? Who seconds the Motion? So agreed. I call on the Chairperson of the Whole House Committee to take the Chair. Honourable Konjore.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Roads Authority Amendment Bill.

Clauses and the Title put and agreed to.

ASSEMBLY RESUMED:

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ROADS AUTHORITY AMENDMENT BILL

Bill reported without Amendment.

THIRD READING : ROADS AUTHORITY AMENDMENT BILL

HON SPEAKER: Does the Honourable Minister, Honourable Amweelo, move that the Bill now be read a Third Time?

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: I so Move, Honourable Speaker.

HON SPEAKER: Any objection? Who seconds the Motion? Any further discussion? I call on the Honourable Minister if he wishes to say anything by way of concluding the Third Reading stage.

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Thank you, Comrade Speaker, Honourable Members. I would like to thank all the Members for their support. With this power vested in the appointing authority, we will be able to ensure that when it is evident that good governance is no longer prevailing at the level of the Board, appropriate remedial action may be taken. I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Minister for his concluding remarks and I now put the Question, that this Bill be now read a Third Time. Any objection? So agreed. The Secretary will now read the Bill a Third Time.

ROADS AUTHORITY AMENDMENT BILL

HON SPEAKER : The Secretary will read the Second Order of the Day

COMMITTEE STAGE : CRIMINAL PROCEDURE BILL

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**COMMITTEE STAGE: CRIMINAL PROCEDURE BILL
HON IILONGA / HON DR KAWANA / HON DR AMATHILA**

HON SPEAKER: Does the Honourable Minister of Justice move that the Assembly now goes into the Whole House Committee? It is therefore moved that I leave the Chair. Any objections? Who seconds the Motion? Agreed to. I call on the Chairperson of the Whole House Committee to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Criminal Procedure Bill.

Clauses 1 to 17 put and agreed to.

Clause 18 put.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: On Clause 18 it reads "*on own expenses.*" Is that person going to quality for that assistance that used to be given even to the criminals?

HON MINISTER OF JUSTICE: Comrade Chairperson, in terms of Article 12 of the Namibian Constitution every citizen of Namibia is guaranteed to engage a legal representative of his or her choice. It is in that context that the provision was made. However as you are aware, in the Ministry of Justice we have a Directorate called Legal Aid and normally this Directorate is used to render legal assistance to vulnerable people in our society as per the provisions of Article 95(h) of the Namibian Constitution and in most cases we do render legal assistance to children, women and victims of crime. The Honourable Colleague can rest assured that the Ministry will endeavour to make sure that priority is given to the victims of crime rather than to criminals. I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 17 agreed to.

Clauses 18 to 268 put and agreed to.

Clause 269 put.

HON MINISTER OF HEALTH AND SOCIAL SERVICES: Something happened yesterday, which gave me reason to look at Clause 269. A traditional marriage was conducted or was about to be conducted of a person who lost his brother and the families are now giving the brother's wife to him. The married wife has not been informed properly, she

has not slept for five nights, and she has been phoning everybody. I am sure you have had some telephone calls from her.

Will this Clause be applicable to these traditional marriages, because we need to deal with these issues. I did not want to open a Pandora's Box, but it is important that we advise the lady correctly that this Clause will protect her, because she is now forced to give consent for her husband to marry the diseased brother's wife.

HON MINISTER OF JUSTICE: Comrade Chairperson, although what I am going to say here is not to be taken as legal advice to the senior Minister, but it depends under which law the marriage is to be contracted. In terms of Article 66 of the Namibian Constitution, Customary Law is recognised and I know in some communities polygamist marriages are allowed. It depends whether the man married his first wife under Customary Law and whether that Customary Law allows polygamist marriages. If the man married under the modern law and he wants to marry a second wife under Customary Law, then he would be committing an offence.

HON MINISTER OF HEALTH AND SOCIAL SERVICES: The man got married according to our SWAPO laws in the struggle. I think they went to church but I saw them getting married. If I mention the name, you will know who it is. Now the brother died and he left his wife and now this brother has to marry the widow. The first wife, whom we all know, is very unhappy, she says she is married officially to this man, she is not from their tradition, why should she now be forced to agree to this, and she is refusing. That is polygamy and I think no traditional marriage should cover up the story.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Before I call for further discussions, I just want to warn that this House ought not to be seen as advising people out there. We are here to pass laws and laws ought to be read and interpreted at a different level, not in this House.

HON NAMISES: I also see this as a serious problem for the women, the family and the children if it happens as it is now. However, that Clause in the Bill would be helpful. As I am standing here, I would really like to speak to that sister, not advising her as a Parliamentarian, but saying that, "*please people, just do not do that.*"

HON MINISTER OF MINES AND ENERGY: Comrade Chairperson, I think the Honourable Minister of Justice has clarified the matter, that if what is being talked about is somebody who married under Common Law, then obviously that sister has every right to refuse. Even if her customs allow polygamy, the Common Law under which she got married is on her side to say no. It is as simple as that, we do not need to debate this issue.

HON MINISTER OF JUSTICE: Comrade Chairperson, as the Honourable Minister of Mines and Energy correctly put it, it is irrelevant in law and the only test is whether these people got married under the Common Law or under Customary Law. If they are married under the Common Law, whether there is consent or not are irrelevant, that man will be committing a criminal offence.

I also want to inform the House that I have of late been busy with the Honourable Deputy Minister of Justice to consult Traditional Leaders before we gazette the Community Courts Bill and we have in fact found that there is a very serious problem in this country, which I think we have to think about and come up with legislation. What happens now is that the man would leave his village or community where he is married under Customary Law, comes to an urban area, get married under Common Law.

He has children at the village he has children in town. When that man dies, there is a problem in terms of the distribution of property and so forth.

If we interpret the law to such an extent that there would be people who would be affected, then it is a problem, because in this example I have given you the first marriage is the valid marriage, but then we can also not ignore the plight of the children of the second marriage. Something must be done to protect the children. However, we are thinking about this and maybe we will come up with a law and I concur with the senior Minister and Honourable Namises that it is a very serious problem in this country. I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Just as advice as a marriage officer myself, that is why marriage banns have to be announced for some time for anybody to come and complain and say, *no, Honourable Venaani is already married.* That is on a very light note.

Clause 269 agreed to.

Clause 270 to 281 put and agreed to.

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**COMMITTEE STAGE: CRIMINAL PROCEDURE BILL
HON SCHIMMING-CHASE / HON N ANGULA**

Clauses 282 put.

HON SCHIMMING-CHASE: If I may put a Question to the Minister on Clause 282(4)(a). I just want the Honourable Minister to please explain: *“A law enforcement officer who sets or participate in a trap or an undercover operation to detect and investigate is not criminally liable in respect of any act that constitutes an offence and that relates to the trap or undercover operation if it was performed in good faith.”*

Honourable Minister, how does the present Act read?

HON MINISTER OF JUSTICE: Comrade Chairperson, more or less the same and even in terms of interpretation in our Courts. When you do something in good faith, you are a Public Officer employed by the State and you are absolved because you have performed your duties to the best of your ability. If some people are injured in that regard, it will be for the State, not the person who carried out the duty.

Now that we are in this modern age of criminal gangs, drugs, diamonds and so forth, it is absolutely necessary to carry out such kinds of operations.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clauses 282 agreed to.

Remaining Clauses put and agreed to.

Schedule 1 and 2 put and agreed to.

Schedule 3 put.

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: Just a question to the Minister in the third Schedule, which relates to bail. You say possession of dagga exceeding 115 grams. Are you saying that a person with dagga beyond this quantity will not be liable for bail?

HON MINISTER OF JUSTICE: Comrade Chairperson, this is not really a new provision, it is also in the current Criminal Procedure Act of 1977 and it is normally the standard. It is not really in terms of bail as such, but in terms of sentencing and also in terms of arrest, because they have to prove that the drugs exceeded a certain weight.

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COMMITTEE STAGE: CRIMINAL PROCEDURE BILL
HON DR KAWANA

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: I want to know whether dagga with a weight of 115 gram has a different effect as dagga of 116 gram. Why that particular weight?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion?
Honourable Minister.

HON MINISTER OF JUSTICE: Honourable Chairperson, maybe that one is more medical than legal, but as I said, this is almost universal. England and the United States prescribe the same and maybe it something that stems from medical reasons. (Interjection). Of course, in Singapore and Saudi Arabia, the death penalty is mandatory, but I think maybe it is in terms of drug addiction. If you take less than that, then you are still a sober person. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Schedule 3 agreed to.

Remaining Schedules and Title put and agreed to.

ASSEMBLY RESUMED:

Bill reported without Amendment.

HON SPEAKER: Does the Honourable Minister of Justice Move that this Bill be now read a Third Time?

HON MINISTER OF JUSTICE: I so Move, Comrade Speaker.

THIRD READING : CRIMINAL PROCEDURE BILL

HON SPEAKER: Any objections? Who seconds the Motion? So agreed. Any further discussions. Does the Honourable Minister of Justice wish to say something by way of concluding the Third Reading stage?

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THIRD READING : CRIMINAL PROCEDURE BILL
HON DR KAWANA

HON MINISTER OF JUSTICE: Just a few remarks, Comrade Speaker. I thank all the Honourable Members for their support. I feel that I have now officially and formally declared war against the criminals and I will need the support of this Nation and at the same time to plead that as we go into the fourth term of our Independence, that the Government will address the plight of the poor, the unemployed, the youth, the women and they must come up with an economic revolution under the presidency of Honourable Hifikepunye Pohamba, so that those who have criminal minds, who steal while they are already millionaires will be locked up and will never see the sun again, to protect society against them. I thank you for your support.

HON SPEAKER: I thank the Honourable Minister for his concluding remarks and I now put the Question, that this Bill be now read a Third Time. Any objections? So agreed. The Secretary will read the Bill a Third Time.

CRIMINAL PROCEDURE BILL

**RESUMPTION OF SECOND READING :
PREVENTION OF ORGANISED CRIME BILL**

HON SPEAKER: When this Debate was adjourned yesterday, the Question before the Assembly was a Motion by the Honourable Deputy Minister of Justice, Honourable !Naruseb and he adjourned this Debate for his reply this afternoon.

HON DEPUTY MINISTER OF JUSTICE: Thank you, Comrade Speaker, Honourable Members. Allow me to express my sincere appreciation to those Honourable Members who took the Floor in support of the Prevention of Organised Crime Bill and also to those Honourable Members who, even though they have not taken part in the Debate, succinctly endorsed the tabling thereof. I can only say thank you so much for your support.

My conviction is that the prompt passing of this Bill will enhance the capacity of our law enforcement agencies to competently and effectively deal with the mischief that this Bill seeks to redress. With your valued permission, Comrade Speaker, I shall then, without too much ado, venture into responding to individual issues raised by the Honourable Members.

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**SECOND READING
PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB**

Comrade Shihepo urged the Government to consult and work with relevant international bodies and countries in our quest to combat the phenomena of organised crime. In this regard, I wish to point out that Namibia is indeed a member of the following bodies in order to enhance cooperation:

Namibia is a member of Eastern and Southern Africa Anti-Money-laundering Group, the short version of which is (ESAAMLG), which is a member of an international body of financial action task force and we also have very close cooperation with Interpol.

Government's approach is to have comprehensive legislation on criminal activities. In this regard, the Prevention of Organised Crime Bill, as I was telling you during my motivation, is the first Bill to go to Parliament, as it is the umbrella. There are other Bills, which are going to follow as I have already told you during my motivation, that are closely linked to this Bill.

They are, the Drugs Bill, the Financial Intelligence Centre Bill, Anti-Terrorism Activities Bill.

Honourable Nambinga in his intervention sought clarification on the application of Section 2(1). There are mechanisms build into the Bill to which the Courts will give effect to Section 2(1). Most properties that the State will go after will be highly valuable properties, like immovable properties, that are houses and in the case of movable property, cars, boats, etcetera. These properties are usually registered and thus leave a paper trail that the police can follow in their investigations.

Section 32(1) provides for an inquiry into any benefits the defendant might have derived from the offence of criminal activity. Section 36 provides for evidence relating to proceeds of offences and related criminal activities.

On Section 40, Honourable Nambinga sought assurance on how we can secure cooperation from members of the public in identifying gang members in view of the perceived cooperation of some members of the public with criminals. Notwithstanding the fact that there might be that perception that the public is not cooperating with the Police in their quest to apprehend criminals, I wish to assure the Honourable Member that it is not always that the public is uncooperative. Some of the biggest successes by the Police were achieved with the assistance of the public by way of anonymous tip-offs even by the own family members of the culprits.

On Section 3, Honourable Nambinga questioned the constitutionality of imposing a sentence of a hundred years or an N\$1 billion fine. The Honourable Member also referred us in this regard to a legal opinion, which indicated that a sentence without the prospect of parole would be unconstitutional. The provision does not confine the Judge to the sentence

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PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB**

contained in the Section, the provision simply means that the sentences must not exceed that number of years or that amount in fines. The highest sentences are indicative of the seriousness of the crimes that we have to deal with. The Court will only put down a sentence if it is disproportionate to the crime committed. A Judge still has the discretion as to the suitability of the sentence to impose.

The senior Minister, *Honourable Dr Amathila*, trafficking in persons and smuggling of migrants, this phenomenon is not so widespread in Namibia or, indeed, in southern Africa. These provisions are inserted as a preventive measure so that if such things happen, we are not caught off-guard. It is also in compliance with the United Nations Convention against Trans-national Organised Crime, which this Bill partly intends to implement. I might also inform and mention that this august House has already ratified the said Convention a few years ago.

As to the concern of the Honourable Member whether the recent Bangladeshi national saga at Ramatex would be covered by this provision, this is a matter that would depend on the outcome of the current investigations in this regard.

Honourable Speaker, Honourable Members, allow me then to conclude by once again registering my profound appreciation for your support and I trust that we will also pass this Bill without too much ado. I thank you.

HON SPEAKER: I thank the Honourable Deputy Minister of Justice for his reply and I now Put the Question, that this Bill be read a Second Time.

PREVENTION OF ORGANISED CRIME BILL

HON SPEAKER: The Secretary will now read the Fourth Order of the Day.

**RESUMPTION OF SECOND READING: FORMER
PRESIDENTS' PENSION AND OTHER
BENEFITS FUND BILL**

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FORMER PRESIDENTS' PENSION FUND BILL
HON VENAANI

HON SPEAKER: When this Debate was adjourned yesterday, the Question before the Assembly was a Motion by the Honourable Minister of Justice and this Debate was adjourned by Honourable Member Mr Venaani to whom I now yield the Floor. Honourable Venaani.

HON VENAANI: Thank you very much, Honourable Speaker. I rise to briefly intervene and to discuss some issues on the Bill before the House.

Honourable Speaker, at the outset one should say that this is a very fair and important Bill before the House and when I say "*fair*", I mean the intended result of the Bill, what it wants to achieve is just practically correct, there is nothing wrong with providing a pension for any person that has rendered a service in any way to the country or to a private institution.

However, Honourable Speaker, it is the shadow and dust that has been put on this Bill that makes one wonders and when the Minister motivated the Bill, he referred too much to the speculation in the media about what the President might get out of this Bill and a further shadow or dust was added by Honourable Sioka when she rose yesterday. (Interjection) It is very disappointing for an Honourable Member who is elected to serve to create a perception that when one serves the Nation, you are doing it with the purpose of getting a reward. Heroism cannot be rewarded with monetary value. Heroism is not something you do because you want to get something out of it. I think is an act of duty in the interest of your country.

I therefore believe that such proposal would really kill the necessity of such an important Bill before the House, that a perception is created in our Nation that we want to pay enough for the President to go out, because international literature has also told us that ... (Intervention)

HON DEPUTY MINISTER OF LANDS AND RESETTLEMENT: May I ask Honourable Venaani a question? Honourable Venaani, why do you seem to be worried by the comments made by the Honourable Minister of Justice in his motivation and also the recommendations or statement made by Honourable Sioka and also the statements that you yourself are making that will not be part of the Bill under discussion? Why are you worried about all statements that were made?

HON VENAANI: Why one gets worried is that we have a Nation that we lead as respected elected leaders and when one reads an important Bill that should remunerate a person for services rendered to the country and in doing so the Ruling Party Members are coming up

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HON VENAANI

with remarks that we should give a State House to the value of N\$37 million to the current Head of State as a package. (Interjections). No, it is not in the Bill, but I am talking about the shadow over this Bill, because the Minister concentrated on the speculation in the media and the media speculated on the State House.

Her Royal Highness Doreen Sioka comes to this House – and she is again quoted in the press – and says that the Namibian people must give a gift of N\$37 million to one individual for heroism. My advice is very simple, that those of us who want to tell the history of the President of this country should go and write books. (Intervention)

HON SPEAKER: Before I give the Floor to Honourable Ilonga, I remember very distinctly that yesterday I said that in order to create the institution that we want to create, not only for a President, but even for Members of Parliament here, we should take the *persona* out, because charisma is always a characteristic of an individual and as you rightly said, cannot be rewarded. Let us discuss the conditions of service befitting a former Head of State, the creation of an institution. I will continue to rule you Out of Order, because all of you here are potential Presidents. Create the institution. Honourable Ilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Thank you, Comrade Speaker. You as the Presiding Officer took my words because that is what I wanted to advise our young Parliamentarian, that this Bill does not deal with an individual, it deals with Presidents. What the Honourable Speaker told us is the core, not the President. Honourable Kaura wants to become President, but unfortunately, he will not be the one. (Intervention)

HON SPEAKER: Do not bring in the *persona*, Honourable Member.

HON VENAANI: Honourable Speaker, I said I am going to be very brief. It is not important who wants to become President, it is the institution that we want to create. Let us give what is due to our Heads of State and I am not here talking about the current Head of State *per se*. (Intervention)

HON DEPUTY MINISTER OF TRADE AND INDUSTRY: On a Point of Order. Is it allowed for an Honourable Member to filibuster on a Bill? Is it allowed?

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HON VENAANI**

HON SPEAKER: Filibustering is a well-established Parliamentary procedure, but it is not occurring right now at this moment. Please proceed.

HON VENAANI: Honourable Speaker, our Party's position is that we want the Head of State, any retired Head of State... (Intervention)

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I would like to pose a very small question to Honourable Venaani. Honourable Venaani, you are a bright young man with lots of potential, even the potential to see the light one day and to join SWAPO. Once you have done this and the sins of the past are forgiven, you might even become President. Would you then like your benefits and pension to be determined by perceptions in newspapers or would you prefer it to be regulated by an excellently crafted Bill such as this that will become an Act to take care of your pension and other retirement benefits? You do have that potential, the light is going to come.

HON VENAANI: Honourable Speaker, you have our support for giving what is due to the institution of the President, that is not the problem, but you do not have our support on the shadow that you are casting on this very important Bill. You are casting a shadow on this Bill so that our Nation and citizens believe that we want *to pay out* the President, as it is known in international practice. We know many Presidents that have retired, demanding that, "*if I go, this is my package.*" The Members should concentrate on the Bill before the House and not bring proposals that are not crafted in this very important Bill.

The Honourable Minister in his motivation spoke of security staff for the President and I just want to air my concerns. It says that the security personnel shall be determined by Cabinet, but not less than ten members.

In my opinion, ten security personnel for a retired Head of State are a little bit too much. If one gives the retired Head of State perhaps five security staff that would take care of his security needs... (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: May I ask a tiny question? You are arguing about the number of security personnel. Are you aware that the Labour Law allows you to work for only eight hours a

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HON SCHIMMING-CHASE

day? When one is talking about security personnel, it does not mean that all of them have to be there at one particular time. It means that they have to be scheduled so that it complies with the Labour Law. Perhaps there is no point in arguing about the number, that is why it was left at that.

HON VENAANI: Honourable Speaker, the Minister spoke of numbers and I want to concentrate on the numbers, taking into account that a person can work overtime if you have five security personnel. I think when one retires as Head of State, when you compare all Heads of State, they are flabbergasted by security personnel and if you read their autobiographies, many of them were very concerned about the security that they have. I would like this individual to become an ordinary citizen of our society. (Interjections). I have read about Presidents and their lives, their personal accounts of what they experienced, even President Mandela. I am talking about that experience.

Honourable Speaker, I want also want to add my support to the Motion that was put by Honourable Pretorius, saying that perhaps it would be very wise to refer this Bill to the Standing Committee on Privileges, the reason being very simple. If you go to the motivation speech of the Honourable Speaker, he says: *"The proposed law must provide for gratuities if not paid out already to the former President and a pension and a medical aid scheme to the surviving spouse for a deceased former President and upon the death or remarriage of a surviving spouse, the gratuity, if not already paid out to the surviving spouse"*, etcetera.

I think this Committee could establish whether this gratuity has already been paid or not. (Interjections). Yes, that is my argument because we are democrats and I support that this Bill be referred to the Standing Committee on Privileges. Thank you.

HON SPEAKER: I thank Honourable Venaani for his contribution. I now recognise Honourable Nora Schimming-Chase.

HON SCHIMMING-CHASE: Thank you, Honourable Speaker. Honourable Speaker, I think that this proposed Bill is either coming too late or too early, depending on your vantage point. Too late, Honourable Speaker, because it is unacceptable that it takes us fourteen years to discuss the inevitable, because when we elected the first President in a democratic State, it was clear that there would be a second, a third and a fourth, because immortality was not a qualification of a presidential candidate.

On the other hand, I think that it is perhaps too early, because on reading the proposed

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HON SCHIMMING-CHASE

legislation, I could not help but have a feeling that this legislation is coming at a time when something that we have not thought about at the beginning has become a reality, namely that you would have a retired President of the Republic of Namibia who is an active political actor as a president of a Party from which he or she comes.

Honourable Speaker, I want to state it quite clearly, a pension not just for a President, but for a Prime Minister, a Deputy Prime Minister should all have been done before people reach the age of pension or the time of pension. That is why I say it is maybe too late.

Let me say from the onset, Honourable Speaker that I, for one, would actually have agreed to a larger package if the country could have afforded a larger package, but I do not believe that the country can afford a larger package and it is unfortunate that Honourable Buddy Wentworth is not here, but as a born and bred Namibian I feel that it is an insult to any Namibian President who was involved in the liberation struggle to have his or her package compared to the package of a Fascist apartheid President and I think his attempt to do that, let alone not taking cognisance of the differentiation in the Gross Domestic Product, to equate it is an insult because you cannot equate a murderer with somebody who has served his people, not in terms of a package.

Honourable Speaker, this Bill is referring to a President who is being pensioned from the presidency of the country, but not from an active political life. Such a President who remains not only politically active, but politically influential in terms of various constitutions that allow such a President to even choose the top ten people who will go to Cabinet, is not somebody who is being pensioned, it is somebody who is ... (Interjection). Who are you talking about? I am talking about **a** President, not **the** President. I am talking about **a** President of **a** Political Party, I do not want to be ruled Out of Order. Such **a** President who has that type of influence, Honourable Speaker, is not being pensioned, such a President is moving aside in order to influence from the Boardroom and that is dangerous in this Bill. Honourable Speaker, it is dangerous.

Honourable Speaker, those who have died in the liberation struggle had no pensions, but if we were to be able to communicate to them today, I am sure, like any other President who was part of the liberation struggle, they will tell you, ***“under no circumstances did we view our role in the liberation struggle as an insurance policy.”*** This Bill intends to make it look like an insurance policy and I think it would be insulting to somebody who aspired and became a President, to then be told, *“Okay, now we are paying you out for your commitment to a better life, for your role as the Leader of a Nation”*. It cannot be accepted, Honourable Speaker, it makes it difficult for one to support what should be a noble Bill. (Intervention)

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HON SIOKA: I would like to ask a question. You have mentioned that those who died in the struggle had no pension, then why were your Party against the building of the Heroes Acre?

HON SCHIMMING-CHASE: Honourable Speaker, if my Honourable daughter would read my contribution during the Debate on the Heroes Acre, I was not opposed to a Heroes Acre... (Interjection). I am a Member of that Party, the Vice-President, I stand for everything it stands for. I was opposed to who was going to decide on who is a hero and history has absolved me. Look at who is buried there. I said we must define a hero. Why are we not looking for the bones of late Jacob Marengo? That was my opposition and also to the fact that it looks more Korean than Namibian. We have artists that could have made Namibian statues. (Interjections).

Honourable Speaker, I do not know why my Colleagues are getting excited. (Intervention)

HON MINISTER OF HEALTH AND SOCIAL SERVICES: You are excited.

HON SCHIMMING-CHASE: Libby, you know when I am excited, you should know better than anybody else when I am excited.

Honourable Speaker, the one thing that I have learned in life is not to sign a blank cheque. (Interjection).

HON MEMBER: How old are you?

HON SCHIMMING-CHASE: Sixty-three, you will not look this way when you get there.

Honourable Speaker, I have not signed a blank cheque in my life even for money that I worked for, I am not going to sign a blank cheque for the taxes that are paid by the people of Namibia. (Intervention)

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HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT

CREATION: May I ask my fellow pensioner a question? Honourable Schimming-Chase, you are talking about blank cheques. Do you not think that you are encroaching on the function of the Executive, because we in the Parliament do not write cheques, we make laws for people to write cheques. Do you not think that you are actually encroaching on the responsibilities of other institutions?

HON SCHIMMING-CHASE: Thank you, Honourable neighbour and age-mate. We are not going to sign the cheque, we are going to decide the amount of the cheque, because the signing is an administrative process. We are not administrators, we are lawmakers and if I, as a lawmaker, have to agree to a package, I must know the value of the package. (Interjection)

HON MEMBER: You know the value!

HON SCHIMMING-CHASE: Speak for yourself I do not! I have not seen what the salary and remuneration is. (Intervention)

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Comrade Speaker, may I just ask a small question for clarification? Honourable Schimming-Chase, I would appreciate it if you could clarify to me the issue of a blank cheque in relation to the statement in the Bill that says the President will be paid a monthly pension equal to whichever is the greater of the monthly basic salary that he or she received immediately before he or she ceased to hold office as President or 80% of the incumbent President's basic monthly salary. How does this become a blank cheque?

HON SCHIMMING-CHASE: Thank you very much. In relation to the blank cheque, it is the amount of the basic salary that is blank. I do not know what the basic salary is. As Honourable Pretorius said yesterday very clearly that this was supposed to have been done by an Act of Parliament, which has not happened. It is the amount that is blank. (Intervention)

HON DEPUTY MINISTER OF LANDS AND RESETTLEMENT: On a Point of

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Information. Honourable Nora Schimming-Chase, we are here busy making the law and in this law we are not going to put any amount of what a President is receiving, simply because this is not meant for the current President, it is for all future Presidents. Now what kind of amount are we today going to stipulate in this Bill in order to satisfy the Honourable Member's desire to see the amount written in the Bill? Is it not sufficient for us to know that it is the current monthly salary, so that it also applies to all the future Presidents and their corresponding salaries at those times?

HON SPEAKER: The purpose of lawmaking is to put the limits on the lower side and the upper limit. If what the Honourable Member is asserting is true, how are we going to determine the upper limit? I think it is a valid question. You have done well to explain what the rationale was, but she is equally right in seeking the information in terms of the upper limit.

HON SCHIMMING-CHASE: In reply to the Minister, at 63 this is perhaps the only time that I will speak about this, but it is my earnest hope, especially having seen the young children debating in this House, that when the time comes for the next one, they will ask the same question. It is not the first law that will be amended. (Intervention)

HON MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: On a Point of Information. Think of yourself in the year 2030, a President is retiring in the year 2030 and there is no way you can today say what in that year the salary of a retiring President will be, but you will be able to determine the salary of the incoming President and say the retiring President will get 80% of the incoming President's salary and salaries are moved every year. If he does not want the 80%, then he gets his previous basic salary.

HON SPEAKER: Honourable Members, we are not going to be spending time on this. There is no secret, as Honourable Minister Mbumba murmured there, salaries are discussed in this Chamber every day. What is so secret about the amount that is being asked for? It is known, it has been seen in the last Budget. If the amount is not going to be given for a certain reason, it must be said so that we do not spend so much time on the same thing over and over.

HON SCHIMMING-CHASE: Honourable Speaker, the Honourable Minister is entitled to

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his calculations, I am entitled to my reservations and I shall state it again, it is a blank cheque that I am not prepared to authorise the signature. The reason, Honourable Speaker, I am saying this is because this package is going to be paid from the State Revenue. The State Revenue is the sum total of the taxes that every Namibian pays.

Mr Speaker, those of us who are here, contrary to what Honourable Nahas is trying to do to personalise, I am here on behalf of the electorate, those people who pay taxes. (Interjection). Electorate, not illiterate!

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: On a Point of Information, Comrade Speaker. In the same way, that all of us and all Civil Servants receive a cheque at the end of the month or it is paid into our bank account, in the same way the salary for the President is paid into the bank account of the President and there is no secrecy about it. Why do you not just do the simplest research? It is not a secret. Upon enquiry, you can be provided with that information. The entire public has the information. I am not the Minister of Finance, so I am not going to act as one, but it is not a secret. There are dedicated, laid-down amounts that the President receives, that a Minister receives, the Speaker and they are public knowledge. Therefore, there cannot be a relation to a blank cheque. It is the simplest operation to solicit the amount from the relevant authority, there is no secret about it. We all know what the President earns.

HON SCHIMMING-CHASE; Honourable Speaker, Honourable Venaani spoke about a cloud of dust and when he said that I did not know what he meant, but now I know what he means: Me Lord, the people doth protest too much.

Honourable Wentworth had his time for uninterrupted speech and now wants to speak when I am speaking. Why, so that you can say, my time is over. What are you trying to hide? Honourable Wentworth, as an educationalist, allow me to educate you. I am talking about a package, not a salary cheque.

Honourable Speaker, it was mentioned before and I am mentioning it again, Honourable Pretorius spoke about this, how does it happen that one person is getting two existing pensions? I am raising this point because in the almost five years that I have been here, it has been the position of SWAPO every time we raise the question of pensions and spoke about the fact that State pensions are a constitutional obligation, from that side of the House we were told it is the responsibility of the children to look after their elders. I hope that every single President has children and what is good for the goose will remain good for the gander. (Intervention)

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HON MINISTER OF INFORMATION AND BROADCASTING: On a Point of Information. First of all, you cannot work fifteen years as Head of State, leader of your own country and you tell me after fifteen years my children should take care of me. We are saying we are responsible for those who are working, employed by a company, by the State. However, for our parents who never had a job and got a State subvention, the children should also chip in and that is a different matter. Let us not talk with a forked tongue and let us get rid of this Bill and approve it and go and campaign.

HON SPEAKER: Honourable Members, it is indeed disappointing that after fourteen years of lawmaking we still cannot make out what we are here for. Quite obviously, you are lawmakers and laws deal with major principle positions and I think when the Budget is submitted it comes with concrete figures that can either be voted for or be rejected or be reduced. Traditionally and conventionally, Parliaments are not there to increase proposed lines coming from the Ministries. Can we get over this by having a tacit agreement in the Chamber that these legitimate and valid questions raised by Honourable Nora Schimming-Chase will be raised in the Budget where the figures will be and given the principle of transparency, there will be no statement saying the figures will be somewhere else. Approve the principle, because it is the principle of the law.

HON SCHIMMING-CHASE: This being the Second Reading, it is actually the principle that I am worried about.

I do hope that our Presidents will get a decent pension, because we are Members of the Political Office-bearers Pension Fund. I hope that that package, especially considering that our Presidents, being Namibians, during the course of their existence will become farmers, will own fishing shares, that at least they can pay a contribution to a Medical Aid Fund and not say that they do not even have to pay a contribution to a Medical Aid Fund. That principle is unacceptable to me. It is unacceptable because we are not going to have paupers as Presidents, unless we chop so much that there is nothing left and I hope we will not.

Honourable Speaker, it is the principle not so much of the Bill but the Schedule that I am talking about. A President who has served his or her people well would not have to be guarded against his or her own people by so many guards. (Interjection). It is my position, not yours. You are entitled to yours. (Interjections). If we got Kasikili I would have answered you, but since we lost Kasikili and you got on top of the list, you got your pension.

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HON MINISTER OF JUSTICE: You lost the election!

HON SCHIMMING-CHASE: I did not lose land! The struggle was for land, not for elections. You lost land. I lost elections. (Interjections).

HON SPEAKER: Order! May I at 17:00 share this with you? Within the Region in a neighbouring country, a similar Debate occurred in the National Assembly and this State, having evolved, has established institutions. In this particular country, the Speaker is not allowed to work after his term of office expires. What was not taken care of, and I want Honourable Nahas Angula to think about Vision 2030, is that some may retire while they are very young. The law says you must not work having been in that position. Luckily enough the person who was holding the position was old and the young one who came in now is in that position. Therefore, unless it is a perpetual position, I think the law must make a point that a young, vibrant President who serves only one term can be employed in other sectors after having been a President.

I was trying to say that Namibia is not the pathfinder in this area, we have many examples to go by. Please proceed.

HON SCHIMMING-CHASE: Thank you, Honourable Speaker. I think the Honourable Speaker is right. What I am saying, is the dust that has been referred to really become clear when you are talking about the Schedule, because a person who has been pensioned needs three drivers, two private secretaries, two personal assistants and two office attendants. Is this the office of a retired person? Even if you want to write your memoirs, do you need two private secretaries, two personal assistants and two office attendants? Do you actually need computers in the plural? Do you need other office equipment?

Honourable Speaker, I have no objection to gifts. You have Presidents being given land. Even in areas like *Vaderlike Wette Rehoboth* you may get a present of land. You may get a big house, you may have a property there. You may have a farm. You still need an additional house to be pensioned into or if you look at the sum total of these things, you are talking an active pensioned President, not a pensioned pensioned President.

Honourable Speaker, I will talk on the detail when we get there, but I think if a Political Party which happens to have a president who is the leader of that Party and such a Political Party decides.... (Intervention)

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HON MINISTER OF HEALTH AND SOCIAL SERVICES: May I ask a question to Honourable Schimming-Chase? From all the retired, those we remember, is there a President who retired and sat watching the sun from morning to evening? Do you not think every President, like Clinton and others, are lecturing and being active? Why should the other President just retire and sit under the tree and watch the goats?

HON SCHIMMING-CHASE: I totally agree with Honourable Amathila, because the chances are that she is also going to be the beneficiary of longevity and I hope that by that time she would be able to use a computer, so that she does not need two secretaries, two personal assistants, two office assistants. One would suffice especially if everything has already been written before she retires. I have no objection to that, I hope we will have an active President for as long as Namibia exists.

That is why I am saying, Honourable Speaker, if any Political Party decides at one point that a person who has been the President of the country and also the President of that Party now retires as President of the country and not President of the Party, hopefully not just writing memoirs but leading the Party in what it decides to do and what it decides not to do and how it is going to be done and who will be top ten and who will be bottom twenty, I hope that when we get there, that that party would be honest enough, big enough, wealthy enough to pay for their President and not us, the taxpayers, to do so. I thank you.

HON SPEAKER: I thank Honourable Nora Schimming-Chase for her contribution. Honourable Ulenga.

HON ULENGA: Honourable Speaker, in my contribution or intervention on the discussion of this Bill I will of course, give all my support to my Colleague who just spoke. I appreciate the fact that the Members have put all their questions, all kinds of questions that they could have put to her and there will be no necessity to interrupt my speech.

Honourable Speaker, let me start off by thanking the Honourable Minister of Justice, Honourable Kawana, for his servility. Yesterday I all of a sudden could not come into the House and with the barest, shortest kind of communication, he agreed that Members could still debate this afternoon. The Minister was civil and kind and I thank him for that.

The Minister should also be thanked for promising during his speech that he would be impartial and non-partisan and promised even further that, depending on how the other

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Members of the House would react to the Bill, he would continue to be impartial and non-partisan throughout the Debate. I completely agree. As a matter of fact, I will say to the Minister, it is not only a promise that you give to the duty that you hold as Minister, the Minister pointed out in his speech that this is a very important Bill, it is a matter of national and public interest and I hope we shall continue to approach it from that angle.

Therefore, it is not just the Minister who has a choice in being impartial and non-partisan, the Minister definitely has a duty. It is a duty for you to be non-partisan and to approach this kind of Bill in that way.

Honourable Speaker, everyone is entitled to retirement – heroes, non-heroes, those of us, those of you, everybody who, as said in this country in Namlish, who have gone out, who have sacrificed this and that is entitled to retirement one day. You can retire even from sacrifices. Let me remind everybody however, that a sacrifice is just that, it is a sacrifice. A sacrifice does not require a reward. Let us however work on this matter very quickly and give to all our former Presidents, future former Presidents the right that they are entitled to, not only to retirement but to a pension. This House and this country need to provide appropriately for that.

Honourable Kawana is talking about a leadership transition. My Colleague here says that perhaps it is too late in certain respects, but it sounds also like it is too early in other respects. I say, however, it looks like we are talking about a leadership transition of a very special type. As a matter of fact, I want to address only two issues.

We not only have to handle, we have to manage transition during this period of time. I am surprised that the Minister is actually talking about a very special kind of leadership transition. I do not want to belabour this point too much, my Colleague spoke about it, but actually, it is one of the main issues that I want to talk about, because otherwise I do not have a problem with the principle of the Bill.

The issue here is that we are faced with a very special kind of leadership transition. There is a particular case now where a President is transiting from State office to Party office. That is where the question will come in of non-partisanship and impartiality, but I want to talk about that later.

I have a quotation here from the present President who has been quoted by the newspapers and I am not so sure about the authenticity of that. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: May I ask the

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Honourable Member a question? Honourable Ulenka, you are repeating "*partisan, partisan*" and you also added the words, "*transition from State to Party*". Maybe your party does not have a Constitution, which is guiding you. The SWAPO Party has a Constitution, which guides us, and it stipulates the same as the Constitution of the country, namely two terms. Those five years will end in the year 2007. Do you want us to only honour one Constitution and not the other one?

HON ULENGA: Honourable Speaker, I thank the Honourable Member for asking the question. He is an old Colleague of mine, we spent several years together in difficult places. I will not throw any stones for now. (Interjections). Did I betray him? I thought we came back together. Next time when you talk to Tjirionge, you must tell him that we came back together on the same day from Robben Island, please so that he can criticise me on genuine issues and not say I left you in prison.

Honourable Speaker, I have a quotation here. The current President has been quoted in the media as saying: "*I shall go back to the SWAPO office and mobilise Namibians for SWAPO*". The Honourable Minister, however, is talking in the document about a torchbearer function, where old Presidents, the old guard have the duty to guide the new generations of Presidents and of other statesmen and women to be able to lead the Nation and not to be partisan. The Minister is talking about a torchbearer kind of function. What I really have problems with is to reconcile the two, where you have a partisan President going back to the Party office and mobilising and doing everything to throw everybody into a Party line, that with the torchbearer function where we as Namibians have to try to be guided, to be coached by an old non-partisan President. (Intervention)

HON SPEAKER: Honourable Ulenka, I warn you to address the Bill, because that sound good, but there is no torchbearer, we are talking about the package, the payout of a former President. Can we do that and then thereafter address the questions. However, if you say, "*because of this, therefore I will not vote for this Clause*", that is fine, but the information part is irrelevant. Proceed.

HON ULENGA: Honourable Speaker, I will definitely rest by your guidance. (Intervention)

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HON DEPUTY MINISTER OF WOMEN'S AFFAIRS AND CHILD WELFARE: On a Point of Order. Comrade Speaker, through you for the Record, whenever you say today we are not going to speak politics here, Nujoma is going back to the SWAPO office to campaign for SWAPO to win and win forever and ever.

HON SPEAKER: I hope Honourable Muharukua was listening when I was telling the Honourable Member that indeed, inasmuch as it is exciting information, it is not what we are looking for here. We have a Bill before us that we have to discuss and it is the package payout Bill. Please proceed.

HON ULENGA: Honourable Speaker, suffice to say that we have severe problems with the former President under full pay of the State, as it is suggested in the Bill, doing partisan duties. We would prefer and indeed, demand that he be at the nation's disposal and not work for one Party only.

Honourable Speaker, Namibia is of course a poor country. They have a term in English and Buddy, if he is still there will set me right if I am wrong, and I think it goes like, "*you have to tailor your coat according to your purse*", something like that. Actually, it is supposed to mean that you will have to make your clothes, your dresses according to the availability of the material that you can buy, that you can pay for.

Therefore, Honourable Speaker, I want to bring two important words to the attention of the House and one of them is "*modesty*". The other one "*propriety*." The other day I talked on something else but I mentioned that the problem becoming serious and vicious in Namibia today is the question of role-modelling. Everybody out there thinks that there is something gigantic. The only thing that matters in this country is being a politician, becoming a minister and ultimately getting into the presidency. (Interjections). I would give you the same advice.

Honourable Speaker, in whatever we do in Namibia we have to make sure that the burden to the State must be appropriate and proportionate to other State tasks and responsibilities, because a State that presides over a poor and indigent country such as ours, will afford certain things and not others. I was just wondering, as the Honourable Kawana emphasises in this document, that we are actually talking about something that is coming, we do not even have one single former President for now. Think of a country like Italy, in the last fifty years they had about ninety Governments and therefore, you can imagine how many former Heads of State they have.

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I understand that the Minister and his Colleagues have also consulted southern African countries, including Zambia. I see that in Zambia they now have two former Presidents and one sitting one. For us that would mean three times the salary of the current President. It would mean three State Houses, appropriate houses. If we go according to the way it is proposed, you are talking of a set of staff comprising at least thirty individuals who are just serving three, four, five, six, seven former Presidents. (Intervention)

HON SCHIMMING-CHASE: May I ask the Honourable Member a question? Is the Honourable Member aware of the fact that once you have failed to provide 50 000 jobs in five years, you are now providing jobs of thirty sets everywhere and that the Honourable Minister Nahas Angula is getting excited because the only job creation seems to be in this Bill?

HON ULENGA: Well said. I can only say, well said. It may be a little too little, too late but however, I cannot fault the statement made by the Honourable Member.

Therefore, Honourable Speaker, modesty should be the guiding word. There is nothing wrong in the principle of this Bill. The principle here provides for all we need. The question is, how far do we want to go and my Colleagues have spoken about the various categories that we have listed in the Schedule here.

I know of countries, which are far better off than Namibia. We should not provide vehicles for retired Presidents. What they do is that they allow the retired President or the former President to request, as the occasion requires, from the State a driver, security personnel and a vehicle and not to have three, four, five vehicles permanently apportioned to a certain house. (Intervention)

HON MINISTER OF JUSTICE: May I ask the Honourable Member a question, the President of CoD? Honourable Ulenka, you were in the United Kingdom for some time, representing the Namibian State, the Head of State. Are you aware that in England every member of the Royal Family, no matter how remotely related, is entitled to security?

HON SCHIMMING-CHASE: Oh, so you want to make the former President a King now? Is that where we are going?

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HON ULENGA: If I get into that kind of argument, the Minister would look like he has some conflict of interest, especially seeing the way the Minister had a certain list. I will not try to put you on the spot, my dear Minister, so I will avoid that kind of discussion.

I have said something about vehicles. You may find that the King of Spain or, indeed, the Queen of England pays a private visit to Namibia and decides to go and call on the former Head of State and the former President on that occasion may need not only three vehicles, but perhaps thirty and if he has such an important visitor, definitely the State should be under obligation to provide that number of vehicles. Instead of determining a number, say that the State will be at the disposal of a former Head of State, especially when it comes to public duties like entertaining foreign guests, etcetera.

The same will apply to the question of security. Instead of assigning ten or thirty or whatever number of security guards, you may one day need a whole platoon or a whole battalion to guard your former President if some real troublemakers invade this country. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: On a Point of Information. I think Honourable Ulenga did not read this Bill, therefore he does not understand it. The former President can be given an official house or a housing allowance.

HON SPEAKER: Honourable Iilonga, I hope there are Members who are at the point of saturation. The economic principle of diminishing returns is beginning to apply now, and I think one has to ask the question, when after we pass a Bill like this and you get home and you have young students at UNAM who asks, "*What bill did you pass today*", what do you say? Do you repeat these arguments or do you refer to the content of the Bill? Honestly, Colleagues, I have difficulty, please address yourselves to this package and when you pass it, pass it consciously, to know you are comfortable with the content that you have passed. If you are not comfortable with it, vote against it that is the right you have.

HON ULENGA: Honourable Speaker, all items I am mentioning are in the Schedule. To put an end to that, I will cite the last issue that I have here.

Some of the Colleagues have spoken about medical aid. In a country like Namibia, I think it would be appropriate and also for the dignity of a former President who has all these benefits for the person to pay a nominal amount to a medical aid. It is appropriate to pay and not to

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travel first class six times per year on private visits internationally. What does it mean to a poor country like ours? How do people rate us? How do our own children who are in the streets and in schools who do not have scholarships read this? I am sure a former President who is getting his full salary throughout until his death will be able to pay for their own tickets. In addition, of course, most of the time they are on public duties, they do not need to travel privately anyhow, they will be travelling on public funds because they are doing public duties. However, when they travel privately, they do not need to use public money. (Intervention)

HON MINISTER OF INFORMATION AND BROADCASTING: May I ask a question? Which former President is going to travel outside the boundaries of his or her own country just for private purposes? I thought these provisions are meant that a former President could be assigned and the assignments are limited. How can a former President decide I am going to fly today, give me a ticket? How can that be?

HON ULENGA: Honourable Speaker, when the Minister was the Minister of Finance, I think we developed a few misunderstandings.

We have corrected that, I do not want us to go back and again, I am not going to put you on the spot, you can have a conversation with the Minister of Justice.

What is meant with private trips, I cannot say. I took them on face value in the English, which is put in the document, six private international trips per year. That is what it says and I can tell you, I have read the Bill several times. (Intervention)

HON SPEAKER: I will only allow interventions, which are specific. This time the topic under discussion is on the private trips that are provided for. I am not going to allow interjections, which are of theoretical nature.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I rise on a Point of Disbelief, and if that is Out of Order, I rise on a Point of Order. I cannot believe that a person such as the Leader of the CoD desires to strip former Presidents of Namibia of the *modicum* of benefits, even less than in any other country. Why must Namibia be seen to be treating their ex-Presidents in such an undignified way, why must we humiliate

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them and I cannot believe that Namibians are proposing not only to humiliate former Presidents, but in the process.... (Interjection)

HON SPEAKER: In the first place, the Honourable Member is Out of Order and you are stretching the liberty of freedom of speech too far. There has not been any reference to the humiliation of the former Head of State here. That is totally Out of Order. The House has not discussed that under my watch. Please proceed.

HON ULENGA: Thank you, Honourable Speaker. Usually the Honourable Member's interventions are bright, I do not know about this one. (Intervention)

HON NAMISES: May I ask the Honourable Member a question? I just want to ask, in terms of the dignity of a former President, do you not think that if he refuses those private trips to be paid by the State, if he refuses those big packages he is going to receive, that it would help him to be seen as a hero and to receive more sponsors for projects from other countries so that he can do the work? Do you not think that would help us to promote such a person? Is it not what Mandela has done and now he has been overwhelmed with money and everything because he has not taken so much, but has given back.

HON ULENGA: Honourable Speaker, in answer to Honourable Namises' question I would say, someone somewhere is definitely trying to compromise the future former Presidents and I think we should not allow it.

However, Honourable Speaker, allow me to go ahead. I will pose a few questions from the pages here. The Bill under discussion in Clause 3(4) refers to more than one surviving spouse. I thought that the word "spouse" means a married person. (Interjections).

HON SPEAKER: Order! We are making laws and definitions of terms are very essential in this exercise.

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SECOND READING
FORMER PRESIDENTS' PENSION FUND BILL
HON ULENGA

HON ULENGA: Perhaps I missed something, I see in another section the Bill also makes provision for customary law and maybe it is taking care of that, but I was wondering, because when I checked in my dictionary this morning, I was told that spouse means a married woman or man.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Speaker, may I ask Honourable Ulenga a question?

HON ULENGA: No, I suspect it is not going to be a nice question.

HON SPEAKER: Question declined, even though you came on the same plane From Robben Island.

HON ULENGA: If that question is clarified, the question of spouses, perhaps the Minister will touch it when the Minister replies.

HON MINISTER OF AGRICULTRE, WATER AND FORESTRY: May I ask the Honourable Ulenga question?

HON ULENGA: No. The final question that I want to put to the Honourable Minister is again on page 3 of the Bill, Clause 2(b), and the gratuity that you are talking about. What is the sense of a gratuity here when the President is going to be paid the ordinary salary until his death anyhow? However, is the gratuity going to be equal to the basic annual salary because this has been left out.

Honourable Speaker, finally, I would really go for the idea that the whole Bill be taken up by the appropriate Committee of Parliament. I thank you.

HON SPEAKER: I call on the senior Minister and presidential candidate to adjourn the House until tomorrow afternoon.

06 October 2004

ADJOURNMENT

HON MINISTER OF LANDS AND RESETTLEMENT: Comrade Speaker, I am very much ready to meet Comrade Ulenga somewhere during the campaign, but now I would like to Move that the House adjourn until tomorrow at 14:30.

HOUSE ADJOURNS AT 17:45 UNTIL 2004.10.07 AT 14:30

**ASSEMBLY CHAMBER
07 OCTOBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER: Honourable Members, I have come to announce that there is no quorum at 15:00. This House stands adjourned in terms of Rule 17 until Tuesday afternoon at 14:30.

HOUSE ADJOURNS AT 15:00 UNTIL 2004.10.12 AT 14:30

**ASSEMBLY CHAMBER
12 OCTOBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

NOMINATION OF NEW MEMBERS

HON SPEAKER: We will commence the business this afternoon with the following announcement:

In terms of Article 48(2) of the Constitution, SWAPO has nominated Mr Ralph Patrick Blaauw to fill the vacancy, which occurred in the Assembly as a result of resignation of Honourable Mr Rick Kukuri.

In terms of the same Article 48(2) of the Constitution, CoD has nominated Mr Abraham Ndumbu to fill the vacancy, which occurred in the Assembly as a result of the resignation of Dr Elizabeth Amukugo.

In terms of the same Article 48(3) of the Constitution, the CoD has further nominated Mr Linus Muchila to fill the vacancy, which occurred in the Assembly as a result of resignation of Mr Linus Chata.

I now call upon Judge President Shivute to administer the Oath and/or Affirmation to Mr Blaauw. May I call on the Whip of the Party to escort Mr Blaauw in front of the *rostrum*, please?

THE JUDGE PRESIDENT ADMINISTERS THE OATH TO MR BLAAUW

HON SPEAKER: Let me now declare Honourable Ralph Blaauw as a duly elected Member of this Chamber. Congratulations and welcome aboard.

In terms of the same Article 48(2), I now call on the Judge President to administer the Oath and/or Affirmation to Mr Ndumbu.

THE JUDGE PRESIDENT ADMINISTERS THE OATH TO MR NDUMBU

12 October 2004

NOMINATION OF NEW MEMBERS

HON SPEAKER: I now declare Mr Abraham Ndumbu as a duly elected Member of the National Assembly of the Republic of Namibia. Congratulations and welcome aboard.

In terms of the same Article, I shall call on the Honourable Judge President to administer the Oath and/or Affirmation to Mr Muchila and at the same time ask the party official to escort Mr Muchila in front of the presidium here.

THE JUDGE PRESIDENT ADMINISTERS THE OATH TO MR MUCHILA

HON SPEAKER: I now declare Honourable Mr Muchila as a duly elected Member of the National Assembly of the Republic of Namibia. I congratulate you and welcome you aboard. Please take your seat.

It is now my duty, on behalf of all of you Honourable Members, to thank the Honourable Judge President Shivute for his cooperation. This is the second time that he shows up here and I would have invited Honourable Judge President to sit in if I could predict what is going to happen the next minute. Since I cannot do that and the Honourable Judge President is busy on behalf of all of us, thank you very much and you will be excused to attend to other national duties. I will ask the Sergeant-at-Arms to escort the Judge President. Thank you very much, Judge President.

HON SPEAKER: Any Petitions? Any Reports of Standing or Select Committees? Other Reports and Papers? Notice of Questions? Any Notice of Motions? Any Ministerial Statements? Right Honourable Prime Minister.

MINISTERIAL STATEMENT

RT HON PRIME MINISTER: Thank you very much, Honourable Speaker. In the same vein that you started, I am not only witnessing the induction of new Members to the august House, I would like to join you in that regard by extending a warm welcome and best wishes to the new Members to the National Assembly and to entreat them one and all to keep the faith that our democracy is alive and well and to enrich it by constructive contributions.

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**MINISTERIAL STATEMENT
HON DR AMWEELO**

I would also like to congratulate all the Political Parties that have conducted successful congresses in the recent past and have punctuated that exercise with completing the list of candidates for elections in November to this Honourable House. In the nature of democracy, some Members have left the House, some on reputable duties, but others unceremoniously, but that is also in the nature of democracy and we have just welcomed new Members now. I trust that they would make contributions worthy of this House. I thought I should place those sentiments on Record.

HON SPEAKER: I thank the Right Honourable Prime Minister for his welcoming statement to all the new Members and wishing the Political Parties success in the forthcoming elections. Honourable Minister Amweelo.

MINISTERIAL STATEMENT

HON MINISTER OF WORKS, TRANSPORT AND COMMUNICATION: Comrade Speaker, Honourable Members of this august House, a Report was received on the night of 10 October 2004, indicating that a number of light aircraft were observed flying over Etilyasa in the Otamanzi Constituency of the Omusati Region. The time of observation was approximately 12 noon. A request was made for the Directorate of Civil Aviation to investigate the legality of the flights.

An intense investigation was conducted by the Directorate of Civil Aviation on 11 October 2004 to establish the facts relating to the reported flights. The conclusion of the investigation is that the observed flights were part of sightseeing flights by a group of mostly French tourists, including three Englishmen, on Belgian and one American. The group consisted of nine aircraft, of which eight were Namibian registered and one South African registered. The aircraft observed were flying from Ruacana to Mokuti Lodge near Namutoni in the Etosha Park.

A review of the attached tour itinerary shows that the group of aircraft left Ruacana at approximately 11:00 on the 10th of October 2004 en route to Mokuti Lodge. The flight from Ruacana to Mokuti Lodge would normally pass almost directly overhead at Etilyasa where the aircraft were observed at approximately 12 noon on the 10th of October 2004. This assumption seems most probable, given the fact that the observation was made at 12 noon and the fleet of aircraft was recorded as having arrived at Mokuti Lodge between 12 noon and 1 pm. Note that the flight time between Ruacana and Mokuti Lodge is approximately one hour and the aircraft were not flying in formation. Thus, it makes sense to assume that

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**MINISTERIAL STATEMENT
HON DR AMWEELO**

the seven aircraft observed were part of the tour group.

The aircraft observed were mostly Namibian registered aircraft with one exception being a South African registered aircraft. It is possible that the observer on the ground, who mentioned that one of the aircraft was registered as N471 may have mistakenly read the first letter of South African registration marks, normally ZS with preceding three-letter registration marks, as the letter N, which is identical to Z if seen from a different angle. There is no record of the tour group given permission to conduct these flights. Permission for such flights is required, since it is an unusual activity due to the sheer number of aircraft flying together at the same time. It is clear from the comments of the communities over which these flights took place, that the flights caused a great deal of concern and disturbance, even greater concern from a security point of view.

The one South African registered aircraft did not have over-flight and landing clearance. It is, therefore, the view of the Ministry that in future such flights, involving a large number of tourist aircraft, must be reported to the security forces before such flights are undertaken. I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Minister for his Ministerial Statement. Before we go into the business scheduled for this afternoon, I have the following observation to make: I want to draw the attention of the Honourable Members to the Order Paper and I am doing that in an attempt to remind the Honourable Members that Thursday is the last day and in this regard, Items 1 to 3 could be disposed of this afternoon and the remaining Items 4 and 5 could be disposed of tomorrow by combining Committee State and Third Reading. If we get the replies to Items 6 and 7 tomorrow, we could also dispose of these items by Wednesday or Thursday. In other words, we can dispose of the Order Paper by assuming that Members who have made a contribution, particularly from the Opposition benches who do not initiate this work, have all done so and the Members from the Ruling Party, unless they are adding something, would concur with what has been submitted.

We shall proceed with the work as scheduled for today. The Secretary will now read the First Order of the Day.

**COMMITTEE STAGE :
PREVENTION OF ORGANISED CRIME BILL**

HON SPEAKER: Does the Honourable Deputy Minister of Justice Move that the

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COMMITTEE STAGE
PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB / HON IILONGA

Assembly now goes into the Whole House Committee?

HON DEPUTY MINISTER OF JUSTICE: I gladly so Move.

HON SPEAKER: It is, therefore, moved that I leave the Chair. Any objections? Who seconds this Motion? So agreed. I shall now call on the Honourable Deputy Speaker and at the same time, Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Prevention of Organised Crime Bill.

Clauses 1 to 73 put and agreed to.

Clause 74 put.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chair, my only request is that this Act must be retrospective to April 2004.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion? Would the Honourable Deputy Minister of Justice wish to comment?

HON DEPUTY MINISTER OF JUSTICE: Comrade Chairperson, our legal system does not make room for retrospective effect of any law passed. As much as I would have wanted to request of my Colleague, I take note of his concern but the situation prevails that we cannot make the law applicable retrospectively. I thank you.

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COMMITTEE STAGE
PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Deputy Minister for his reply. Any further discussions? Honourable Moongo.

HON MOONGO: Honourable Deputy Speaker, I would like to confirm that Namibian law does not allow a law to be of retrospective effect.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 74 agreed to.

Remaining Clauses, Schedules and the Title put and agreed to.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE I shall report the Bill without Amendment.

ASSEMBLY RESUMES:

Bill reported without Amendment.

THIRD READING:
PREVENTION OF ORGANISED CRIME BILL

HON SPEAKER: Does the Honourable Deputy Minister of Justice Move that the Bill be now read a Third Time?

HON DEPUTY MINISTER OF JUSTICE: I so Move, Comrade Speaker.

HON SPEAKER: Any objections? Who seconds the Motion? So agreed. Any further discussions? I will call on the Honourable Deputy Minister of Justice if he has anything to say by concluding the Third Reading.

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THIRD READING
PREVENTION OF ORGANISED CRIME BILL
HON !NARUSEB

HON DEPUTY MINISTER OF JUSTICE: Thank you, Comrade Speaker. My remarks would primarily just concentrate on expressing my heartfelt appreciation to the Honourable Members of this august House for having supported the Bill and I do not really want to repeat what the Honourable Minister of Justice said with regard to the passing of the Criminal Procedure Bill, I can only echo his sentiments that this will hopefully go a long way in our quest to make it easier for our law enforcement agencies to deal with this type of crime wherever it would raise its ugly head.

Maybe I must also comment on Clause 74 that *Honourable Ilonga* as well as *Honourable Moongo* referred to. Honourable Colleagues, we cannot make laws in Namibia that would be of retrospective effect. Coming from the past, as we did, where laws were made, particularly a law such as the one under which people like Ya Toivo were incarcerated in South Africa, the so-called Combating of Terrorism and Communism Act, were passed with retrospective effect, it was regarded as draconian then and the situation has not changed. We cannot be seen as repeating the same kind of behavioural patterns in terms of lawmaking that we were fighting against. It is not on that we can make laws with retrospective effect. Thank you.

HON SPEAKER: I thank the Honourable Deputy Minister for his concluding remarks and I now Put the Question, that this Bill be read a Third Time. Any objections? So agreed. The Secretary will now read the Bill a Third Time.

PREVENTION OF ORGANISED CRIME BILL

RESUMPTION OF DEBATE
RECONSIDERATION: LABOUR BILL

HON SPEAKER: Does the Honourable Minister Move that this Assembly now reconsiders the said Bill?

HON MINISTER OF LABOUR: Honourable Speaker, I Move that it be postponed until tomorrow afternoon.

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**COMMITTEE STAGE: NATIONAL HERITAGE BILL
HON WENTWORTH**

HON SPEAKER: Any objections? Agreed to. The Debate on this item stands over until tomorrow. I call on the Secretary to read the Order of the Day.

**COMMITTEE STAGE :
NATIONAL HERITAGE BILL**

HON SPEAKER: Does the Honourable Deputy Minister of Basic Education, Sport and Culture Move that the House now goes into the Whole House Committee?

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I so Move, Comrade Speaker.

HON SPEAKER: It is therefore Moved that I leave the Chair. Are there any objections? Who seconds the Motion. So agreed. I shall now call on the Honourable Deputy Speaker and at the same time the Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the National Heritage Bill. Clause 1 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Comrade Chairman, I Move the following Amendments to Clause 1:

- 1 To insert the following definition after the definition of "*heritage significance*": "*Land*", includes any rights to, privilege over, claim to or any interest, whether corporeal or incorporeal, in the land or proceeds derived from that land.
- 2 In the definition of "*owner*" add the following paragraphs:
 - "(c) *In relation to any land or any other property, a person who in terms of any law:*

- (i) *has a right, privilege, claim to; or*
- (ii) *holds any security over or interest in the property or proceeds from the property; or*
- (d) *A person who in terms of any law holds or is entitled to hold any land or other property on behalf of another person.”*

I so Move.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Please table the Amendments, Honourable Deputy Minister.

Amendment put.

HON PRETORIUS: Honourable Chairman, I am a bit confused and I would like to have more clarity. (Interjection). As usual, the Honourable Member also does not understand what is going on.

Mr Chairman, when we accepted the Report of the Standing Committee on Human Resources on the Heritage Bill, there were many recommendations, which we have accepted and that is not in here. I can therefore not understand what is going on.

For example, this House adopted the proposal that the following terms should be included in the definitions: “*Museum, heritage-related institutions, performing and living arts, heritage value and national monument*” and there are no such Amendments now.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussions to the Amendment on Clause 1? Would the Honourable Deputy Minister wish to reply?

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Comrade Chairperson, when I responded to the Report of the Standing Committee, I did in my response include a possible definition of “*museum*”, but I said that it is possible to include a definition, the legal drafters in their wisdom omitted that Amendment. We agreed with the Committee that if we see if it is possible, if not, we would disqualify certain places by the exclusion of this definition.

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COMMITTEE STAGE: NATIONAL HERITAGE BILL
HON PRETORIUS

As I mentioned in my reply, this definition would exclude a number of present places that are accepted as museums from being operated as museums and for that reason, we are not doing that by agreement.

HON PRETORIUS: It does not solve my problem. The Honourable Deputy Minister now only mentioned museums, but there are the other words I mentioned here and it was adopted by this House that the definition of “*owners*” can be defined as “*private persons, associations, testamentary inheritance, companies, trusts, etcetera*” and that is also not included in the definitions.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: My second Amendment to Clause 1 specifically addresses the issue of owners and the addition of those phrases in the Amendment.

HON PRETORIUS: I just want to make sure, it is true what the Honourable Deputy Minister said, but it does not really solve my problem. The reference to a “*person*”, does that mean a legal person or a private person? That was not what we accepted in this august House.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Comrade Chairperson, the definition of “*person*” is undoubtedly contained in more than one other piece of legislation passed by this House and there is no necessity to repeat it here.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, it is true what Honourable Pretorius is saying that a Report was adopted in this House, but it is equally true that the Honourable Deputy Minister also replied before the adoption of the Report. I cannot recall whether there was any objection to what the Honourable Deputy Minister said then, which could not contradict the Amendments as prepared and being tabled now.

Clause 1, as amended, put.

HON PRETORIUS: Honourable Chairman, I am still confused, as usual, so as usual I shall prefer to abstain from voting because I do not know what is going on.

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**COMMITTEE STAGE: NATIONAL HERITAGE BILL
HON WENTWORTH**

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Is there anyone who could assist Honourable Pretorius to get more clarity and to vote on this Clause, as usual? Honourable Deputy Minister.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Honourable Chairman, the Committee sat and after careful consideration, they responded to the Bill as handed in here and they made certain recommendations. We met with the Committee to discuss these recommendations and at the end of those discussions, we agreed that certain Amendments were necessary, others were not necessary in the form of Amendments and we came to a common position that some definitions were contained elsewhere and it is not necessary to repeat them here.

When I responded to the Report of the Committee, I pointed out where we accepted the advice and recommendations of the Committee and indicated that we would come with the relevant Amendments to in the Committee Stage accommodate those recommendations. My understanding was that when there were no further discussion after my intervention that the Report of the Standing Committee, together with the proposed Amendments, were accepted in full and it is only a matter of bringing the Amendments to the Committee Stage. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: These consultations between yourself and the Committee, were they prior or after the Report was discussed in this House?

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Subsequent to the discussion. Comrade Chairman, the Report was referred to the Standing Committee from here, so it came to the House and it was referred to the Standing Committee.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, procedurally the Report was not referred to the Committee, the Bill was referred to the Committee and then the Committee came back and tabled its Report with those recommendations, which were then discussed in this House and these recommendations were then adopted. This is the cause of disagreement by Honourable Pretorius. He says some of the recommendations made in the Report, which called for Amendments, which we adopted as a House, are not included in the Amendments being proposed to Clause 1. That is why I am asking, did the consultations between the Deputy Minister and the Committee take place prior to the tabling of the Report or was it subsequent?

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Comrade Chairperson, when the Committee was almost ready to finalise their Report, they were kind enough to avail that Draft Report to the Ministry for our consideration and input and thereafter the Committee, under the Chairmanship of Honourable Kaiyamo, finalised the Report that they tabled here.

The Deputy Minister had to make a statement as a response to the Report as tabled. That is why he is saying, if there were any discussions necessary or Amendments to the statement, it would have been raised then. To answer your question, Honourable Chairperson, the consultations, the inputs from the Ministry were sought before the tabling of the Report in this House.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Thank you for that clarity, Honourable Minister, but as things stand now, the problem that I am faced with is that this House adopted a Report. The Report contains recommendations, which would affect Amendments, and which are now actually the decisions by this House and, therefore, any Amendment should accommodate the decisions of this House, which were made by way of adopting the recommendations by the Committee without any objection by this House. This is where we stand now. This must be very clear and Honourable Members, your humble servant would prefer to report progress and ask leave to sit again in order to allow proper further consultations. We should understand that it is no more the Report of the Committee, it is now the decision and conclusion by this House. Therefore, we cannot ignore our own decisions as the House. I will report progress and ask leave to sit again.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: The decision might be true as far as Clause 1 is concerned, but I do not think it will pertain to the rest of the Bill. Could we not proceed with the rest of the Bill and only deal with Clause 1 at a later stage?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Deputy Minister, I would have liked to agree with you, but there are many more Amendments indicated. Not knowing whether these Amendments would accommodate the recommendations and the conclusion by the Committee, I would prefer to report progress so that we finalise it and come back tomorrow or Thursday and finalise. I shall thus report progress and ask leave to sit again.

ASSEMBLY RESUMES:

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**SECOND READING
WATER RESOURCES MANAGEMENT BILL
HON SMIT**

Progress reported and leave granted to sit again.

**RESUMPTION OF SECOND READING :
WATER RESOURCES MANAGEMENT BILL**

HON SPEAKER: When this Debate was adjourned on Thursday, 23rd of September 2004, the Question by the Assembly was a Motion by the Honourable Minister of Agriculture, Water and Rural Development. The Debate was however adjourned by Honourable Smit.

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Honourable Speaker, Honourable Members, I appreciate the contributions made by Honourable Members of this august House and mostly the words of encouragement to the Ministry in its endeavours to make sure that all Namibians have access to water and that their fundamental rights for accessing this vital resources is protected by law.

Comrade Speaker, before responding to the concerns of the Honourable Members who made contributions, let me remind this House about the principles contained in the National Water Policy which was used as a guiding document for the drafting of this Bill and these principles are: *“State-Owned, equitable access, promotion of development, economic value, awareness and participation, openness and transparency; decentralisation, ecosystem values and sustainability, integrated management and planning, clarity of institutional roles and responsibility, capacity-building and lastly, promotion of equitable and beneficial use of shared and international waters.”*

The principles sound very good, especially like the fact that they are promoting the optimal use of water. Namibia, however, has unique geographic and social characteristics that make the fulfilment of some principles very cumbersome. The water scarcity, as an example, has negative effects on cost. Water supply to Windhoek is pumped all the way from Grootfontein over 300 or 400 kilometres. Water supply, for instance, in the north-central Regions come from Calueque in Angola up to the areas close to Oshivelo over 300 kilometres and we are currently collaborating with other SADC countries to even import water from the Congo River and all these require huge investments and have a cost effect at the end of the day.

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**SECOND READING
WATER RESOURCES MANAGEMENT BILL
HON SMIT**

The vastness of Namibia is another phenomenon that we have to deal with. It puts the capacity of the water sector under severe pressure to implement all recommended legal frameworks at the same time. It must, therefore be understood that we have come up with a comprehensive piece of legislation, but it will be implemented as the capacity permits.

The difficulties and challenges facing the water sector were conveyed to and discussed with all the Regions during intensive consultations between 1999 and 2001. I am happy to mention that some of our consultation meetings were attended by many Political Office-Bearers, especially Members of the National Council.

Honourable Speaker, with elaborating on the principle, let me address the concerns of the Honourable Members, while keeping at the back of our minds the guiding principles and I will start with Honourable Moongo's concerns.

It is correct that according to Section 26 the Minister shall ensure that all Namibians are provided with affordable and reliable water. One of the guiding principles in the water supply and sanitation policy states that, *"Essential water supply and sanitation services should become available to all Namibians and should be accessible at a cost which is affordable to the country as a whole"*. What this means is that the Government will provide water according to available resources. We do not have money as a country to put all the services we need in place for the whole country in one year, this will only be done over years.

Secondly, the Opuwo case is well-known and several stakeholders are hard at work to come up with a long-lasting solution to the problem in that specific area.

The issue of returning bulk water supply to Government was put to this House not long ago. Without spending time on repeating the decision, which we took on this issue, I just want to refer **Honourable Moongo** back to the principle that water has an economic value. The services thus will still be paid for by someone and that will definitely be Government. Rich ones will hide behind the poor to receive free services and it will eventually be unaffordable for the country.

I would like to correct Honourable Moongo that licences are not a colonial tool. Why should it be a colonial tool to have a licence to abstract water if the Honourable Member already has several licences for his Cuca Shops, vehicles, pistols, television, etcetera? It is a business and administrative control tool. I also do not agree that it is naïve to be tried in a Water Tribunal. **Honourable Malima** made it clear in his contribution that water conflicts are issues of time immemorial and they will always be there. Such conflicts must be resolved and the Tribunal, in our view, is the best mechanism as opposed to Criminal Courts.

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WATER RESOURCES MANAGEMENT BILL
HON SMIT

Comrade Speaker, the concerns of the *Honourable Members Nahas Angula and Petrus Ilonga* are linked and touched upon in one way or the other by the contribution by Honourable Malima and I will attempt to address them together.

Let me start with the issue of impoundment construction of dams. The interpretation of the existing Water Act by the old Department of Water Affairs resulted in a situation that many dams on commercial farms were built with technical and financial support by Government. These and other dams have been approved by the previous Water Board and are now perfectly legal under existing legislation, even if they keep excessive amounts of water back from people and the environment downstream in the same river basin. To address this situation, the new Water Bill has explicitly included any impoundment as water abstraction for which a new application for registration will have to be submitted and approved.

Regarding the Bill as being silent on NamWater, the Bill refers to bulk water supply and not to NamWater. Sound water resource management should in principle make no distinction between different bulk water suppliers and there has to be no special privilege given to NamWater.

The specific conditions under which NamWater has to operate are contained in the Namibian Water Corporation Act (Act 12 of 1997) and this new Bill explicitly amends this Act in Section 137 and the therewith going Schedule.

Domestic use can be better dealt with in regulations that take specific account of conditions that may differ from area to area or that may change in time. A very specific Clause to tie domestic use to an upper limit of domestic use in terms of an area of cultivation or a number of head of cattle would be too rigid to deal with the wide range of conditions. It might also provide grounds for legal disputes that commercial use of water is free from registration in manners not intended by the Bill. The intention here is to manage this by regulation.

Water Committees are covered in the Bill to provide a better legal framework for the Water Point Committees and the institutional organisations that have evolved in rural water supply as part of community-based management.

Honourable Speaker, we are promoting the theory of bringing Government to the people on a daily basis, but let me make it clear that there is a lack of understanding about the role of local people in local administration. What is anticipated here is that each tap will have an established administration, as has always been the case, even with the traditional wells in this country. All what is provided by this Bill is the legal power and authority for the Regional Authorities and the Ministry to manage effectively.

Honourable Speaker, the question was also asked whether this cannot be done under Local

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WATER RESOURCES MANAGEMENT BILL
HON SMIT

Authorities within Committees and this is exactly what it is. It gives authority to the Regional Councils to manage the local water points at the end of the day within the decentralisation policy.

The timeframe for reapplying for a new licence within 24 months, Section 136. The condition to reapply for water extraction and affluent discharge within 24 months will indeed place a heavy load on the existing units in the Ministry. It is important that these units concentrate on their core task in the technical and administrative assessment of the applications. This is the very reason why other structures need to be set up to deal with matters of policy and strategy of water resource management at national level.

The team doing the investigations that resulted in the new Water Bill has tried to incorporate in the time limit of 24 months the experience of other countries where similar legislation was introduced. The time limit will thus be addressed in the regulations to make it more realistic to implement it gradually.

Regarding the fines, which were found to be too light: The basic fine mentioned in Section 2(a) only caters for minor wastage and pollution? These are such as leaving a tap running. Basic fines for unlawful pollution are thus addressed in Section 1(h). The separation is made to ensure different scenarios and address it differently.

Complex management structure: The question was whether some functions could be combined. The new bodies to be introduced may look numerous on paper, but they are mainly needed to rationalise and give a better legal framework for existing situations. The new Water Policy, as highlighted in the White Paper, stresses the need for separation of roles. The present situation is too ambitious, where some organisations, like the existing Department of Water Affairs, have to deal with different and not well-defined responsibilities that may be conflicting at times. Also and especially in the area of rural water supply, community-based management has never been given a legal definition and this explains the need for Water Communities at different levels.

Honourable Speaker, currently within the Ministry we have to control water permits and management of the water resources and the idea is to put that in an agency and then the advisory body from all levels in the society, but also aquifers or water management areas up to a level where they will advise the Minister on water use and water management in the country is another body. Then the Water Board is an independent body. I think what is important about this body is that it would help us to ensure that we provide water in the country at the best price. An independent body that is not being influenced by other bodies in the water sector, but that stands on its own, collect information and advise Government whether water prices in all spheres of society are fair or not.

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It was mentioned and I want to re-emphasise that there are many bulk water suppliers. It is not only NamWater that we must see as a bulk water supplier. Local Authorities are also bulk water suppliers and this body will have to ensure that prices are fair at the end of the day.

The next question was whether wells will also be registered. Section 29 is clear on the registration of wells. Only if the well is within the water management area and could cause problems, such as pollution, will it be required to register.

There was a question on how the Agency will be established. The Agency provided for in Sub-section 7(1) will be established by the Minister and administered through management and performance contracts. The Minister will have the overall authority over the Agency, unlike the situation with the Parastatals. If we establish it by an Act of Parliament apart from the provisions of this Act, it will be a Parastatal and that is not the theoretical principle behind this Agency.

Approved period for the leases to be reduced to thirty days from sixty days, Section 43(5): It will always be good to get things done in the shortest possible time, but administratively two months will be reasonable.

Thirty days could be too short and put unreasonable pressure on the Ministry.

Honourable Speaker, Honourable Members, let me once again thank the Honourable Members who raised concerns and questions, because with this interaction we improve and ensure a new quality Water Act for Independent Namibia, to manage our water resources on a fair and sustainable basis for the years to come. Thank you very much.

HON SPEAKER: I thank the Honourable Deputy Minister for his reply. I now Put the Question, that this Bill be read a Second Time. Any objections? Agreed to. The Secretary will read the Bill a Second Time.

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**RESUMPTION OF SECOND READING :
NATIONAL DISABILITY COUNCIL BILL**

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HON SPEAKER: When this Debate was adjourned on Wednesday, the 6th of October 2004, the Question before the Assembly was a Motion by the Honourable Minister of Lands, Resettlement and Rehabilitation. This Debate was adjourned by the Honourable Deputy Minister for reply. I call on Honourable Katali to please take the Floor.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Comrade Speaker, before I reply I would like to welcome the new Members of Parliament. Welcome on board, Colleagues. In the same vein I also wanted to welcome back Honourable Tjombe, but she has left again.

Honourable Speaker, I would like to thank the Honourable Members of this august House for their contributions to the draft National Disability Council Bill. I am delighted by the patriotism with which Members addressed themselves to the Bill, including the Honourable Members of the Opposition.

I would like to thank *Honourable Namises*, in absentia, of the CoD for supporting the Bill and for her request that people with disability should be recognised and treated just like any other member of the society without discrimination and the proposed Council to play a big role in this respect.

The Honourable Member has further said that she is affected because she has a person with disability. Honourable Namises, through you, Comrade Speaker, is not the only one affected, nearly each family has a person with a disability, directly or indirectly. Furthermore, all of us are candidates for disability, therefore it is important that we all support this Bill.

The Honourable Member also questioned trade union representation on the Council. Please let the Member be informed that a Trade Union representative on the Council will address labour issues in relation to people with a disability.

Furthermore, the Honourable Member has also talked about the United Nations World Programme and Standard Rules. We are going to come up with an Act of Parliament in order to be able to implement the United Nations guidelines or decisions. After the Act has been passed the regulations and programmes to implement the Act will be drafted.

Honourable Namises has also complained that the National Policy on Disability mentions very little about women with disabilities and that it is referring to the Department of Women Affairs. May the Honourable Member please note that the National Policy is attached as a Schedule to the Bill and it is not to be discussed as part of the Bill in this Debate.

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Concerning the duration of appointment of Members of the National Council to be increased from 60 days to 90 days, we feel that it would be too long and it might delay the issues of people with disabilities to be settled immediately.

Honourable Moongo of the DTA mentioned that most disabilities were caused by the war of liberation. Yes, indeed, I am partly in agreement with that, but that is not the only cause of disability. Other causes of disability can be accidents, illness, disease, birth trauma, drug abuse, etcetera and people are being treated equally regardless of the causes of disability. Therefore, the suggestion to increase the current disability allowance to N\$1 000, the Ministry of Health and Social Services is the Ministry that deals with the allowances and I beg the Member to go and discuss this with that Ministry.

Honourable Moongo has also appealed to Government to provide funding to organisations in order for them to establish centres in all Regions and that these centres must be well equipped with facilities such as clinics and ambulances. I have no objection to the proposal to fund organisations for people with disabilities, as long as such funding remains within the policies and guidelines governing the element of funding of such organisations. To create a special fund for people with disability, will unnecessarily contribute to the segregation and isolation of people with disability. This will be against the philosophy of integrating people with disability into the society, as stipulated in our National Policy on Disability.

Honourable Moongo also complained that Section 2(3) states that Cabinet may accept any recommendation or may refer it back to the Council for reformulation if contradicting Articles 44 and 63 of the Constitution. Section 2(3) does not contradict either Article 44 or 63 of the Namibian Constitution. Those articles do not mention Amendments of laws, but they are talking about the making of laws. Therefore, this section deals with the procedure to be followed only when Amendments are to be made on the Act.

Honourable Speaker, ***Honourable Dr Amathila*** raised a concern that the Bill does not mention anything about training, especially in Braille. The issue of training is well covered in the National Policy on Disability.

What the Honourable Members, especially the Ministers responsible for Education and Training, need to do is that they should implement the Policy of Education for All, which should include the needs of learners with disability without any discrimination whatsoever.

Honourable Nahas Angula is concerned about the high cost in educating people with special needs and asked whether it is not possible to establish some kind of a Fund to assist people with disability. Comrade Speaker, I would like to emphasise the fact that people with disabilities are citizens of this country. We must integrate their needs as far as possible. My advice to the education sector is to within their budgetary constraints educate those with

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special needs. The creation of a Fund to cater for specific needs of learners with disability can also be done with the Ministry responsible for Education and Training. The Council is not meant to move national responsibilities away from Ministries, Offices and Agencies.

Honourable Tsheehama proposed that the Council must be given the right to select either one or two representatives to the National Assembly. Honourable Speaker, I would like to remind the Honourable Members of this august House that to be a Member of Parliament is through Political Parties' representation or by being nominated by the President. Organisations or councils cannot nominate Members to this august House. Maybe the Honourable Member, when he was proposing this, was sympathising with Mr Mutendere who was sitting in a wheelchair, but now the Honourable Member can see clearly that this person could not be nominated by SWAPO because he has deserted the Party and, therefore, it is through the CoD that the Member is now on the list, but unfortunately the Member will not make it to Parliament even if that was the way. However, I thank you Comrade Tsheehama for urging all the Honourable Members in this august House to support the Bill.

Honourable Pretorius' total support of the Bill is highly appreciated.

Honourable Ndaitwah, like many others, has taken a step in the right direction by employing persons with disability who are very efficient.

I agree with the Honourable Member by saying that disability is not inability. The Honourable Member has also given a clear picture to Honourable Moongo that most children were born by disabilities and not as a result of war, as Honourable Moongo has said.

The Right Honourable Prime Minister in his speech on the 28th of September 2004 observed that the disability movements internationally and nationally do not accept the usage of the term "*disabled person*". After the Second Reading of the Bill, a delegation of people with disabilities, led by Mr Gerson Mutendere, approached my office to raise issues pertaining to the language used in the Bill. The Honourable Member was calling me "*Comrade*" when on the other hand he had a CoD membership card. What a contradiction! These consultations were indeed fruitful and we agreed that the language and terminology could be accommodated. Words like "*disabled people*" can be replaced with the words "*people with disability*" and "*disabled person*" can be replaced with the word "*a person with disability*".

Furthermore, disabled people's organisations should be replaced with the words, "*Organisation of People with Disability*". The Amendments have been made to this effect and distributed to the Honourable Members. The legal advisors have advised that the Bill can be passed with the suggested language change as indicated in the Right Honourable Prime Minister's speech.

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It is, therefore against that background that I am requesting all Honourable Members in this august House to support the Bill with those few proposed Amendments. I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Deputy Minister for his reply to the Debate, which has taken place. I now Put the Question, that this Bill be read a Second Time. Objections? Who seconds this Motion? So agreed. The Secretary will read the Bill a Second Time.

**RESUMPTION OF SECOND READING: FORMER PRESIDENTS'
PENSION AND OTHER BENEFITS FUND BILL**

HON SPEAKER: When this Debate was adjourned on Wednesday, 6 October, the Question before the Assembly was a Motion by the Honourable Minister of Justice, Honourable Kawana. The Debate was adjourned in terms of Rule 90, automatic adjournment. Are there any further discussions? Honourable Namises.

HON NAMISES: Thank you, Honourable Speaker. I would also like to take the Floor to participate in the Second Reading of the Former Presidents' Pension and Other Benefits Bill.

Firstly, I think this Bill addresses the President and why I say so, is that there were some quotations in the speech by the Honourable Minister who introduced the Bill which reads: "But for the first former President the draft law proposes an equivalent basic salary of the sitting President." To me that means it is for the first former President. That is what I picked up from the speech. (Intervention)

HON SPEAKER: Honourable Namises, I hope you and I will reach an agreement here. The Minister was at liberty to embellish on his speech the way he wants, but we are here as lawmakers to create institutions that would last beyond us and as such, even in our recent history the only President who would serve three terms is the Founding President, the first one. There is already that exception. There are some subsequent Presidents, including Namises, who would be confined to two terms. If we agree that we are creating an institution, then obviously that is the role of the lawmaker, but where you are making a specific reference to the speech, fine, I do not think there will be any problem with that as

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long as you bring it in the context of creating an institution.

HON NAMISES: It was quite difficult for us to debate because it was only limited to what is contained in the Bill and as a result, we could not elaborate on general comments. That is what I want to speak on. I also want to comment on what some Honourable Members in this House were saying about a house for the former President.

Mr Speaker, I am quite uncomfortable with some of the proposals that we are making, because when a President is given some work in the country that person does it solely for the love of his or her country and at the end of the day when you have to benefit, I think you would have worked as a President in that country and would have received a salary, first of all, and also you would have been able to receive a pension. In the time that you were serving, you would have managed to get certain benefits, like medical aid, you would have managed to get insurance policies, housing benefits, a farm and also managed to get petrol station businesses. Therefore, when you retire those would be the ones that would be helping you out in retirement, because now you have your own petrol station, your own club, quotas and your family has also accumulated some shares in terms of diamonds. For me as a Namibian citizen who looked at examples, I realised that there was a President in a neighbouring country who agreed to give half of his first salary to the Nation and I do not see our President in that fashion.

I remember N\$1,000 being donated here, N\$500 being donated there, a bull or cow being donated there. However, I feel that we can build this institution to such an extent that we do not need to focus on this Bill now, but focus on it after elections.

What I pick up here is that the incoming Presidents would have the same benefits in the five years that they would be in office. I do not see the need to rush this Bill now so that the incoming President should benefit, because the new Parliament can look at it in the next five years, so that once this President retires, the second one can also be given that. (Intervention)

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: May I ask the Honourable Member a small question? Honourable Namises, would you, when you retire or even before you retire, like to know exactly what your retirement package is going to be or would you prefer to know nothing about it and depend on a future Government to decide upon your retirement package? Thank you.

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HON SPEAKER: Honourable Namises, this is where we are running into difficulties. I think the Honourable Members sitting here, those who are not likely to be coming back, are already writing to the Secretary about their conditions of service. How would you wish another person to go out, not being taken care of in terms of what he or she has earned and then you say we will take care of that later. Honourable !Naruseb has just told us that in this Parliament we do not make laws with retroactive effect. Let us be serious and honest when we discuss conditions of service of other people, assuming they would be apply to you. I am ruling that Out of Order by putting that question.

HON NAMISES: I was saying we could discuss the Bill after the elections, because provision is made in our current laws that will take care of the former President. I think as a political appointee that person will have that opportunity. The newly elected President could also be taken care of with the current laws that we have. (Intervention)

HON MINISTER OF HOME AFFAIRS: On a Point of Order. The Honourable Member used the word “*we*”, saying that we can discuss it next year. Those who should use the word “*we*” are those who are coming back next year. The Honourable Member should have said “*you can discuss it next year.*”

HON SPEAKER: Honourable senior Minister, the name of the game of politics is optimism. Anybody sitting here definitely hopes that he will come back. Those who will come back and those who will not come back are all saying I hope I will come back.

HON NAMISES: This is where one really get concern. How does this person know the results so early already while we have not yet started? That is the rigging part of it. (Intervention)

HON ATTORNEY-GENERAL: On a Point of Order. I do not know whether I have heard the Honourable Member correctly. If I did, then she is insulting some of us indirectly, because she made reference to an elected President and an appointed President. I do not know whether in this country, we can have an appointed President and what does she mean by an appointed President and by whom?

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HON NAMISES: I have tried to correct that a long time ago, but if there is a need I will later go into an appointed President. That is another long Debate. That is a matter that I do not really want to go into. I have corrected myself a long time ago. (Intervention)

HON ATTORNEY-GENERAL: On a Point of Order. The Member is insulting my Party, the Party for whom I am standing here. The reference she is making to an appointed President, there is only going to be a President from SWAPO and that President is going to be elected and she knows this. What is she insinuating by referring to an appointed President? Who appoints the President in this country?

HON SPEAKER: I have heard the Honourable Member saying she has corrected herself on the appointed President and besides, that will be a different topic. If it is being introduced, I will rule the Honourable Member Out of Order, because the appointed President will be a different topic. We are talking about elected President and succession and benefits. She did however correct herself on the appointed President.

HON NAMISES: Actually, I corrected myself, but what I want to say is that if we want to debate as the Speaker said, I think that will be an interesting topic.

My point is that there is also the issue of the number plates of the President and I do not know how many numbers we want to give to the President, number 1, number 2 and number 3, but I actually think that is not really relevant that we bring number plates on the cars. I know technology has developed to the extent that you can even write your name on your number plates and it is very much like the Hollywood stars who write their names there. We are a democratic country and we will have many more Presidents to come and, therefore, the numbers would not really make sense. Maybe this should be done differently. GRN is my number plate as it stands for *Geagte Rosa Namises*

Mr Speaker, lastly, I want to say that this Bill to me is very important and when we finally close the Debate, I would like us to come up with a Bill that will not overdo things, because the person has not only sacrificed to get a package at the end of the day, but the person has sacrificed to serve the people and his or her country. At the end of the day, that package should not be one for politicking, to satisfy a person or to pay a party president and therefore, help that Party to remain in power. I thank you.

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HON SPEAKER: Order! Honourable Members I think we are engaged in a very serious process of lawmaking and I think we should listen to one another and when we record and debate, we know exactly what we want, we are not complicating the matter further, but we are providing resolutions within the law. Let us be serious. I thank Honourable Namises. Honourable /Ui/o/oo, please take the Floor.

HON /UI/O/OO: Thank you very much, Honourable Speaker, Honourable Members of Parliament. I now rise to contribute to the Former President's Pension and Other Benefits Bill. Allow me to firstly thank the Honourable Minister of Justice, his Deputy and entire technical team who tirelessly and thoughtfully worked on this important piece of legislation. This Bill is of paramount importance because it addresses pension and other benefits to be entitled to former Presidents, including the incumbent father of the nation. It should be noted that the incumbent President is not just another Namibian President, but he and other heroes and heroines sacrificed everything for the liberation of this country.

Honourable Speaker, Honourable Members, may I correct some of the misguided fellow Members who want the public to believe that the Bill is intended to give a golden handshake to His Excellency, the President.

This view is wrong and needs to be condemned because the Bill, as rightly said before, would even benefit a DTA, CoD or MAG (Intervention)

HON NAMISES: On a Point of Order. Can Honourable Members be misguided and misled?

HON SPEAKER: No. Honourable /Ui/o/oo, please continue.

HON /UI/O/OO: Honourable Speaker, I will repeat it because I was interrupted. (Intervention)

HON NAMISES: On a Point of Order. The Honourable Member must withdraw the "misguided".

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HON SPEAKER: Honourable Member, I said in the Parliamentary restricted terms, a member may not rise and say the House is misled or a Member is misleading the House, because this House cannot be misled with so many Honourable Members. Honourable /Ui/o/oo, if you said that, you as an Honourable Member the House cannot be misled. You can just withdraw that and proceed with your speech.

HON /UI/O/OO: Thank you, I withdraw this one of misguided. This view is wrong and needs to be condemned because the Bill, as rightly said before, would even benefit a DTA, CoD or MAG president, if at all these Parties could ever manage to live for a day at State House. But I know history will prove me right that during my lifetime SWAPO will remain the only Party in the presidency.

What the Bill, however, rightly grants is an exception to an exceptional son of the soil who has sacrificed so much that, in my humble opinion, we cannot offer him anything equal or close to his lifetime sacrifice. His Excellency the President as per our Constitution was and remains the only person that has served more than two presidential terms. His popularity with the Namibian people during the past Presidential elections proved that His Excellency Comrade President is not just an ordinary leader. Honourable Speaker, Honourable Members, as they say in the Bible, "*give to Caesar what is Caesar's.*"

I stand to be guided as to why people who had the benefit of witnessing some of the heroic deeds of Comrade President would reject a Bill that grants what I would be tempted to call a modest gesture of appreciation from the Namibian Nation.

HON MOONGO: May I put a question to the Honourable Member?

HON /UI/O/OO: Question declined.

HON MOONGO: Is it allowed in this House for an Honourable Member that was only appointed by an individual President to denounce elected Members of this House. Is it allowed?

HON SPEAKER: Honourable Moongo you are Out of Order.

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HON /UI/O/OO: Thank you. I stand to be guided to why people who had the benefit of witnessing some of the heroic deeds of Comrade President would reject a Bill that grants what I would be tempted to call a modest gesture of appreciation from the Namibian Nation.

Honourable Members, it is clear that the President, His Excellency Dr Sam Nujoma, is not going to retire and go to some retirement or holiday resort, but he will continue to sacrifice his well-deserved time of rest in still serving the Namibian people, although in a different capacity. We are, therefore not paying somebody to go for a big holiday somewhere, as some of the Members may want us to believe. For this reason, the President, when he retires, is rightly entitled to some staff for the operation of his office, security, as he will continue to be an important public figure, vehicles, as he needs to be mobile.

Honourable Speaker, Honourable Members, may I in conclusion speak on behalf of the minority groups, that we have an unwavering confidence in His Excellency Comrade President and wish him a well-deserved rest and hope that his guidance will continue to guide whoever will follow in the footsteps of this great son of Namibia.

May I, with these few remarks, move that this Bill be adopted without any delay. I thank you!

HON SPEAKER: I thank the Honourable /Ui/o/oo for his contribution. Are there any further discussions? I call on the Honourable Minister of Justice to reply.

HON MINISTER OF JUSTICE: Honourable Speaker, I rise to respond to the issues raised during the Debate on the Former Presidents Pension and Other Benefits Bill.

When I motivated the Bill, I said that it was my wish to be non-partisan because I regarded the subject matter as of national interest. I further said that once the law was passed, it would apply to all former Presidents regardless of their Political affiliation. After listening to the Debate from some Opposition Members of this august House, I am left with no alternative, but to respond in kind. This position has been imposed on me against my will.

HON SPEAKER: Honourable Minister of Justice, of course it is an embodiment of our justice system in Namibia, but I hope you will not transgress too long on the provocation. Please proceed.

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HON MINISTER OF JUSTICE: Allow me, Honourable Speaker, to take this opportunity to thank all those Honourable Members who have contributed to the Debate. These are *Honourable Pretorius, Honourable Venaani, Honourable Nora Schimming-Chase, Honourable Ulenga, Honourable Comrade Sioka, Honourable Namises and Honourable Royal /Ui/o/oo*. Allow me, Comrade Speaker, to once again dispel the rumour of giving or offering the old State House to the President.

Let me say in no uncertain terms that even if he were offered that property, I know Comrade President will never, never accept it. I know that his obligation is to this nation and to the future generations of Namibia.

A number of issues have been raised by the Opposition, *inter alia*, that the number of security personnel is too large; that the basic salary and other benefits of a President should be determined by Parliament; that no specific figures have been provided for in the Bill; and that the first retiring former President would still be engaged in active politics. Article 33 of the Namibian Constitution provides that: "*Provision shall be made by Act of Parliament for the payment out of the State Revenue Fund of remuneration and allowances for the President, as well as for the payment of pensions to former Presidents and, in the case of their deaths, to their surviving spouses.*" Within the letter and spirit of Article 33 of the Namibian Constitution, two Acts of Parliament are currently in operation, namely, the Presidential Emoluments and Pension Act, 1990 (Act 17 of 1990) and the State Finance Act, 1991 (Act 31 of 1991).

It must be noted that the Presidential Emoluments and Pension Act of 1990 was passed as an interim measure to provide for the salary of the sitting President. We should remember that there was no President in this country before 1990. Subsequently, the State Finance Act of 1991 was passed with a view to, *inter alia*, meeting the letter and spirit of Article 33 of the Namibian Constitution.

It is important to note that Article 33 of the Namibian Constitution does not require that Parliament must approve the salary scale and allowances of the President, rather, it requires that provision be made by Act of Parliament for the payment of remuneration and allowances of the President out of the State Revenue Fund. We know that each Financial Year, Parliament approves a Budget, which covers the Office of the President. Indeed, the Budget of that Office is Vote 01. The Right Honourable Prime Minister, each Financial Year, presents Vote 01 with remarkable detail. For the current financial year, I wish to refer Honourable Members to page 26 of the document entitled "*Estimate of Revenue and Expenditure for the Financial Year 1 April 2004 – 31 March 2005*". You will notice in the document that under staffing, the following information appears "*Staffing: The President, Establishment -1; Filled as at present – 1, Funded in 2004 -2005 – 1*". It is a document that was approved in this august House.

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It is embarrassing for the Opposition to claim that the basic salary of the Namibian President is kept secret when Vote 01 is, in most cases, unanimously approved by this august House. Had they wanted to know the basic salary, they could simply have asked the Right Honourable Prime Minister, and I am sure he would have provided an answer. It has been alleged by the Opposition that former Presidents would benefit twice because they also belong to the Members of Parliament and other Office Bearers Pension Fund. I want to state categorically that this is not the case. They are not members of the Fund.

Again one of the most embarrassing aspects by the Opposition is their demand that they would like to know the exact amount involved in the salary, gratuity and pension benefits of former Presidents. My response as per the provision of the Bill is that nobody can determine The basic salary of a President between now and 2030. It is for this reason that the Bill is expressed in percentage terms. All the legislation that has been consulted, including that of Botswana, express these benefits in percentage terms. Therefore, expression in percentage terms in a universally accepted principle. Namibia is one of the best democracies in the world, we have absolutely nothing to hide.

Honourable Comrade Speaker, the most scandalous aspect of this Debate is the opposition's attempt, which seeks to deny somebody of his or her legitimate pension. (Intervention)

HON SPEAKER: Honourable Minister of Justice, you are replying but are you attributing the "*scandalous*" as an act of this Chamber, that the chamber could have been involved in something characterised as such?

HON MINISTER OF JUSTICE: Honourable Speaker, I withdraw that word. Indeed, it is a universally accepted principle of labour law that a person who has worked for his or her pension is entitled to it as of right, not as privilege. This principle is recognised in terms of the Labour Act of 1992, the Public Service Act of 1995 and the Members of Parliament and other Office-Bearers Pension Fund Act, 1999. Therefore, a pension of a Former President is a right and not a privilege. It is for this reason that even a President who is impeached in terms of Article 29(2) of the Namibian Constitution is still entitled to a pension because it is assumed that he/she has worked for that pension.

I must also point out that gratuity is not a new concept. It is universally applicable even in ordinary pension schemes. In ordinary pension schemes, a beneficiary can opt to get a one-third tax-free lump sum. As pointed out, the Presidential Emoluments and Pension Act of 1990 fixed a gratuity of a former President to two times of the former President's annual

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basic salary. This has been reduced by half under the Bill before this august House. I wish to draw the attention of MAG, DTA and CoD to the provisions of the aforesaid 1990 Act. Pension and gratuity of a former President were expressed in percentage terms, not in figures. I am very much surprised to note that, today, the Honourable Member Mr. Pretorius is demanding exact figures and yet he had no problem in 1990 to support the Presidential Emoluments and Pension Act of 1990. I wonder what brought about this change of heart!

Honourable Mr. Speaker, allow me to refer to a newspaper heading which appeared in one of our daily newspapers. The title read roughly as follows, "*Nujoma's Golden Handshake*". This is completely wrong. In terms of labour law, golden handshake means an employee's dismissal that includes generous compensation.

Some Honourable Members of the Opposition also expressed concern about the number of security personnel to be assigned to a former President. My response is that no additional recruits will be required. Security personnel are already in the employment of the State. I can assure the Honourable Members that they will not see advertisements in the newspapers inviting applicants to apply for the positions. Security personnel will be responsible for guarding residences, and also to act as bodyguards. We live in a world of terrorism; we cannot take chances when it comes to the security of our former Presidents. In this regard, expenditure will be kept to the minimum. The other staff will also be drawn from the Civil Service. Again, expenditure will be kept to the minimum.

It is a great surprise to note that the CoD is objecting to the provision of two computers to former Presidents. These computers and other office equipment will remain State property.

Honourable Mr. Speaker, all Honourable Members of this august House took an oath to uphold, protect and defend the Namibian Constitution. The said Constitution contains Chapter 3, "*Fundamental Human Rights and Freedoms*". This part of the Constitution cannot be amended in order to detract from, or diminish, the enjoyment of the guaranteed rights. In this sense, Chapter 3 of our Constitution is entrenched. Article 17 (1) reads in part: "*All citizen shall have the right to participate in peaceful political activity intended to influence the composition and policies of Government. All citizens shall have the right to form and join Political Parties and to participate in the conduct of public affairs, whether directly or through freely chosen representatives.*"

Our sitting President spent nearly 30 years in exile fighting, *inter alia*, for this very fundamental right. Who can deny him this right? MAG and the DTA denied this right to our people during the colonial period. In a free and Independent Namibia, we say never again should this happen.

Honourable Mr. Speaker, allow me to appeal to the Honourable Members of this august

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House to approve this very important Bill. The African Continent needs peace and stability. Time has come for all African leaders and public officials to have a verifiable, adequate and transparent income. This will avoid a situation whereby public financial resources of the Nation are looted by African leaders and taken to Europe and North America. In most cases, these resources are by far greater than the so-called foreign debt that Africa owes capitalist countries. It is also an established fact that when these leaders die, the money is inherited by Europe and North America because it is banked in false names or pseudonyms. Transparency in determining the retirement package of our leaders is the only viable way of minimising the looting of the resources of this continent. Even corrupt leaders would see no need to siphon public money from the continent. Through this approach, we are making history for Africa.

Personally, I prefer a situation whereby salaries and other benefits of political and other public office-bearers are gazetted. This should include those of Parastatals and Municipalities. Our password should be "*transparency and accountability*". When we advertise vacant posts in the Civil Service, we include the salary scales attached to those posts. Therefore, to me transparency should be applicable across the board.

Honourable Speaker, allow me to conclude with a story. There was a well-known Pastor, when a family lost one of its members, the Pastor was engaged to conduct a memorial service. During the service, the Pastor was full of praise for the deceased. He said there was no doubt the deceased would go straight to heaven since he was a very kind and good man. He prayed for the world to come to an end so that everybody could go to heaven where there is no hunger, no disease, where everything is free. (Intervention)

HON SPEAKER: Honourable Moongo, as a senior legislator I ask you to sit down, you are Out of Order. Order! I have not asked for anybody's assistance, my voice is still strong enough. Honourable senior legislator, I ask you to sit down because you are Out of Order. Proceed, Honourable Minister.

HON MINISTER OF JUSTICE: Thank you, Comrade Speaker. In keeping with custom, there was a feast after the burial. All types of food and drinks, including Johnnie Walker whisky, were made available.

After drinking Jonnie Walker Whiskey, two youths started a fight. The community requested the Pastor to keep peace. The Pastor went in between the two youths in an attempt to separate them. One of the youths pulled out a pistol and pointed it at the Pastor. He said "*Pastor, your prayer has been answered. Today you are going to heaven*". The Pastor

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pleaded with the youth not to shoot him. The youth said, "*Pastor, I am not interested in your plea, give me only one answer; do you want to go to heaven where there is no hunger, no disease and where everything is free, yes or no?*" The Pastor answered, "*no my son I do not want to go to heaven*". The Opposition Parties are like this Pastor, they preach democracy. They preach peace, security and stability in Namibia and yet they do not believe in these noble ideals. One should only look at their candidate lists for the National Assembly. Not a single candidate on those lists has been elected by their Party structures. They are all handpicked. What can they tell us about democracy when this concept is alien to them? No wonder, according to the latest "*Afro barometer Namibia 2003*" survey conducted by the Institute for Public Policy Research, only 13% of Namibians trust the Opposition. In addition, the survey found that the most trusted and most popular politician in Namibia today is none other than our President, Comrade Dr. Sam Nujoma and the most trusted Political Party is the SWAPO Party.

Honourable Speaker, I move that this Bill be passed without any further delay. I thank you.

HON SPEAKER: I would like to thank the Honourable Minister of Justice for his reply. I have sat in this Chamber for 14 years but I have never seen a firing one like this. I now put the Question and that is that this Bill now be read a Second Time. Any objections?

HON. PRETORIUS: Honourable Speaker, I have moved an Amendment that this be referred to a Committee.

HON SPEAKER: There was indeed a Motion Moved by Honourable Mr. Pretorius and seconded by Honourable Venaani. As we are completing the Second Reading stage I will procedurally first put the Motion and this Motion is that the subject matter of the Former Presidents' Pension and Other Benefits Bill of 2004 be referred to the Parliamentary Standing Committee on Privileges for enquiry and report back to this Assembly. Does the Honourable Member put the Motion? Who seconds this Motion?

Are there any objections? The House is divided. All those Members in favour of this Motion please rise. All those Members against this Motion please rise. All those Members abstaining, please rise. Please be seated.

**In Favour 10
Against 41**

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Abstention 1.

This Motion is defeated. The Motion does not carry. I now put the Question, that this Bill be read a Second Time. Are there any objections?

HON PRETORIUS: I want my objections to be recorded, not about the detail but about the legal situation. I am not satisfied.

HON SPEAKER: Yes, noted. That is the recording of the Honourable Member and I take it that was the only objection, I will proceed.

HON SCHIMMING-CHASE: The CoD invokes Rule 69 and requests that our objections to this Bill be recorded in the Minutes of this session.

HON SPEAKER: Any further objections?

HON VENAANI: Honourable Speaker, on behalf of the DTA/UDF coalition, we want our objection to be recorded in the Minutes of Proceedings.

HON SPEAKER: Honourable Members need to take note of that it is on Record and I now ask the Secretary to read the Bill a Second Time.

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HON SPEAKER: Thank you. The Secretary will now read the Seventh Order of the Day.

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PUBLIC HOLIDAYS AMENDMENT BILL
HON PRETORIUS**

**RESUMPTION OF SECOND READING
PUBLIC HOLIDAYS AMENDMENT BILL**

HON SPEAKER: When this Debate was adjourned on Tuesday, 28 September 2004, the Question before the Assembly was a Motion by the Right Honourable Prime Minister. The person that adjourned this Debate has already been replaced in the Chamber. Are there any further discussions? Honourable Mr. Pretorius

HON PRETORIUS: Mr Speaker, I still believe that ladies are the most fantastic and loveliest creatures created by the Creator, provided that they remain ladies. In the Bible it clearly states that, *“husbands, love your wives and do not be bitter towards them.”* In the same vein, Mr Speaker, I could not find anything in the Bible about a holiday for a woman or a bunch of flowers to admit that you are guilty.

In Blantyre on the 8th September 1997, the SADC Heads of State, including Namibia, *inter alia*, expressed the unanimous conviction that gender equality is a fundamental human right. The Honourable Nahas Angula the other day by way of interjection said that women are also human beings. But one cannot say that all human beings are only women. For the sake of gender equality human beings are both male and female, men and women. Human rights and human rights holidays, therefore, concern both and cannot be ignored without discrimination.

When we decided on public holidays fifteen years ago, we first referred the topic to an all-party committee. We thoroughly discussed the subject and then decided that Heroes Day on the 26th of August will serve the purpose off all heroes, including women, including what happen on the 10th December 1959. If you will allow me do give you the spit it on how it started. (Intervention)

HON NAMISES: Honourable Pretorius, you like quoting from the Bible. Where in the Bible do you find a portion that says that people should be separated or should be treated unequally? You always apply selective morality to certain things whenever you find it suitable to quote the Bible. You are an author of apartheid. Where in the Bible would you find something that people should be treated differently?

HON SPEAKER: The question is clear. The question is justification for racial discrimination and apartheid in the Bible.

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HON PRETORIUS: I understand, Mr. Speaker, but nowhere in the Bible could I find any place where it is making provision for a separate holiday for women. Mr. Speaker, just to quote a few things that was said on that day and that was on the 19th November 1990 and it was said by the Deputy Minister of Home Affairs. I cannot remember who or he/she was.

He said, *inter alia*: “In view of our commitment to human rights, International Human Rights Day has been placed on our national calendar as a public holiday and that is the 10th December” and then the Deputy Minister of Trade and Industry, Honourable Reggie Diergaardt said: “Mr. Speaker, because of the tragic history of Namibia, the issue of public holidays is indeed of a sensitive nature. When the report by the select committee was tabled earlier this year in this House, it caused a heated Debate, which gave rise to high emotions. This is why I say the nature of this legislation is rather sensitive.”

Then it continued: “Firstly, there are those public holidays which link us to the international community, such as May Day and International Human Rights Day and as said without doubt, that on the 21st of March this year Namibia was accepted as part of this international community referred to”. (Intervention)

HON MUSHELENGA: Hon. Speaker, may I ask the Honourable Member a question? Honourable Pretorius, you are indicating how we link up with the international laws. How do we link up with the international community on the 8th of March?

HON SPEAKER: He did not get your question. If you want an answer please put your question again?

HON MUSHELENGA: Honourable Member, you indicated how we are linked to the international community through legislation and I am asking the Honourable Member, how is Namibia linked to the international community on the 8th of March?

HON PRETORIUS: Mr. Speaker, I think the 8th of March is a Women’s Day internationally and not a public holiday. Every country is dealing with it on its own and Namibia is also doing its part.

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To continue, Mr. Speaker, during a gala in Windhoek to strengthen the black economic empowerment, one of the guest speakers referred to the misuse of affirmative action and black economic empowerment by only employing black persons for the sake of pretending and window-dressing as a “rent-a-black” policy. If I may quote, he said: *“Fronting or rent-a-black was ultimately an insult to the black economic programme in that country. Both Government and private black businesses have been targeted to enter into unequal deals with formerly disadvantaged South Africans.”* I believe, Mr. Speaker that we must be very careful not to be confused with a “rent-a-woman” approach in an effort to win the support of the women.

I am not aware that many Namibian women’s organisations Namibia asked for or demanded for such a public holiday. Anyway, it is something that concerns the general public. What I am aware of is not women asking for a public holiday.... (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: On a Point of Order through you, Comrade Speaker. Sometimes you want to listen to somebody like Honourable Pretorius, sometimes you do not want to listen. We are talking about a public holiday for women and now you are saying some women are not included. Are you talking about white women or which women are you talking about? What about Karukukaze Mungunda who died on the 10th of December?

HON PRETORIUS: Mr. Speaker, I just want to repeat for the record that thirteen years ago, we decided - and that was in the absence of the Honourable Deputy Minister - that this incident must be remembered on the 26th August on Heroes Day. That was the decision.

Mr. Speaker I am not aware of women asking for a public holiday, what I am aware of is women asking for work for themselves and work for their children.

HON ATTORNEY-GENERAL: Comrade Speaker, on a Point of Order. When the Honourable Member is telling the world that women have not asked for what we are discussing here today, is he talking about women in MAG, women in the house, women in the farm or which women? I have been here right from the beginning and I have been asking for this and I am a woman. It is my entitlement to say what I feel like saying, rather than to be represented by none other than Honourable Pretorius. Please, let the issue of women be expressed by the women themselves.

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HON SPEAKER: There are no statements Honourable Attorney-General, no arguments.

HON ATTORNEY-GENERAL: I am asking for that, I am a woman.

HON SPEAKER: Yes, the question is understood. Proceed Honourable Pretorius.

HON PRETORIUS: Mr. Speaker, I said I am not aware of women - and let me put it publicly - asking or demanding from the Office of the Right Honourable Prime Minister for a public holiday on the 10th of December. It was never passed on to this Parliament. It may be that the Honourable Member mentioned it, but it was never officially passed on to the Legislature of this country. That is why I am saying, I know of women asking for work for themselves and their children. (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: On Point of Order, Comrade Speaker. I stand here on behalf of the Namibian women. I want to humbly request the Honourable Pretorius to withdraw that women in Namibia did not demand that.

HON SPEAKER: Honourable Muharukua, you are Out of Order. Let us hear what the Honourable Member has to say and take the Floor and rebut. Proceed.

HON PRETORIUS: Mr Speaker, I know about many women asking for work for themselves and their children, for food to eat, for a bed to sleep, for education, for medical services, you name it. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Speaker, on a Point of Order. Honourable Pretorius is trying to play with the lives of the women of

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this country. The 10th of December is a day on which our women lost their lives. Therefore, the Member needs to be called to order, he is totally Out of Order. Does he want to support the killing of Karukaze Mungunda and many others on the 10th December in all the locations and now he does not want them to be remembered in the history of this country?

HON SPEAKER: I do not understand, normally Honourable Ilonga is very clear, but the question is, I was not here when the Bill or the Motion was moved. I do not know where it came from. I am informed that it was moved by the Right Honourable Prime Minister. Now, what is the bone of contention on the 10th of December?

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: He is saying that he has never heard the women of this country requesting a public holiday.

HON SPEAKER: He is expressing his opinion, Honourable Ilonga.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Yes, that is why his opinion is Out of Order.

HON SPEAKER: Yes, please proceed. He is expressing his views, which I cannot suppress from this Chair, maybe from another one I would.

HON PRETORIUS: Mr. Speaker, I never said that we must not think about that day. My problem is to replace Human Rights Day, which is internationally accepted by another name.

Mr Speaker, the Minister of Water Affairs and Forestry of South Africa, Ms Buyelwa Sonjica recently said: *“The greatness of any nation is measured by the way it celebrate its children and their achievements.”* (Intervention)

HON MINISTER OF HOME AFFAIRS: May I ask the Honourable Member two

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questions? Is the Honourable Member aware that the women of this country, even before Independence, before we even accepted the International Women's Day, have been commemorating the 10th of December?

HON SPEAKER: You are giving information now. You are not asking questions. The House stands adjourned under automatic adjournment until 14:30 tomorrow afternoon

HOUSE ADJOURNS AT 17:45 UNTIL 2004.10.13 AT 14:30

**ASSEMBLY CHAMBER
13 OCTOBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Any Reports of Standing or Select Committees? Other Reports and Papers?

**TABLING: FEEDBACK ON MOTION TO REVIEW
RESETTLEMENT POLICY AND PROGRAMME**

HON YA FRANCE: I lay upon the Table, Feedback on Motion to review Resettlement Policy and Programme by the Parliamentary Standing Committee on Economics, Natural Resources and Public Administration for note-taking.

HON SPEAKER: Will the Honourable Member Ya France please table the Report? Honourable Katjita.

TABLING: REPORT OF CPA NAMIBIAN BRANCH

HON KATJITA: I lay upon the Table, Report of the CPA Namibian Branch on the Annual General Meeting of the 35th Commonwealth Parliamentary Association for the African Region Conference held at the Convention Centre, Mbabane, Swaziland from the 7th to the 15th of August this year.

HON SPEAKER: Will the Honourable Member please table the Report? Are there any further Notice of Reports of Standing or Select Committees? Other Reports and Papers? Notice of Questions? Any Notice of Motions? Any Ministerial Statements?

In terms of the procedures and the stipulations by the Namibian Constitution, this House has

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two Sessions per annum and we are already in our Second Session and when the House rises tomorrow, that indeed will be the end of the Second Session, which means anything on the Order Paper unattended to would have lapsed. We will have a Special Session commencing on the 1st of December and that will run through to the 15th of March. Anything that lapses now will have to be reintroduced in December and then we will go until the 15th of March. On the 18th of March a new beginning takes place in this Chamber. The Secretary will now read the first Order of the Day.

**CONSIDERATION: REPORT OF AFFIRMATIVE
ACTION LOAN SCHEME**

HON SPEAKER: When this Debate was adjourned on Wednesday, the 29th of September 2004, the Question before the Assembly was a Motion by the Honourable Member Ya France. I now give the Floor to the Honourable Member Ya France for his reply.

HON YA FRANCE: Comrade Speaker, Honourable Members of Parliament, on behalf of the Standing Committee on Economics, Natural Resources and Public Administration, allow me to express my gratitude and thankfulness for the opportunity to table and report to you or respond to the debates that emanated from this House.

Honourable Speaker, allow me first to illustrate the importance of the Affirmative Action Loan Scheme by agreeing with *Comrade Hifikepunye Pohamba* that the Affirmative Action Loan Scheme has acquired more commercial farmland than the Ministry of Lands, Resettlement and Rehabilitation on the other scheme. I, therefore, wholeheartedly agree with *Comrade Mbuende* when he said that the commercial farming area should not at all be reduced to an orbit of the rich. We fought for the land to work on it and not just to be idle. Agricultural productivity should, therefore, be the motto of our activities.

May I secondly highlight the changes the Committee effected during the second referral of this Report? As regards land tax, the Committee recommends that beneficiaries of the Affirmative Action Loan Scheme be exempted from land tax for the first fifteen years and that the normal provision for further exemptions should be entertained. This is so because, primarily, beneficiaries of the Affirmative Action Loan Scheme are like starving people and to subject them to land tax is like requesting a starving person to go on diet. Therefore, the best thing is to exempt them and at least to help them recover from the assets they have required.

Secondly, as regards the grace period we recommend a grace period of five years for full-time farmers as they do not have access to off-farm income and a three year grace period for part-time farmers. We have also recommended that the loan period should be extended to thirty years. Those who may want to pay quicker or within the current 25 years are most welcome and should be encouraged to do so.

The Committee, during the second stage of reconsidering this Report, carefully studied the Honourable Deputy Speaker's recommendations and other recommendations made from this House during the Debate and decided to only effect the above changes to the first Report's recommendations. Some of our recommendations for making these recommendations were that the rationale for the introduction of land tax is to curb excessive land holdings by individuals and Affirmative Action Loan beneficiaries do not fall under this category. Affirmative Action Loan beneficiaries are already overburdened during the initial stage of their farming and may not cope with the additional cost of land tax.

Further, while noting the complaints mainly from the part-time farmers that they are disadvantaged by the differentiation between them and their full-time counterparts, the Committee feels that a degree of differentiation should still be maintained, as the two do not find themselves in exactly the same situation. Thus the proposed differentiation. The Committee is not keen to have farmers under AgriBank for a long time, but we saw wisdom in recommending an extension of loan for those who may want to benefit from the loans.

Fourthly, as raised by many in this House, the Committee agrees with the view that the land crisis has increased to such a level that one is prompted to say that land, in particular commercial land, has obtained a false market value. That is our conclusion.

Whilst not in the complementary land reform process, such as the land expropriation and the recent introduction of land tax, the Committee maintains that a price control mechanism should be introduced. Needless to say, whatever mechanism could be decided, in fact we think and encourage that it should be within the ambit of the existing law, but a mechanism should definitely be found because the prices are artificially put and I think have assumed a political proportion with a hidden agenda.

Furthermore, I agree with *Comrade Helmut Angula* that His Ministry has designed other schemes to take care of the interests of the farmers, but that, in my opinion, cannot be viewed as sufficient to cater for crop farmers who may want to enter commercial farms and embark on serious commercial crop production. Thus the call by the Committee to make the Affirmative Action Loan Scheme an instrument of agricultural diversification in this country, because as it is now, the Affirmative Action Loan Scheme is stock-farming biased and does not look at crop production. Therefore, crop production must be encouraged and must be taken care of by the Affirmative Action Loan Scheme.

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Honourable Speaker, Honourable Members, I further agree that the financial sector is a complex one with its own rules and regulations. Whilst agreeing with the fact that NAMFISA stipulates the interest rates to be charged by banks and other financial institutions and also that the financial sustainability of AgriBank as a bank is crucial, I believe that there are avenues that we can explore to bring some interest relief to the Affirmative Action Loan Scheme farmers. The Committee wishes to note, however, that as requested by many who attended public hearings to lower interest rates and to prolong the interest subsidy period, the Committee could not make too much of a generous offer in this respect. We consider that it would possibly be very expensive for the Government to maintain if the interest rates were lowered to below 10% and the farmers were subsidised for the entire low period.

Hence, the recommendations by the Committee to have interest rates of prime minus four and prime minus two for full-time farmers and part-time farmers respectively and having an interest subsidy period that ends within the first fifteen years should therefore be considered very modest by us.

As noted by Comrade Helmut Angula that such interest rates may not alter the *status quo* in any significant way. The Committee believes that farmers will benefit from the relief of an extended grace period, land tax exemption and an extended loan period. I am sure you would agree with me that a further tampering with the interest rates should require economical calculations and would require Government input.

On the question of ancestral land claims by some fellow Namibians, as was noted by Comrade Pohamba, the Vice-President of SWAPO, just as Honourable Dr Mbuende, the 1991 Land Conference resolved to honour the ancestral land claims. For the sake of national reconciliation and the difficulty of determining pre-colonial boundaries, the Committee abides by that resolution that ancestral land claims should not be entertained.

In addition, we recommend that the process of developing virgin lands in the communal sectors should go ahead and be encouraged.

Comrade Mbuende, it is indisputably true that the land in communal areas is dead capital because it is currently being used on a free-for-all basis. The Committee is, however, aware of the process in the Ministry of Lands and Resettlement to acknowledge communal farmers' claims to where they live by way of registration.

Honourable Speaker, Honourable Members, the Committee proposed that this Report, if adopted by this august House, be implemented retrospectively so as to benefit existing Affirmative Action Loan Scheme beneficiaries. Consultations with the AgriBank revealed that the retrospective implementation of the recommendations of the Report with respect to provisions such as lowering interest rates, extending the grace period, granting land tax exemptions, extending the loan period, etcetera, will not present a problem or a loss for the

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bank in any way. The bank however warned that retrospective implementation of the Report's recommendations should not include provisions for farmers to claim back the money they have paid in interest or other costs. The bank will be faced with immense complexities to implement such recommendations.

Thus, the retrospective implementation in this regard should primarily entail the inclusion of existing Affirmative Action Loan Scheme farmers to benefit from any relief or benefits that will come to the Scheme as a result of the recommendations.

Honourable Speaker, Honourable Members, I now Move that this Report be adopted as the basis of further lawmaking. I thank you very much.

HON SPEAKER: I thank the Honourable Ya France for his reply to the Debate that has taken place. Before I put the Question, I have a similar situation on which I am going to make a Ruling soon on Item 3 and maybe to be helpful to the House, I thought before I actually put the Question, I may raise the question so that we are not going to be in the same situation in which we are with Item 3. When we adopt this Report this afternoon, what does it mean, who takes the next step and who takes the action to implement? Does it mean that automatically the line Ministry is instructed by this decision of the House to implement the recommendations of this Report? I am putting it so that there is an understanding. That being the understanding, I shall now Put the Question. Honourable Angula.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: When the Question was put, is there room for comment and discussion? It is on procedure.

HON SPEAKER: No, there is no discussion because the procedures are clear. I put the Question rhetorically to remind the Line Minister that indeed this is what it means.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Is this going to be precedent that now we direct the Executive from Parliament?

HON SPEAKER: The Executive is accountable to the Parliament, my dear Minister,

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always as per the Constitution. Do not bring an issue that will raise questions that we cannot answer. Ministers, both individually and collectively, are accountable to this Chamber.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

No, I am not questioning the accountability, I am saying in terms of policy, the Ruling Party is dictated by the decision of the electors. Now the Parliament is not necessarily representing the Ruling Party's policy.

HON SPEAKER: Honourable Angela, this Parliament, because it is the first one, it also has a role to educate. If the institution you referred to as Parliament was taking place in the absence of the Members of Cabinet, then the position that you are advancing could be valid. Now this Report is a direct product of your conscious participation and your guidance and your agreement and disagreement. How do you disown it? There is no directive that goes from here to the Cabinet, the Cabinet accepts having participated in a Debate to say there are loopholes that they are taking care of. The separation of powers is not strict. The Prime Minister sits here from 14:30 until the very last bell rings, separation of powers.

RT HON PRIME MINISTER: Yes, it is dilemma, I do agree with the Minister of Agriculture. The Report of the Committee, in spite of the fact that we have discussed the Report in this House, to assume the force of the resolution of Cabinet or an Act of Parliament would present the Government with a problem, with due respect Honourable Speaker. It can only be in the form of a recommendation from this House that the line Minister would take into consideration, not because of any problem with the substance of the Report, but in terms of procedure. A report of the Committee cannot assume the authority of a resolution of Cabinet or Act of Parliament.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

What is the status of that Report and other similar reports in relation to the Bill presented by a Minister? Do all the recommendations contained in that Report, whether in line with what the Minister presented here and in line with what was decided in Cabinet, overrule any provision in the Bill? I was made to understand that the recommendations of the Standing Committee must be included in the new Bill by means of Amendment. I will tell you exactly what was given to me. I cannot accept that that is the ruling, that the document from the Standing Committee, once adopted in this House, may not be changed in any way by the Ministry of by the Standing Committee and this is the crux of the misunderstanding regarding agenda item no. 2.

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COMMITTEE STAGE : LABOUR BILL
HON MUNGUNDA

HON SPEAKER: You are Out of Order. We cannot refer to no. 3 in anticipation. I think we ought not to debate this. The Prime Minister put it very clearly, this goes from this House as a recommendation to say, “*Mr Minister, the House presents this for your kind consideration.*” There is no such dogmatic, authoritative language to say everything here must be implemented, whether you want it or not. You are doing that to create a negative image of this Report. It is a recommendation, resolution of the House, so that the Minister can take note and implement what he has agreed to, what is feasible in terms of resources, because again, the Minister is part of that decision. Let us not confuse matters here. (Interjection). Nobody said it is necessary, dear lawyer. It is clear, do not throw in words to create negative reaction. Shall we on that very clear understanding, clarified by the Honourable Prime Minister, go away from this? We say the line Ministry is the one who is responsible for this, no instructions from the House. This is the position of the House collectively, including you. I shall now Put the Question, that this Report now be adopted on the understanding that we have just had. Any objections?

HON PRETORIUS: Mr Speaker, I have already put my reservations on record, so I need not repeat it. Otherwise I support the recommendations.

HON SPEAKER: Reservations noted and recorded. There are no objections, therefore this Report is unanimously adopted. The Secretary will read the second Order of the Day.

RESUMPTION OF DEBATE
RECONSIDERATION: LABOUR BILL

HON SPEAKER: Does the Honourable Minister of Labour Move that the Assembly now goes into the Whole House Committee?

HON MINISTER OF LABOUR: I so Move, Honourable Speaker.

HON SPEAKER: It is, therefore, Moved that I leave the Chair. Any objections? Who

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**COMMITTEE STAGE : LABOUR BILL
HON MUNGUNDA**

seconds the Motion? No objection. I call on the Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to reconsider the *Labour Bill*. When progress was reported on Tuesday, 21st of September 2004, Clauses 2, 5 and 8 had been agreed to and Clause 24 stood over. I now, in terms of Rule 62, put clause 5.

Clause 5 put.

HON MINISTER OF LABOUR: Thank you Honourable Chairperson of the Whole House Committee. Based on advice given by this Honourable House in the previous deliberations, I have the humble honour to bring back for consideration the following Amendments to Clause 5:

- (a) we will remove “the” before Acquired Immune Deficiency Syndrome; and
- (b) remove “the” before Human Immune-Deficiency Virus.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendments put and agreed to.

Clause 5, as amended, agreed to.

Clause 8 put.

HON MINISTER OF LABOUR: Honourable Chairperson, on Clause 8, refer to (f) Urgent Matters, I delete number 3, which was standing for milking of cows and feeding of animals.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put.

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HON MUNGUNDA

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Honourable Chairperson, we thank the Comrade Minister and I support the Amendment. Thank you.

Clause 8, as amended, agreed to.

Clause 23 put.

HON MINISTER OF LABOUR: Honourable Chairperson, Clause 23:

In sub-clause (1) insert the word “working” between the words “consecutive” and “days”.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 23, as amended, agreed to.

Clause 24 put.

HON MINISTER OF LABOUR: In Clause 24 –

Substitute the Title to Section 24 for the following Title: “*Sick and Compassionate Leave*” because it is relevant and according to the Public Service Act (Act 13 of 1995).

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

HON SCHIMMING-CHASE: I thought we were only talking about 24(1), because (2) is still coming, the Minister has not spoken to (2), compassionate leave.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Thank you, Honourable Schimming-Chase, I think we are once again in a dilemma here. Honourable Minister, if I look at your Amendments here, you referred to the Amendment to Clause 24(1) concerning sick and compassionate leave, but you never referred to the rest and there are more

Amendments, all of them applicable to Clause 24.

HON MINISTER OF LABOUR: But I think during the discussions the advice that we should see family responsibility leave with compassionate leave. I can read the rest of the Amendments.

Substitute the Title to Section 24 for the following title: “*Sick and Compassionate Leave*”. Insert the following subsections after Sub-section (3):

- “(4) *An employee is during each period of twelve months that the employee is employed entitled to five working days compassionate leave with fully paid remuneration.*
- (5) *An employee is entitled to compassionate leave if there is a death or a serious illness in the family.*
- (6) *The Minister must prescribe the form and manner in which compassionate leave may be applied for by an employee and any other information which may be required to support the application.*
- (7) *Compassionate leave –*
 - (a) *does not form part of annual sick or maternity leave;*
 - (b) *does not entitle the employee to any additional remuneration on termination of employment; and*
 - (c) *if not used during the period referred to in subsection (4) lapses at the end of that period.*
- (8) *For the purposes of this section, “family” means –*
 - (a) *child, including a child adopted in terms of any law, custom or tradition;*
 - (b) *spouse, including a partner to a customary law union or other union recognised as a marriage in terms of any religion or custom; or*
 - (c) *parents, great-parents, brother or sister of the employee.”*

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HON SCHIMMING-CHASE**

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, let me once again appeal, these are the technical issues that the Honourable Members ought to pay attention to.

Amendment put.

HON SCHIMMING-CHASE: Honourable Chairperson, I would like to thank the Honourable Minister for introducing this very important Clause, Sub-section (2). I am saying this because the original Bill did not make provision for this and for the past fourteen years the definition of a family member was different to different people.

In the case of some people, if you lost a blood brother or sister, same mother, same father, you were not granted compassionate leave with payment and I have proof of it. In the other case, people would have a father-in-law or a mother-in-law, but it would be recognised for compassionate reasons and paid for and that introduced a serious element of apartheid, which, with this clause, we from now on we will not be dealing like that with people. I support the Amendment.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion? Does the Honourable Minister wish to say something?

HON MINISTER OF LABOUR: Honourable Schimming-Chase, I really appreciate your support.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE : Amendment put and agreed to.

Clause 24, as amended, agreed to.

ASSEMBLY RESUMED:

Bill reported with Amendments.

HON SPEAKER: Having reconsidered the Amendments, the Assembly now has finally

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**COMMITTEE STAGE: NATIONAL HERITAGE BILL
HON WENTWORTH**

passed the Bill and, therefore, concluded the business on this item. The Secretary will now read the third Order of the Day.

**RESUMPTION OF COMMITTEE STAGE :
NATIONAL HERITAGE BILL**

RULING

HON SPEAKER: I have a Ruling to make on this Bill and again the Ruling is strictly confined to procedural and technical aspects and must be seen in that context.

After consultation between my Office, led by the Honourable Deputy Speaker and that of the Honourable Minister of Basic Education, Sport and Culture, the Chairperson of the Standing Committee on Human Resources, Social and Community Development and Honourable Pretorius, no agreement has been reached between the parties and to forge the way forward, this Bill stands deferred until an agreement is reached in conforming with the established procedures and rule of this Chamber. I made it very clear that the cooperating parties are there, they have met this morning, they did not come to us with an agreement, the time is still there tonight and tomorrow morning and they can come back with an agreement. We are not going to have a discussion on that, the Honourable Members themselves are aware of what they are disagreeing on and until that agreement is reached, there is no way forward.

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Can I just say something, not to detract from your Ruling, but just to put something on Record on this Heritage Bill?

HON SPEAKER: No, we have already passed that, Honourable Minister and you are a Minister, you can get up and make a Ministerial Statement, but the procedures and Rules do not allow you to make a statement on something we have passed. I did mention very metaphorically that we are on a downhill phase and I hope that we will continue to understand one another on this slope and when we apply the brakes on the wagon, we will all ensure that it stops. I ask the Secretary to read the Fourth Order of the Day.

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COMMITTEE STAGE
WATER RESOURCES MANAGEMENT BILL
HON SMIT / HON MOONGO

COMMITTEE STAGE
WATER RESOURCES MANAGEMENT BILL

HON SPEAKER: Does the Honourable Minister of Agriculture, Water and Rural Development Move that the Assembly now goes into the Whole House Committee?

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: I so Move, Honourable Speaker.

HON SPEAKER: It is therefore moved that I leave the Chair. Are there any objections? Who seconds this Motion? I now call on the Honourable Chairperson of the Whole House Committee to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Water Resources Management Bill.

Clauses 1 to 47 put and agreed to.

Clause 48 put.

HON MOONGO: I would like to know from the Honourable Minister whether, when a person wants to improve his borehole, he has to apply and go to a lot of trouble in order to do so. This Clause is really draconian and I would like to have an explanation from the Minister.

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: It is not possible to guess at what point a licence holder of a borehole will improve his borehole. Put yourself in the situation whereby you are in a basin, sharing the same water source with six farmers, your borehole has dried up and you want to improve on it by drilling an additional 20, 30 or 100 metres deeper. In this case, water will be drawn from other boreholes into your own well or you may punch the saltwater, which would then

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WATER RESOURCES MANAGEMENT BILL
HON SCHIMMING-CHASE

contaminate the water of other users. In that case, if something of that nature happens, how do you solve the dispute, which will arise in the event that you did not ask for permission and nobody has determined to which level you must drill your borehole. That is why you must ask permission for the improvement of your borehole because the authorities want to know to what extent it may affect the other users of the same source. I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 48 agreed to.

Clauses 49 to 117 put and agreed to.

Clause 118 put.

HON MOONGO: Clause 118 is on the Water Tribunal. We had complaints from the communities who used to pay double for their water and their water is cut off and now there is a tribunal and they have to be punished according to the tribunal. Is this really fair or could the Minister maybe explain to the House what type of tribunal is this and what powers do they have if those communities have no work and no money?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I think the Honourable Minister is Out of Order because this Bill is now providing for a Tribunal to do that very job and the non-existence thereof is not addressed. It is providing for just that. The Honourable Member is Out of Order.

Clause 118 agreed to.

Clauses 119 to 134 put and agreed to.

Clause 135 put.

HON SCHIMMING-CHASE: Just a question to the Honourable Minister on Clause 135, limitation of liability. If that person is sent by the State to come and inspect my newly-dug borehole for which I paid N\$45,000 and they mess up the pipes and the well falls in, is there no limitation on my liability, Honourable Minister? Boreholes are expensive.

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THIRD READING
WATER RESOURCES MANAGEMENT BILL
HON SMIT

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Honourable Schimming-Chase, a borehole currently costs N\$90,000 and beyond, but in any event, the limitation is to the fact that while on these duty, these people cannot be responsible for the bad installations you have made. If they walk by and the thing collapses, they cannot take responsibility.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 135 agreed to.

Remaining clauses, Schedules and the Title put and agreed to.

ASSEMBLY RESUMES:

Bill reported without Amendments.

HON SPEAKER: Does the Honourable Deputy Minister move that the Bill be now read a Third Time?

THIRD READING :
WATER RESOURCES MANAGEMENT BILL

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: I so Move, Honourable Speaker.

HON SPEAKER: Are there any objections? Who seconds this Motion? So agreed. Any further discussions? I call on the Honourable Deputy Minister to make concluding remarks on the Third Reading.

HON DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Thank you very much, Honourable Speaker, Honourable Members, thank you very much also for the support of the Bill and acceptance of the Bill at the end of the day, but please allow me also to thank Honourable Helmut for many months and many years' efforts and all the inputs into the development of this Bill, as well as officials in the

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HON KATALI

Ministry and people in Water Review who put in a lot of efforts over many months to make this a success at the end of the day. Thank you very much.

HON SPEAKER: I thank Honourable Deputy Minister Smit and I now Put the Question, that this Bill be read a Third Time. Any objections? So agreed. The Secretary will read the Bill a Third Time.

WATER RESOURCES MANAGEMENT BILL

**COMMITTEE STAGE :
NATIONAL DISABILITY COUNCIL BILL**

HON SPEAKER: Does the Honourable Deputy Minister of Lands, Resettlement and Rehabilitation, Honourable Katali, Move that this Assembly now goes into Committee?

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I so Move, Comrade Speaker.

HON SPEAKER: It is moved that I leave the Chair. Any objection? No objections. Who seconds the Motion? Agreed to. I shall now call on the Honourable Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the National Disability Council Bill.

Clause 1 put.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I move that in Clause 1, in the definition of “*disabled persons*” in the second line, the expression “*persons with disabilities*” be substituted for the expression “disabled persons” wherever it appears in those Clauses.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any discussion?
Honourable Schimming-Chase.

HON SCHIMMING-CHASE: Just for clarity, since we do not have copies of those Amendments, I just want clarity from the Minister, it is internationally talked about “*physically or otherwise challenged*” instead of “disabled”. Is the term “challenged” not more favourable, especially since we have signed international agreements where the terminology is used?

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I think there are many international terms being used, but the advice that we got from the experts and with the people living with disabilities is that they themselves prefer to use this term other than the ones that were used before in the Bill. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 1, as amended, agreed to.

Clause 2 put and agreed to.

Clause 3 put.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: In Clause 3(1)(b)(e) and (g), the expression “*persons with disabilities*” be substituted for the expression “*disabled persons*” wherever it appears in those Clauses.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 3, as amended, agreed to.

Clause 4 put.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: In Clause 4(1)(c), the expression "*person with disability*" be substituted for the expression "*disabled person*" where it occurs twice in that Clause and the expression "*persons with disabilities*"

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 4, as amended, agreed to.

Clause 5 put.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: In Clause 5(1)(a), the expression "*persons with disabilities*" be substituted for the expression "*disabled persons*" wherever it occurs in that Clause.

HON PRETORIUS: Honourable Chairman, it is only in reference to the changing of "*disabled persons*" to "*persons with disabilities*". I am not a disabled person, but I have two artificial knees, so I am a person with disabilities. I just want to put it on Record that I am now representing all those with disabilities.

HON ATTORNEY-GENERAL: Thank you, Comrade Chairman. What I am raising is arising from my previous hat as Minister of Lands, Resettlement and Rehabilitation. During my era the expression preferred by the people with disabilities was exactly that, because they argued that they are persons but they have disabilities. They are not disabled because they are able to do certain things and when you say they are disabled persons, it connotes they

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HON DR AMATHILA

cannot do anything, they are disabled and that is why during my era we adopted that term, “*persons with disabilities*” and now it is changed. (Interjection). I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion.
Honourable Schimming-Chase.

HON SCHIMMING-CHASE: Honourable Chairperson, I have a bit of a problem with Clause 5(1)(a) which reads as follows: “*Seven members nominated by organisations of disabled persons.*” I have a difficulty where it says, “*Which in the opinion of the Minister is representative of as many kinds of disabilities.*” I would have thought that the organisations of persons with disabilities would know best who would be representative of their group. The Honourable Minister at any time may or may not be a person with disabilities. Would that person then be better able to decide than the people themselves?

HON MINISTER OF HEALTH AND SOCIAL SERVICES: I think the responsibility given to the Minister, which is “*in the opinion of the Minister*”, we may get new disabilities, which are not regarded as a disability. Let us deal with the HIV case now. When persons are very ill, they can be taken part of disability and I think it is good to give leeway to the Minister to be able to include some other things we do not foresee now, but which can come later.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion?
Would the Honourable Deputy Minister wish to reply?

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I think it is for the Minister to make sure that if there are more than seven people with disabilities, then the seven must be representative for as many of the people with disabilities. It is not to say that the Minister is going to choose. They are the ones to choose, but then the Minister must ensure that the representation is very wide. Thank you.

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**THIRD READING: NATIONAL DISABILITY COUNCIL BILL
HON KATALI**

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 5, as amended, agreed to.

Clauses 6 to 20 put.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I move that in Clause 21(1)(b)(iii) the expression "*persons with disabilities*" be substituted for the expression, "*disabled persons*" wherever it occurs in those Clauses.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 21, as amended, agreed to.

Remaining clauses, Schedule and the Title agreed to.

ASSEMBLY RESUMED:

Bill reported with Amendments.

HON SPEAKER: Does the Honourable Deputy Minister Katali Move that this Bill be now read a Third Time?

**THIRD READING :
NATIONAL DISABILITY COUNCIL BILL**

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: I so Move, Comrade Speaker.

HON SPEAKER: Any objection? Who seconds the Motion? So agreed. Any further

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**THIRD READING: NATIONAL DISABILITY COUNCIL BILL
HON KATALI**

discussions? I call on the Honourable Deputy Minister to make final remarks.

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Thank you, Comrade Speaker. I would once

again like to thank the Honourable Members of this august House for deliberating on the National Disability Council Bill and for supporting it and for finally passing it in this august House. I thank you.

HON SPEAKER: I thank the Honourable Minister for his reply and I now Put the Question, that this Bill be read a Third Time. Any objections? So agreed. The Secretary will now read the Bill a Third Time.

NATIONAL DISABILITY COUNCIL BILL

**COMMITTEE STAGE : FORMER PRESIDENTS' PENSION
AND OTHER BENEFITS FUND BILL**

HON SPEAKER: Does the Honourable Minister of Justice Move that this Assembly now goes into the Whole House Committee? It is therefore Moved that I leave the Chair. Any objections? Who seconds the Motion? So agreed. I call on the Chairperson of the Whole House Committee to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Former Presidents' Pension and Other Benefits Fund Bill.

Clause 1 put.

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COMMITTEE STAGE
FORMER PRESIDENTS' PENSION FUND BILL
HON SCHIMMING-CHASE / HON H ANGULA / HON DR KAWANA / HON IIVULA-ITHANA

HON SCHIMMING-CHASE: Honourable Chairperson, thank you very much. I would like to speak to the definition of “*surviving spouse*.” Honourable Speaker, they Namibian society does not practise polyandry, but we do practise polygamy. That being the case, with all the emoluments to follow, what happens in the case where a President has more one surviving spouse? Is it going to be divided amongst them or is each one going to have the total amount?

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Honourable Chairperson, as a practice the Political Office-Bearers Pension Fund already divides the pension pay-out equally among the surviving widows. It goes without saying that if a late President is no longer around, there will be no question of each of them receiving what would have been received by one person only, because the entitlement is one pension and that has to be divided among the three surviving widows. (Interjection). There is no case of a woman having three husbands, they are not recognised by our legal system. It is recognised customarily and the custom in Namibia is that there is polygamy but there is no polyandry.

HON MINISTER OF JUSTICE: Comrade Chairperson, I wish to concur with the explanation of my senior Colleague, Honourable Minister of Agriculture. In terms of our law, as per Article 66 of the Namibian Constitution, customary law is recognised and we have to take that into account.

However, as for the question put the Honourable Nora Schimming-Chase, it is only 75% after the death of a President and that 75% of the pension will be distributed equally between the widows. That is what is stipulated in Clause 3, which we have not yet considered.

HON ATTORNEY-GENERAL: Comrade Chairman, the surviving spouse and customary law in Article 10 of the Namibian Constitution, I think this definition is incomplete, because if it only takes care of customary law and not what other principles embodied in our Constitution are saying, we are likely to run into a minefield, because under customary law we know men can marry more than one wife. Is this what is meant here? This is in total contradiction of Article 10 of our Constitution, talking about equality. When do you consider persons, husbands and wives to be equal or persons to be equal when the husband is equal to two, three, four wives? Where is equality then? I have serious problems with this definition and I would like us to reserve... (Intervention)

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COMMITTEE STAGE
FORMER PRESIDENTS' PENSION FUND BILL
HON DR TJIRIANGE / HON DR AMATHILA

HON MINISTER WITHOUT PORTFOLIO: I am listening carefully, but may I ask a question for clarity's sake? You are advancing a very interesting point and I would have loved to know the reality on the ground in this country. There are certain men, whether we want it or not, who have more than one wife. What happens if that kind of man becomes a President? Do we nullify the marriages that he had with other wives in order to have only one? What is the reality on the ground? It is not of our making but it is there.

HON ATTORNEY-GENERAL: Comrade Chairman, we are not making this law with a particular person in mind, we are making the law to apply generally to the categories of persons who fall within the ambit of this law and if we have a person who occupies a very important position in our society to uphold and defend the Constitution of Namibia, knowing very well that he has contradicted ... (Interjections). Allow me to say what I want to say, you have the right to your say at an appropriate time.

The person has contradicted Article 10 of the Namibian Constitution, then obviously, we are sitting with a serious problem. The number one person in our society has to defend and uphold the number one law of our country, but is living in contradiction of our Constitution. Then we are sitting with a problem.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I only hope that Members will quote applicable Articles from the Constitution. Honourable Minister of Health.

HON MINISTER OF HEALTH AND SOCIAL SERVICES: In the first place, we as Namibians must make sure that we are not going to allow a candidate to stand for President – and Comrade Pohamba must listen very carefully – who is a bigamist. He must not be allowed to become a Head of State. Bigamy is punishable by the Criminal Procedure Bill. If you have two wives, we are not going to allow you to become a president.

HON ATTORNEY-GENERAL: Comrade Chairperson, many Comrades are calling to order, telling me that I should look at Article 66 of the Namibian Constitution. I said yes, I will look at it and for the interest of those who do not have copies with them, I am going to read it:

“Customary Law and Common Law:

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**COMMITTEE STAGE
FORMER PRESIDENTS' PENSION FUND BILL
HON IIVULA-ITHANA**

Both the customary law and the common law of Namibia in force on the date of independence shall remain valid to the extent to which such customary or common law does not conflict with the Constitution or any other statutory law."

It is very, very clear.

"Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament and the application thereof may be confined to particular parts of Namibia or particular periods."

Comrades, this Constitution is very clear. (Interjections) Let me finish my argument. (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: On a Point of Order. I know the Honourable Member is our legal adviser, Article 10 does not say anything, it only talks about equality and this definition is talking of a wife or a husband. I do not see any contradiction to Article 10.

Then if you go to Article 66, we do not have any Act of Parliament, which repealed the customary law of this country.

HON ATTORNEY-GENERAL: Comrade Chairperson, I was at Article 10, he jumped the gun. It says all persons, women, children, men, all persons shall be equal before the law. When you are a husband with how many wives, I do not know, how are you equal to these many persons you are calling your wives? (Interjections). You can only be equal to one person.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Order! Order! I would not like you to derail this whole Debate.

HON ATTORNEY-GENERAL: Therefore, Comrade Chairperson, for the reasons that I have advanced, I am proposing that we defer the approval of the definition until such a time that we have found an amicable definition for a surviving spouse. I so Move.

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COMMITTEE STAGE
FORMER PRESIDENTS' PENSION FUND BILL
HON DR N IYAMBO

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I think what the Speaker has said in the beginning should be kept in mind and that is that if this Bill is not approved by tomorrow, it will lapse. This must be kept in mind and it will then have to be reintroduced at a later stage. Having said that, I recognise the Honourable Minister of Mines and Energy.

HON MINISTER OF MINES AND ENERGY: Comrade Chairperson, the Attorney-General has expressed herself on this issue, but being a legal advisor of Government, I am sure she has had ample opportunity to indicate the contradiction that exists in our Constitution. Now she is coming at this late stage and as far as we are concerned, there is no contradiction between Article 10 and Article 66. Since there has not been a repeal of Customary Law, I would recommend that we really go ahead and approve what we are doing and, of course, if the Attorney General strongly feels about these issues, she could raise it at a later stage.

HON MINISTER WITHOUT PORTFOLIO: One sentence only. I want to sympathise with the Attorney-General, but there is one thing that I fail to understand. At one point in my life, I was Minister of Justice and I know that there is something called the Cabinet Committee on Legislation, which the Minister of Justice chairs, and the Attorney-General is also a member of that Committee. Therefore, I am sure that they must have discussed this in the Committee and above all, no Bill comes here without certification by the Attorney-General. The pen that brings the Bill here comes from the Attorney-General. I do not know whether this particular Bill was sneaked in here without the certification by the Attorney-General.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Minister of Agriculture, you have the Floor.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Comrade Chairperson obviously this is a Debate, I have no problem with the Honourable Attorney-General arguing her case, but it is a question whether we are making a law that contradicts an existing law and I do not think that is the case, because we know for sure that we live in a real world. We cannot legislate here a piece of legislation discriminating against a would-be spouse of a former President, while the same right is currently exercised by others of this country. None of us here are pretending, we come from families where more than one mother was married to one father. Now we pretend here because we are looking at white customs from England, but you know you are coming from a background where you

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had one father but many mothers.

What you are saying is that while you recognise the offspring of one father, you are now contradicting by saying the woman who bore those children should not have the right to inherit from their father. It is a big contradiction and women should not be the ones to raise it, because the beneficiary will be a woman, not a man.

From my personal experience as former trustee of the Political Office-Bearers Pension Fund, we have paid out in one case to seven women married to one man and this man was a Namibian.

HON MINISTER OF HEALTH AND SOCIAL SERVICES: On a Point of Information. We must declare our position today. You know very well that one of your late colleagues had married first one woman and the very Honourable Minister without Portfolio has married that colleague's second wife. The money of that man is still lying in the bank, there is a dispute, which has probably gone on for five years now. You are telling us you have paid out seven wives of another man. What are we doing?

Apartheid? What goes for one should go for everybody. The children of this man are suffering, we have to give some pennies for them to go to school. Up to now that money is lying somewhere else. This other woman divorced him sixteen years ago.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: With regard to the case referred to, I have no knowledge that anyone of those women were married under customary law. Civil marriages are a different case. We are talking about someone who married under customary law and that law has not been repealed to date and that should not prevent becoming President because he is married to two wives, because there was a choice, the mothers concerned have never been raped, there was never a case of rape.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: May I ask a question? Do you know that women in Namibia are in the majority?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Deputy Minister, that question is Out of Order.

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HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: In short, the people who banned polygamy from Namibia and Africa is the church. It was banned, but there has never been a gathering of customary rulers to say they have renounced the practice of polygamy. It has never been renounced and today our Constitution still recognises it. However, what should concern us are the children from that marriage and these children are the products of mothers and fathers, they are never products of father and father. Therefore, we are not talking about men inheriting from other men, we are actually talking about mothers inheriting from fathers and I would not like my mother to be denied the right to inherit from her husband who might be the President. It is wrong for our ladies to advocate this denial of equality of women. It is totally wrong. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Attorney-General.

HON ATTORNEY-GENERAL: Comrade Chairman, I will not insist on the Amendment, provided this House is very clear that this society is a polygamist society, we have accepted that and let it be in black and white and let us remove the misconception that we are deliberately creating to serve our own interest. (Interjections). No listen, Comrades, I have listened very carefully to Comrade Helmut, I did not make a noise because I want to learn from everybody.

The equality we are talking about is not between women, that they must inherit equality. As the Honourable Minister of Agriculture is saying, that now the ball should be in our Court, we should not prevent each other from inheriting, because what you are in actual fact saying is that you women fall into your own category there, you must fight among yourselves to inherit. (Intervention)

HON DEPUTY MINISTER OF FINANCE: May I ask the Honourable Member a question? Honourable Member, can there be equality of persons, as stipulated in Article 10, if men may marry more than one wife and women are not allowed to marry more than one husband?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, one thing should be clear, we are now in the Committee Stage of this Bill. You have to address only the detail, no principle, please.

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RT HON PRIME MINISTER: Our society is not polygamist, things that amount to polygamy are being practised in our society, it is not a polygamist society and representing the formal institution of our society, being a secular state, the Government, what the society is, is a democratic society with equal citizens whose business is conducted in the transparent manner as we are doing now. I just wanted to say to the Attorney-General, this is not a polygamist society.

HON ATTORNEY-GENERAL: Thank you, Comrade Prime Minister, for that statement, because I was saying that many of my Colleagues are now defending their self-interests. What we are talking about is a law applicable to a category in which many of us may not even fall for the rest of our lives and since many of my Colleagues think that we are now attacking them, they have come to such a defensive position that they are losing sight of the principle.

Comrade Chairman, the principle is that our society, in terms of this Constitution, is not polygamist. However else you want to define it, it is not polygamist because the Customary Law that is in contradiction to Article 10 is unconstitutional and, therefore, inapplicable in our society. Therefore, based on what I have said, we cannot leave this definition to read the way it reads, ending with Customary Law, leaving out Article 10. It must be made part of that definition so that the whole principle behind the definition is built in.

One comrade raised the issue that this Bill has gone through many, many stages. Of course, it has and I have raised this issue and in the spirit of consensus... (Interjections). It is my right! I am a Parliamentarian, let alone my position as Attorney-General, I am a Parliamentarian and I have the right to talk here. I cannot be silent because I am a Member of this Committee or the other Committee. I am saying this definition is not complete and, therefore, it needs an Amendment. Thank you.

HON MUSHELENGA: Thank you, Honourable Chairperson. I really understand the concern being raised in this Honourable House about this definition, but if we read the definition, it reads "*surviving spouse*" not "*spouses*", meaning a spouse who was the wife or the husband – that is one person – "of a former President upon the date of his or her death and includes a wife – one person – *or a husband of a marriage under Customary Law.*" For the sake of progress, I believe we can proceed and adopt this Bill and if need be, future Amendments can be made.

HON MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chairman, I have

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sympathy with my neighbour here, because the argument advanced by the Honourable Attorney-General is one-sided because she is just trying to hammer on Article 10 of the Constitution. Nobody has any argument with Article 10 of the Constitution, but one cannot only look at Article 10 and overlook Article 66 of the very same Constitution. I do not want my Attorney-General only to concentrate on Article 10 of the Constitution. Having said that..... (Intervention)

HON SCHIMMING-CHASE: Honourable Chairperson, Article 66 says, “*To the extent to which such Customary or Common Law does not conflict with the Constitution*” and that is the point the Honourable Attorney-General made. It does not conflict with the Constitution, so she has not mentioned only Article 10, she mentioned Article 66 as well.

HON MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chairman, having said that, the definition of “*surviving spouse*”, as Honourable Mushelenga said, is a spouse either married in common law or a spouse married under customary law. This is what it says and I do not think that we can change that. (Intervention)

HON MINISTER OF HEALTH AND SOCIAL SERVICES: On a Point of Order. If I may propose an Amendment which we could discuss if it is agreed. We could say *spouse whether married according to customary law or according to civil law*. I think that is where the point is, whether they were married according to customary law or whether they were married according to civil law. I think that will solve the problem.

HON MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chairman, this definition as it stands here is very, very clear as it was put by Honourable Mushelenga there, unless the Chairman would give the Honourable Minister an opportunity to further explain.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Minister will reply at the end.

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HON ATTORNEY-GENERAL: Comrade Chairman, if we follow the Amendment as put by Honourable Amathila, we will still come back to the same problem. The problem that I have is that Customary Law, by its nature, is polygamist. (Intervention)

HON MINISTER OF FISHERIES AND MARINE RESOURCES: On a Point of Order. If what the Honourable Attorney-General is saying is correct, does it then mean that the issue of Customary Law is unconstitutional?

HON ATTORNEY-GENERAL: Even the Constitution says customary law is recognised – and then there is a proviso – to the extent that it does not conflict with the Constitution.

HON MINISTER OF TRADE AND INDUSTRY: On a Point of Order. Comrade Chairman, can I deduce from you allowing this argument to drag on that the Chair has a special interest in this matter, because the Attorney-General gave a solution a long time ago, that she is prepared to allow this Bill to pass and then to deal with the issue later on.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Let me say this, first of all the Honourable Member is Out of Order by trying to accuse the Chair of having any interest in the whole discussion. That one must be withdrawn.

HON MINISTER OF TRADE AND INDUSTRY: The assumption that the Chair may have a special interest is withdrawn.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, I allowed the Debate, but look at paragraph 2 of Article 66. I clearly states, “*Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament and the implication thereof may be confined to particular parts of Namibia or to particular areas*”. My understanding is that if we say there is a particular customary law that is in conflict with the Constitution, it must be repealed.

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We must come up with a proposal to repeal that particular customary law. Honourable Attorney-General, without any interest I allow you to continue.

HON ATTORNEY-GENERAL: I am moving an Amendment, Comrade Chairman, which shall read as follows: *“Surviving spouse means a person who was the wife or husband of the former President upon the date of his or her death and includes a wife or husband of a marriage under customary law to the extent to which customary law does not conflict with Article 10 of the Namibian Constitution.”*

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Not being a legal person, I think the legal minds should now determine whether this clause as it stands really conflicts with Article 10 of the Constitution. I may not debate with you, but let us once again read Article 10: *“All persons shall be equal before the law”*. (Interjection). If we say subparagraph (1), I would like to be clear on how this definition conflicts with subparagraph (1). I think you are confusing each other. Do we say that because somebody is married to two or three wives there is inequality between persons? This clause is just talking about equality between persons. Article 10(1) does not say husband and wife it says persons. (Interjections). Yes, men and women. The fact that one man is married to more women or one woman married to more men, does it imply that there is inequality between persons?

HON VENAANI: Honourable Chairman, I think we are deliberately misleading this House and confusing ourselves. Honourable Chairman, Article 66 talks of Customary Law. It is not the right of this House to invent customary law. If there is a Customary Law that exists that a wife can get married to three husbands, that shall also apply. We cannot invent Customary Law. It depends on that custom. If there is a custom in Namibia that allows a wife to get married to three husbands, as it is in Southern America that can be allowed. However, do not blame the Honourable House for not having... (Intervention)

HON MINISTER OF TRADE AND INDUSTRY: May I ask my Colleague a question? Polygamy may not exist in this country, it may not, but we cannot say that it will not reach us, because it exists in Africa. Do you know that polygamy exists in East Africa where one wife is married to several husbands?

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HON VENAANI: What I am trying to say is that the current provisions of Clause 1 is correct and if the time arises where we have a President who is a female and she was married to three husbands, if that Customary Law is applied in this country, those three husbands would be treated as spouses and there will be no problem.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I will now finally call on the Honourable Minister to reply.

HON MINISTER OF JUSTICE: Thank you very much, Comrade Chairperson. Let me make a special plea to my senior Colleague, the Honourable Attorney-General. This provision as it stands now, in my considered opinion meets the letter and spirit of our Constitution, because as the Honourable Attorney General might be aware, Article 66 puts Common Law at par with Customary Law, on the same level, unlike before when the Common Law was second and customary law was last. However, Article 66 says both the Common Law and the Customary Law are constitutional. It can only be repealed by an Act of Parliament.

Let me draw the attention of my senior Colleague to the law, which was passed in this House, called the Married Persons Equality Act, and it was even agreed that that law, as passed by my former Colleague, the Minister without Portfolio, is just applicable to the common law. There was another law on Customary Law, which was supposed to come, and we are still working on it. Therefore, customary law marriages are not repealed.

If we look at Article 10, equality and freedom from discrimination, and if we were to take that right, what would happen? Nobody is disqualified to contest the presidency as long as that person is over the age of 35, in terms of the Constitution. Supposing that person is a traditionalist like myself contests the presidency and I become President of this Republic and I have five wives, why should the four wives be discriminated against when I die?

Let us take it the other way around, my wives must be treated equally when I die, they must inherit equal shares. If we say that Article 10 discriminates, what would be the current position now? Are we going to abolish what is already the status quo now? It would mean these wives would be discriminated, which in my view would be contrary to Article 10 of the Constitution. It would mean even the children of those women will be discriminated because they will not qualify to inherit.

That is why I appeal to my learned Colleague to agree with me that this Clause 1 is innocent, it meets the letter and spirit of the Namibian Constitution. I Move.

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CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Minister for his reply and I now put Clause 1. Objections?

HON SCHIMMING-CHASE: I do not have an objection but request that the views expressed by us with regard to the definition be recorded in the Minutes under Rule 59.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 1 agreed to.

Clause 2 put.

HON PRETORIUS: Honourable Chairman, I still have a problem with the concept of a monthly basic salary. I want to make it very clear that at no stage whatsoever did I object against an amount, because the amount was not known and I think it will be good for the Honourable Minister of Justice to mention that amount of a monthly salary. My problem was a legal problem and that is that according to my opinion as a layman, we are now going to accept unconstitutional legislation, because it is very clear in Article 33 of our Constitution that even a monthly basic salary must be decided by this august House by way of legislation. That is why I called it unauthorised expenditure. I think it is not fair to a President and not our President His Excellency Dr Sam Nujoma to be treated in this way, that for thirteen years we actually, according to my opinion, paid him a salary, which was unauthorised.

According to the State Finance Act, it is stated very clearly under the definitions that unauthorised expenditure, *inter alia*, means any expenditure... (Intervention)

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Chairperson, I would like to ask Oom Kosie a question. On the issue of a certain salary as stated in the Bill, is the Honourable Colleague aware that there is nothing, which is static and that according to the economic performance, the salary of a President may go down or may go up? If it happens that we put a certain amount, it would mean that if we were to adjust the salary according to the fluctuation we would also have to come back to Parliament to amend the law and how many times are we going to do that and how effective is that?

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HON PRETORIUS: Mr Chairman, my answer is yes and we are bound by the Constitution, because Article 33 very clearly states “*by Act of Parliament*” and that is what we did in 1990. I do not know whether the Honourable Minister was already born by then. (Intervention)

HON MINISTER OF ENVIRONMENT AND TOURISM: May I ask the Honourable Pretorius a question? Honourable Pretorius, you want this august House to put figures of a monthly salary in this law, if I understood you correctly. You have been in politics for more than 40 years, could you give us an example of a law, either in Africa, in our neighbourhood or somewhere overseas which categorically states figures in the Act?

HON PRETORIUS: And what is more, the Honourable Minister helped us to make that law. I am now referring to the Presidential Emoluments and Pension Act of 1990. In Section 2 it says: “*There shall be paid to the person holding the office of President a salary of R180,000 per annum.*” It was written and it was decided and accepted by this august House. I was part of that unauthorised spending for the last thirteen years, because we never changed it and according to the State Finance Act it is very clear that any expenditure or payment for which no provision has been made by or under any law is unauthorised, and we have no law except this one which makes provision for a salary for the President. (Intervention)

HON MINISTER OF INFORMATION AND BROADCASTING: On a Point of Information. Comrade Chairperson, what the Honourable Member is trying to dance around is a question of money. First, there is no illegality in terms of the salary the President has been receiving for the past fourteen years, because every allocation is budgeted for and approved on an annual basis. First, what is your salary as per law? You get your salary annually and it is not written in any book anywhere. Every person working for the State will be paid from the resources of the Government. That is all the law says, the law does not say the Minister or the Prime Minister receives this salary. Where did you get this idea?

HON PRETORIUS: Mr Chairman, I think at the end of the day we shall have to ask the Supreme Court for an opinion, because I said that according to our Constitution and according to this Act which we accepted in 1990, if the President would die today, it would be the only authorised piece of paper to pay him a salary, because we never changed it. The

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other could be changed according to other laws to be adapted every year, but in the case of the President, it is very clearly stated in Article 33, by Act of Parliament, not by the financial position of the country.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, let me appeal to you, reference is being made to the Constitution and to an Act of Parliament. Please listen carefully and if we dispute or agree, please do it on that basis so that we make sure that whatever we pass here is legally and procedurally correct. It would not help us if we pass a Bill and as was just mentioned, the legality of that Bill can be tested in a court of law and fail. I am not saying what Honourable Pretorius is saying is correct, but I want the Honourable Members to listen carefully and to debate on the basis thereof.

HON MINISTER WITHOUT PORTFOLIO: May I ask Honourable Pretorius a question, please? I really want to know, Honourable Pretorius, when you talk about the President having been paid illegally all these years, whether in the Budgets that have been tabled before this House for the Office of the President there were no provisions for the money that would have to be paid to the President as a salary and as such, if there is something like that in the Budgets that we have been adopting in this House, the Budget is an Act of Parliament, did we not approve that money in the Budgets?

HON PRETORIUS: Mr Chairman, quite correct, the Budget is also an Act of this House, but that Act must be accepted under certain conditions and one of those is that any expenditure or payment for which no provision has been made under any other law, not the Budget, any other law, otherwise there will be no unauthorised expenditure. Then you can in any case argue that it was budgeted, so we spent it. (Intervention)

HON MINISTER OF FISHERIES AND MARINE RESOURCES: On a Point of Order, Comrade Chairperson. I honestly do not understand the content of the argument of Honourable Kosie Pretorius in terms of specifying the number, because this Bill is very clear that it will be the monthly basic salary that he or she received immediately before he or she dies. That means the figure is known, it was passed by Parliament, it was not illegal. It is clear that it is the figure immediately before death. That means it has been passed by Parliament, we know the figure, and the figures have been fluctuating.

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ADJOURNMENT

HON PRETORIUS: Mr Chairman, I want to make it very clear again that we have an existing piece of legislation, which has not been repealed. (Intervention)

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: On a Point of Order. We will finish this Bill today. We are not going home before passing it.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Honourable Member is Out of Order, the time has not been extended, and anything beyond the official time will be illegal. In addition, on that point of time and illegalities, I will report progress and ask leave to sit again.

This House stands adjourned until tomorrow in terms of Rule 90, automatic adjournment.

HOUSE ADJOURNED AT 17:45 UNTIL 2004.10.14 AT 14:30

**ASSEMBLY CHAMBER
14 OCTOBER 2004
WINDHOEK**

The Assembly met pursuant to the adjournment.

HON SPEAKER took the Chair and read Prayers and the Affirmation.

HON SPEAKER: Any Petitions? Any Reports of Standing or Select Committees? Other Reports and Papers?

**TABLING : 2002/2003 ANNUAL REPORT
MINISTRY OF FINANCE**

HON DEPUTY MINISTER OF FINANCE: Comrade Speaker, I lay upon the Table, the 2002/2003 Annual Report of the Ministry of Finance.

TABLING: REPORTS OF AUDITOR-GENERAL

HON DEPUTY MINISTER OF FINANCE: I also lay upon the Table, Reports of the Auditor-General on the Accounts of –

1. Omaheke Regional Council for the Financial Year ended 31 March 1998;
2. Namibian Broadcasting Corporation for the Financial Year ended 31 March 2003.
3. Employment Equity Commission for the Financial Year 2003-2004
4. Municipality of Walvis Bay for the Financial Year ended 30 June 2001.
5. Omusati Regional Council for the Financial Year ended 31 March 1996 and 1997;
6. Namibia Tourism Board for the Financial Year ended 31 March 2003;
7. Khomas Regional Council for the Financial Year ended 31 March 1996;

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**TABLING OF REPORTS
HON DR A IYAMBO**

8. Town Council of Ongwediva for the Financial Year ended 30 June 2002.

HON SPEAKER: Will the Honourable Deputy Minister please table the Reports? Honourable Dr Abraham Iyambo.

**TABLING: ANNUAL REPORT 2003:
MINISTRY OF FISHERIES AND MARINE RESOURCES**

HON MINISTER OF FISHERIES AND MARINE RESOURCES: I lay upon the Table the 2003 Annual Report of the Ministry of Fisheries and Marine Resources.

HON SPEAKER: Will the Honourable Minister please table the Report? Other Reports and Papers? Notice of Questions? Notice of Motions? Honourable Sioka.

NOTICE OF MOTIONS

MOTION ON BUSINESS OF ASSEMBLY

HON SIOKA: Mr Speaker, Sir, I Move without Notice, that the proceedings on Orders 1, 2 and 3 be, in terms of Rule 90, not interrupted if still under consideration at 17:45. I so Move.

HON SPEAKER: Will the Honourable Member please table the Motion? Are there any further Notice of Motions? Are there any Ministerial Statements? Honourable Minister of Fisheries and Marine Resources, Dr Iyambo.

**MINISTERIAL STATEMENT:
STATE-OWNED ENTERPRISES BILL**

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Speaker, Honourable Members, the Governance of State-Owned Enterprises Bill has been a topical and a national focal point of extensive debate. The Government has been hard at work consulting and creating a State-Owned Enterprises Bill. It was our intention to have this Bill introduced to Parliament before adjournment of this Session. However, we think that more refinement of this Bill is required. We do not want to rush the process, we want a Bill that has teeth. The corporate governance of State-Owned Enterprises is of national importance and requires objectivity, incisiveness and accommodation of all stakeholders. We can, therefore only introduce this Bill during the next Session.

The fundamental objective of this Bill is to make provision for the control over the functioning over the functioning of State-Owned Enterprises. Government expects delivery of services, economic viability, sound capital base to sustain operations, profitability from profit-making entities, prioritisation of scarce financial resources and accountability. Simply put, therefore, Honourable Speaker, Government expects prudent management of State-Owned Enterprises.

In addition, we expect the State-Owned Enterprises to be directed by knowledgeable Boards of Directors with the necessary skills, positive attitudes and who are responsive to the business focus of those entities. The Government, therefore, expects the Chief Executive Officers and Managing Directors to implement decisions and directives of the Boards. We expect management to be subjected to quantifiable performance targets for them to manage the State-Owned Enterprises sustainably. We thus expect performance contracts and a productive workforce.

Government wants to see the state-owned enterprises rejecting the blockage of bureaucracy and all the inertia. The overarching goal should, therefore be economic efficiency.

It is for this reason, Honourable Speaker, that I call upon the Honourable Members and the nation-at-large to be patient on this score. We do not want to rush the process and take hasty decisions. The Bill at the end will rectify the negative embedded aspects associated with the management of some of the State-Owned Enterprises. I thank you, Honourable Speaker.

HON SPEAKER: Are there any questions to understand the statement clearly? I would like to thank the Honourable Minister of Fisheries and Marine Resources for his Ministerial

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**RESPONSE TO QUESTION HON PRETORIUS
RT HON T-B GURIRAB**

Statement. Today being Thursday, the day on which the business in this Chamber is initiated by the Opposition benches, we have a number of questions that we can dispose of and proceed with the other business as scheduled for today. Thus, we will commence with Questions. Question 94 is put by Honourable Mr Pretorius to the Right Honourable Prime Minister. Does the Honourable Minister Put the Question?

RESPONSES TO QUESTIONS

QUESTION 94:

RT HON PRIME MINISTER: Thank you very much, Honourable Speaker. This matter was the subject of deliberation by Cabinet last Tuesday based on the latest information received by Cabinet. It would, therefore, be unwise and, indeed, premature for me as Prime Minister to engage in a fruitless and speculative discussion on the matter in the House. I shall, therefore refrain, but I want to give the Honourable Member the assurance that the details of the question will be made known either through Cabinet Resolution or through the Minister of Information and Broadcasting as and when that is necessary to do so. I thank you.

HON SPEAKER: I am hesitant to ask for supplementary questions as the grounds for the Prime Minister's rising was actually to explain the ground on which he judged the question to be premature and thus would not go into it. Therefore, there cannot be supplementary questions, as the questions have not been responded to. He is saying this is not the time.

HON PRETORIUS: Honourable Speaker, I am confused but I abide.

HON SPEAKER: No please, we do not want any confusion. I hope and appreciate that you understood what I understood from the Prime Minister's response. Question 95 is put by Honourable Moongo to the Honourable Minister of Regional and Local Government and Housing. Does the Honourable Member put the Question?

QUESTION 95:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT, HOUSING: Thank you, Comrade Speaker. These questions were put on the 2nd of September and they seem to have been overtaken by events. Maybe there is no point in answering them. However, if the Honourable Member insists that we give answers to the questions, I will try to do so.

The Honourable Member asked whether the Minister was aware of the thousands of street vendors who demonstrated against the unfair order of the Municipality of Oshakati to vacate the premises along the road and the Open Market of Oshakati and whether the Minister can agree or deny that there are no ablution facilities, water, shade or cooking facilities at the new place where the small businesses were forced to go and that this can become a health hazard. Would it not be wise to create a facility with all the amenities, such as water, ablution blocks, and small shops as well as an open market first, which would serve as an incentive for small business to settle there instead of moving them to incomplete premises?

Honourable Member, I have put the three questions together and will give one single answer.

According to Oshakati Town Council there was no resolution taken by the Council to order the vacation of the vendors to a new site. What happened, according to the Town Council, is that the order seems to have come from junior councillors without an instruction from the Council as such. Therefore, the relocation of the vendors did not materialise. It was put on hold.

I have visited the site, which is being prepared for the future relocation of the market in Oshakati, and I have observed that the place is not ready and people cannot be transferred to that location at this stage.

HON MOONGO: First of all, I would like to thank the Minister for not answering in the right time because he was trying to find ways to get rid of the questions. However, I thank him for his answer although I myself attended the demonstration and as the Minister said it was not a decision from the top and even the Governor himself was the spokesperson on the demonstration.

HON SPEAKER: No arguments. If you are content with the responses given, you have to thank him that is all. I wonder if the Honourable Members are aware of the content of the Motion that Honourable Sioka moved this afternoon and if you consider the time, we took on one question, I think we are likely to be here until eleven or twelve. Question 96 is put by Honourable Member Ulenga to the same Minister. Does the Honourable Member put the Question?

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**RESPONSE TO QUESTION HON ULENGA
HON KAAPANDA**

QUESTION 96:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Honourable Speaker, I would like to inform Honourable Ulenga that the Government does not have any intention to recognise a second Mafwe Traditional Authority. What has happened was a human error on the part of officials, as this error was corrected promptly once it was detected and the right title should read "*Mashi Traditional Authority under Chief Joseph Tembo Mayuni*", not the Mafwe Traditional Authority.

HON ULENGA: First of all, I thank the Minister for such a brief and to the point answer and as a supplementary question I would just like to ask the Minister whether he would say a human error is synonymous to a turnaround.

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

It was an error, which was corrected.

HON SPEAKER: I would like to thank the Honourable Minister for his response to this question put to him. Question 97 is put by the same Honourable Member. Does the Honourable Member put the Question?

QUESTION 97:

HON ULENGA: I Put the Question.

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Comrade Speaker, this question is linked to the other question, which was put earlier on. There is no relocation at this stage as the process of relocation has been put on hold until proper arrangements have been put in place. I thank you.

HON ULENGA: Honourable Speaker, I hear that the whole process has been put on hold,

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but does that mean that Questions 2 and 3 should fall out because these questions have nothing to do with the framework within which the process takes place?

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Yes, the questions have become irrelevant at this stage.

HON SPEAKER: I would like to thank the Honourable Minister for his response. Question 98 is put by Honourable Tsudao Gurirab to the same Honourable Minister. Does the Honourable Member put the Question?

QUESTION 98:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Thank you, Honourable Speaker. Allow me to correct the Honourable Member not to generalise the situation of Local Authorities in our country. Of course, we do have Local Authorities that are struggling and they are in the minority, but the majority are doing fairly well with minor problems and we are addressing these problems.

For instance, the Ministry is currently compiling information on the condition of infrastructure of all Local Authorities and towns in order to make submissions for funding for their rehabilitation.

HON T GURIRAB: I thought the Minister was still answering. Since the questions have not been answered, I do not have supplementary questions. Thank you.

HON SPEAKER: The Member who put the questions feels that the questions have not been answered and thus he has no supplementary questions. I would like to thank the Honourable Minister for his response. Question 103 is put by Honourable De Waal to the same Minister. Does the Honourable Member put the Question?

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QUESTION 103:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Honourable Speaker, I would like to request the concurrence of the House to allow this question to stand over until next time.

HON SPEAKER: Question 107 is put by Honourable Member Pretorius to the Right Honourable Prime Minister. Does the Honourable Member put the Question?

QUESTION 107:

RT HON PRIME MINISTER: The Honourable Colleague is very meticulous about matters of money. The question reads whether, as a matter of urgency, the Cabinet cannot give effect to the request of Bishop Zephania Kameeta to arrange a National Conference about crime in Namibia and on how to combat it. It has very serious national implications, as the Colleague can very well appreciate, it cannot be done with the sense of urgency that the Colleague is asking for. The Cabinet, together with the National Assembly and all the agencies of State and the private sector will continue to combat crime and contain it. However, that conference cannot take place inasmuch as the idea is laudable. Thank you.

HON SPEAKER: Any supplementary questions? I would like to thank the Prime Minister for his response to this question. Question 108 is put by Honourable Venaani. Does the Honourable Member put the Question?

QUESTION 108:

HON VENAANI: I Put the Question.

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:

According to Government Gazette No. 3211 of 31st of May 2004, the current water tariffs per cubic metre to the City of Windhoek are N\$4,60. The tariff charged to the end-consumer is a matter of the City of Windhoek, of which I am not in charge.

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According to the Government Gazette No. 2291 of 17th March 2000, the water tariff per cubic metre to the City of Windhoek was N\$3,11. During the year 2000, NamWater announced a 17% average water tariff increase that was in line with the promise of not increasing water tariffs by 20% over a period of five years. The announced tariff increase was the result of new bulk water policy that called for an area-based cross-subsidisation, but did not support NamWater's national objective of affordable water to the entire Nation, nor did it support NamWater's national infrastructure development objective.

"What is the water cost per cubic metre in the town of Uis?" According to the Government Gazette No. 3211 of 31st May 2004, the current water tariff charge per cubic metre to Uis is N\$5,24.

"What is the cost of water per cubic metre in all villages and towns?" Please, Honourable Member, we have a Government Gazette which registers water tariffs for each Financial Year and that is for the public to read. NamWater has no record of the charges by the individual councils and Municipalities. I hope it is very clear that NamWater sets its tariffs and it is supplied on the basis of that, but what the councils or Municipalities do with that tariff is beyond the control of NamWater as they are governed by different laws and by-laws. I thank you, Comrade Speaker.

HON VENAANI: I want to thank the Honourable Minister for his reply, but the Honourable Minister did not answer Question 4 and I just want to ask a supplementary question. A particular town such as Uis has a higher tariff than the town of Henties Bay, what leads to that difference in the NamWater tariffs to different towns?

HON MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: Comrade Speaker, he said I did not answer question 4. *"In his Ministerial Statement the Minister spoke of subsidising water for the poor."* The legislation was just passed yesterday that provides for the possibility in the future to cross-subsidise the poorest of the poor, because it gives governance to each water point and local water associations will be the ones to identify the people in their own respective areas who may not afford to pay for the water and pass that information to the Regional Authority and the Regional Authority then has the right to subsidise and if they are not able to do so, then they can come to the Central Government and say, *"we have these five people in water areas who cannot afford the water for their consumption."* Then we will assist the individuals concerned. However, that legislation is not yet in place.

With regard to the supplementary question, the difference between different schemes is

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based on the period of redemption of capital investment. For the new infrastructure, the price is obviously higher until the investment is recovered for NamWater to be able to sustain them and to redeem the debt or loan with which the infrastructure was built.

As times go on and loan facilities are redeemed, obviously the cost for the infrastructure comes down. Unfortunately, that has been the situation up to now. We are now trying to address that by coming up with a national tariff whereby everyone who consumed water will be in a position to subsidise the new investments which, unfortunately, in most cases are in the backward areas of our country and, therefore, not affordable to the people who are in those circumstances where job opportunities are very scarce. However, to arrive at consensus is not easy. If I ask the people of Windhoek to subsidise the people of Uis or the people of Okankolo, there is immediately an outcry that they cannot afford to pay for the water of other people. Therefore, it is not a very easy challenge to overcome. Nevertheless, we hope that in the near future we can reach national consensus, so that we can pay uniform water tariffs throughout the country and hopefully that could also apply to electricity, to fuel consumption, petrol, and diesel and maybe to all other things. I thank you, Comrade Speaker.

HON SPEAKER: I thank the Honourable Minister for his very comprehensive response to the questions put to him. Question 110 is put by Honourable Pretorius to the Minister of Regional and Local Government, and Housing. Does the Honourable Member put the Question?

QUESTION 110:

HON MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Honourable Speaker, may I once again request the indulgence of the Honourable House to allow this question to stand over?

HON SPEAKER: Honourable Minister, these questions are directed to you. Until when does the question stand over? The House rises today. I just want to remind the House that we may take this lightly, but the task of questions is very cardinal, paramount and basic to the process of lawmaking and the responsibilities that bring us to this Chamber. Rule 81 indeed compels the Ministers, it says the Minister shall give his or her answer and it is in the process of our responsibilities that we hold. Even though some questions are taunting, the questions are designed to enhance the lawmaking process by Ministers by providing answers

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to this Chamber. This is why we are asking until this question stands over. The Rule goes further and says a Minister shall give his or her reply or shall take the necessary steps to have the reply furnished. It is a duty of the Ministers to respond to questions. Since we are coming to the end of the session, I would like to end it on a happy note. Do you maintain that you have no reply to the question? The House shall rise for refreshments.

**HOUSE ADJOURNS AT 15:40
HOUSE RESUMES AT 16:00 PURSUANT TO ADJOURNMENT**

HON SPEAKER: Question 112 is put by Honourable Pretorius to the Honourable Minister of Regional and Local Government and Housing or the Prime Minister. I think this question is truly disqualified because the Prime Minister has a clearly defined line of responsibility, distinct from that of the Minister of Regional and Local Government and Housing. The coordinating function of the Prime Minister does not place him in the line Ministry's functions. If you say "or", it just negates the question. If it was Deputy Minister and Minister or Prime Minister or Deputy Prime Minister, that is very much in order, but I do not think this linkage is acceptable to this Chamber under this Presiding Officer. Honourable Pretorius, this question is disqualified. Question 113 is put by the same Honourable Member to the Minister of Basic Education, Sport and Culture. Does the Honourable Member put the Question?

QUESTION 114:

HON PRETORIUS: I Put the Question.

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Thank you, Honourable Speaker. I would like to premise my response to this question by first stating the following:

It is presumed that through this question the Honourable Pretorius is attempting through another door to obtain information on white teachers, which he asked about roughly two weeks ago in this Honourable House. If the Honourable Member was hoping through this question to detect inconsistencies and insincerities or dishonesty from our part, it is wrong. I must assure the Honourable Member that we remain sincere in our responses that we provide

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to questions posed to us in this Honourable House. The specific answers to the questions are as follows:

1. Yes, the Ministry of Basic Education, Sport and Culture did submit its affirmative action plan to the Employment Equity Commission as per the relevant requirements of the Affirmative Action Act of 1998 and the report that was distributed here this afternoon is proof of that.
2. As indicated in my response the question 1, all Ministries, including ours, do submit, as required, the affirmative action plans. Based on those plans, Ministries are further required to develop what is called “work profiles”. If the Honourable Pretorius genuinely wants to have a look at the Ministry’s work profile, I would like to advise the Honourable Member to contact the relevant public office that is responsible for the coordination of the affirmative action functions in the Public Service of Namibia.

Otherwise the Ministry of Basic Education, Sport and Culture’s work force profile is available, even though the data contained therein may not help the Honourable Member much in his crusade of trying unconvincingly to accused the SWAPO Party Government of reversed discrimination. This Government never attempted to reform apartheid and discrimination artificially. It fought against those inhuman degrading systems and policies that were legally created then. We defeated them, abolished them legally and buried them without mourning or funeral ceremony. I thank you.

HON SPEAKER: Any supplementary questions, Honourable Pretorius?

HON PRETORIUS: No thank you, Mr Speaker, I appreciate the answer, but I want to put on Record that I never, but never, doubted the Honourable Minister’s integrity and honour.

HON SPEAKER: I would like to thank the Honourable Minister for his reply and we shall now proceed with the substantive business. I call on the Secretary to read the First Order of the Day.

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**RESUMPTION OF COMMITTEE STAGE: FORMER PRESIDENTS'
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HON SPEAKER: Does the Honourable Minister of Justice, Honourable Kawana, Move that this Assembly now goes into the Whole House Committee?

HON MINISTER OF JUSTICE: I so Move, Comrade Speaker.

HON SPEAKER: It is, therefore, Moved that I leave the Chair. Any objections? Who seconds this Motion? So agreed. I shall now call on the Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Former Presidents' Pension and Other Benefits Fund Bill. When progress was reported yesterday, clause 1 had been put. Any further discussions on Clause 1? Any objection to Clause 1?

Clause 1 agreed to.

Clause 2 put.

HON PRETORIUS: Honourable Chairman, I was busy on Clause 2 when we adjourned. I just want to repeat that I do not have a problem with the amount, because it is not known. That is why I asked the Honourable Minister to mention what the monthly basic salary is now. My problem is, why was Section 2 of the Act 1990 not deleted to be replaced by a new amount? That was my second question and in the third place, and with that I conclude, my problem is about the legality, the manner in which this decision was reached. I am not convinced that it was the right manner.

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HON VENAANI: Honourable Chairman, when one looks at Article 40 of the Namibian Constitution in relation to Clause 2(f) of this Bill, that the responsibility of the Members of the Executive is to attend meetings of the National Assembly and to be available for the purpose of any queries made pertaining to the legitimate wisdom, effectiveness and direction of Government policies. Honourable Chairman, there is vagueness on the amount that the President is earning and it is the duty of the Executive to reveal this information and to make it known. If one goes to Budget, there is no indication that the Head of State earns so much and it is just a bit problematic not to know what 80% of what amount is. I think it is very important to know the effect of the legislation that one passes and I want it to be minuted as such.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank Honourable Venaani for his contribution. Any further discussions? Would the Honourable Minister of Justice wish to reply?

HON MINISTER OF JUSTICE: Thank you very much, Comrade Chairman. Let me once again put on record, in response to the concerns of the Honourable Member Mr Pretorius, that Article 33 of the Namibian Constitution reads in part: *“Provision shall be made by Act of Parliament for the payment out of the State Revenue Fund of remuneration and allowances for the President.”* This provision does not say Parliament shall determine the salary. We should not read words into the text, which do not appear. Now, why am I saying so? May I refer the Honourable Member to the Presidential Emoluments and Pension Act of 1990? Section 7 of that Act reads as follows:

“Any pension payable in terms of this Act shall be supplemented in accordance with such rates or scales and in such circumstances and on such conditions and with effect from such date which may be a date in the past, as may be determined by the Cabinet from time to time.”

This goes without saying that indeed the intention of Article 33 was not for this august House to determine the salaries and allowances of a sitting President other than just to come up with an Act of Parliament to say that whatever salaries and allowances will come from the State Revenue Fund.

Regarding the Honourable Member's proposal to remove Section 2 of the current law into the new Bill, as I said during my motivation, the new Bill only refers exclusively to former Presidents, it does not address the issue of a sitting President. This is the subject matter of that Section 2 which the Honourable Member is referring to. That notwithstanding, there has

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been speculation concerning the basic salary of the sitting President and I do not really understand what is happening to our opposition. Some of the Honourable Members who are here have been in this august House since independence and indeed, today we have just completed Question Time and no single Member put a question so that we can give you the amount. We have nothing to hide. We have democracy. However, for your benefit, because we have nothing to hide, I want to tell you, Honourable Members, that the current basic salary of a sitting President is N\$415,479 only, contrary to what we read about N\$700,000 or whatever. That is per annum. Compare that to the basic salary of someone in a Parastatal or even in our Municipalities. Therefore, I say we have nothing to hide.

In addition, I do not understand the concern of Honourable Pretorius. Even this Presidential Emoluments and Pension Act is expressing percentage terms. For example, on the pension of a widow it says an annual pension equal to 75% of the pension. This is what you passed, Honourable Pretorius, and this is universal. We cannot determine the basic salary of a President who will be there in the year 2030. Thank you very much.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Minister for his reply. Honourable Pretorius?

HON PRETORIUS: Mr Chairperson, I think it is for the benefit of His Excellency, the President that we do this in the correct manner and what the Honourable Minister said just now only strengthens my argument.

Yes, I was a part of the committee that wrote the Constitution, I was part of the Assembly, which accepted this, and we made a definite difference between remuneration and pension. It was written into the Constitution in the first place. I want to repeat it again:

“Provision shall be made by Act of Parliament for the payment out of the State Revenue Fund of remuneration and allowances for the President” and then further on, *“as well as for the payment of pension to the former President.....”* When we accepted this Bill in 1990 we made a difference between remuneration and pension. Remuneration was in Section 2 and pension was in Section 4 and then it continues in Section 7, which was mentioned by the Honourable Minister, and we made only a provision that the Cabinet may adapt the pension, not the remuneration. *“Any pension payable in terms of this Act shall be supplemented in accordance with such rates or scales and in such circumstances and on such conditions and with effect from such date which may be a date in the past as may be determined by the Cabinet.”* Therefore, the Cabinet was only given jurisdiction on the pension, not on the remuneration. The remuneration is the sole responsibility of this august House.

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Mr Chairman, may I share something with you? A month ago, we were visited by a delegation from the Parliament of Zambia and their biggest problem why they visited Namibia was to see how we are dealing with it. I have the speech of the Chairperson of that delegation here. He said:

“Under the Republican Constitution of Zambia, all legislative power of Government vests in Parliament. Only Parliament can make and unmake laws.” He said: *“Parliament of Zambia in 1994 first appointed a Parliamentary Committee....”* (Intervention)

HON MINISTER OF FISHERIES AND MARINE RESOURCES: On a Point of order. We want progress and we are lost about which Clause we are debating at the moment. He is talking about Zambia and those things, but can we zero in on the Clause about the basic salary that we are debating that was just announced by the Honourable Minister of Justice about which the Honourable Member had difficulty. What exactly is the problem now? He knows what the basic salary is. Can we make progress, Honourable Chairperson?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Point taken. Please proceed, Honourable Pretorius.

HON PRETORIUS: Mr Chairman, I am reacting to the statement by the Honourable Minister of Justice that Cabinet was given the power to do it and now I said I want to share this example with you, that they are also experiencing this problem in Zambia. They have a definite Parliamentary Committee whose main function is to scrutinise and to report to the House, through the Honourable Speaker, on whether powers to make orders, regulations, Rules, Sub-rules and by-laws delegated by Parliament are being properly exercised and one of the things they have to scrutinise is whether they are concerned only with administrative detail which does not amount to substantive legislation, which is a matter of fundamental enactment.

I am now not going to say anything further, the House can go ahead and accept it, but I want to record my opposition to the legal situation as far as this is concerned.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Are there any further discussions? Does the Honourable Minister of Justice wish to say something?

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HON MINISTER OF JUSTICE: Comrade Chairperson, with regard to Zambia the Honourable Member is referring to, it is exactly the same in our constitutional order. Legislation is the prerogative of the Legislature, not of the Executive, nor of the Judiciary. We have what is called separation of powers. There is therefore nothing new in what he read to us.

Regarding the issue of pension and salary, the Honourable Member must be aware that, indeed, even in terms of the current Presidential Emoluments Act that is salary equals pension, so we are talking of the same thing. It says the pension of a former President is his last salary. Therefore, we are talking of the same thing, pension and salary and when you go to Section 7 that can be adjusted from time to time by Cabinet. This Article 33 does not say Parliament shall determine the salary of the President, it says the salary of the President shall be appropriated through an Act of Parliament and we have done this several times through the State Finance Act and that salary comes from the State Revenue Account. Thank you very much.

HON PRETORIUS: I want to record my opposition on legal grounds.

HON SCHIMMING-CHASE: Honourable Chairperson, under Rule 69 I request that our reservations be recorded in the Minutes of the deliberations of the House.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clause 2 agreed to.

Clauses 3 and 4 put and agreed to.

Clause 5 and 6 put.

HON SCHIMMING-CHASE: Honourable Chairperson, we have serious problems with Clause 6. Clause 6 states, *inter alia*, that this pension of ±N\$32,000 per month is not to be ceded or otherwise transferred, nor is it liable to be attached or subjected to any form of execution under a judgment or order of court, except for the mentioned purposes.

Honourable Chairperson, our problem derives from the fact that such a person may incur debts, may have to pay back certain moneys that were used with authorisation and despite having an income of over N\$30,000 per month, would not be expected to pay. We feel that

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Judgments or Orders of the High Court or Courts should be above an individual and we would, therefore object to the inclusion of the Clause.

HON PRETORIUS: Mr Chairman, mine is about Clause 5 and I am glad to have the assurance from the Honourable Minister that only pension will be paid out of State funds. The Honourable Minister accused me of an allegation and it was not an allegation, I only asked a question and he must also accept my integrity, please, and that question was based on official information.

In the first place, the Public Service Commission Report of 1 April 2003 to 31 March 2004, page 47, indicated that the number of political office-bearers and other office-bearers is 261 and then as a result of this I asked the Right Honourable Prime Minister to give us a detailed explanation about the composition and he gave that explanation and here I have in written form the 261 Political Office-Bearers and other Office-Bearers, as indicated in the Annual Report of the Public Service Commission for the year 2003/2004. This is a response to the abovementioned question asked by Honourable Pretorius, the political office-bearers and other office-bearers are, and then it is mentioned, and right at the top, His Excellency the President, number one. Meaning, without that number one it is now 260 and not 261 anymore. Therefore, I accept the words of the Honourable Minister but I think the documents, for the sake of the future, must be corrected. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank Honourable Pretorius for his contribution. Any further discussions? Would the Honourable Minister of Justice wish to reply to the comments made?

HON MINISTER OF JUSTICE: Thank you very much, Comrade Chairperson. I take note of the concerns of the Honourable Member Nora Schimming-Chase. However, I wish to say the following:

A former President cannot equate with an ordinary citizen of the country or retiree. I wish to refer the Honourable Member to Article 31 of the Namibian Constitution. In office or out of office this particular person still enjoys immunity and, therefore, this aspect must be taken into account, to enjoy criminal and civil immunity. In addition, I want to assure the Honourable Member that this is really not unique to Namibia, it is a provision which is also even in the Botswana legislation. The only exception is that if the former President owes a debt to the Government and receives a pension from the State Revenue Account, that money

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must be paid. In Namibia, we are very uncompromising when it comes to maintenance that will be the only other exception. Thank you very much.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion?
Honourable Schimming-Chase.

HON SCHIMMING-CHASE: Honourable Chairperson, if the person is immune, the Clause is redundant. We wish our reservations to be recorded for prosperity under Rule 69.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clauses 5 and 6 agreed to.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Clauses 7 to 10 put.

HON SCHIMMING-CHASE: Only a simple question under Medical Aid, Clause 9. I just wish to ask the Honourable Minister for an explanation why somebody who has a pension of N\$32,000 cannot contribute to a Medical Aid, but the taxes of people who get N\$300 must contribute to that Medical Aid?

HON PRETORIUS: Mine is only a question on Clause 9. To come back to Section 2 of that Act, I want to know why the amount of R180,000 cannot be changed to N\$414,479.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chairman, in Namibia we do not have Rand we have the Dollar. Honourable Pretorius is wrong, he cannot insist on saying Rand, Rand.

HON PRETORIUS: If the Honourable Member was here when I talked about the first

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time, I indicated that because we adopted this legislation in 1990, it was still Rand and I then asked why we cannot change it to Dollar.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: In the absence of further discussions I will yield the Floor to the Honourable Minister for his reply.

HON MINISTER OF JUSTICE: Thank you very much, Comrade Speaker. I take note of the political statement made by Honourable Nora Schimming-Chase of the CoD, but let me repeat the type of person we are talking about now and in the future. The former President stands in a class of his or her own and, therefore, we cannot really expect this person to be treated like another person. At the same time, Namibia will not be a unique example, this is universal in Africa, Europe and America, that when it comes to medical facilities, you cannot expect a former Head of State to pay this and that. It is a privilege that is granted to a former Head of State. That is why even in office, outside office, in terms of Article 31 he is immune from civil and criminal liability.

Coming to the proposal of Honourable Pretorius, I still want to refer to my earlier response that, indeed, it is not the duty of this August House to determine the salary scale of the President. That is the prerogative of the Executive. The duty of the Legislature is just to come up with legislation and this issue is covered by the State Finance Act of 1991. Every time we come here with the Appropriation Bill it shows the vote which the salary of the President comes from and indeed, the current vote was unanimously adopted by this august House, Vote 01 – Office of the President.

However, I do not have any insurmountable problem, as I would really wish all politicians, all public figures to disclose their salaries in a transparent manner. I can even propose that next time the Budget shows the salaries from the President down and also to require those in the Parastatals and municipalities to do likewise, so that we have a transparent country and so that nobody should query the income of our politicians and when you get that income, it is yours and you are proud, there will be no rumour-mongering. Thank you very much.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Minister for his reply.

Clauses 7 to 10 agreed to.

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Schedule put.

HON NAMISES: I do not agree with the Schedule and we need to either remove it or reduce all the benefits.

HON SCHIMMING-CHASE: Honourable Speaker, we would wish that the other benefits could be even more to former Presidents, but a country which has 10,000 matriculants sitting on the street, a country that cannot afford to pay its pensioners more than N\$300, a country like that cannot afford it, it is too expensive for a country as poor as Namibia and we shall vote against the Schedule.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussions?
Honourable Pretorius.

HON PRETORIUS: Mr Chairman, I am now thinking back very far now, I am thinking of the evening when I first met the Right Honourable Prime Minister and I can remember that that evening we talked a little bit and then we decided that in future we will agree to disagree and that is the point I am now reaching with the Honourable Minister of Justice, I think we must agree to disagree, but I still have exactly the same problem with the Schedule, I think it is in contradiction with Article 33 of our Constitution and I shall ask my opposition to be recorded.

HON MINISTER WITHOUT PORTFOLIO: I just want to know what would happen to those people who have three or four pensions and they are still here and waiting for another pension?

HON VENAANI: Honourable Speaker, as much as we want to give what is due to any Head of State, the Schedule under transport states three vehicles, and obviously these vehicles will belong to Government, but is it correct and fair and just for a country like Namibia to afford a Mercedes Benz S500 even when the incumbent Prime Minister and Ministers are not driving those luxurious cars? A Mercedes Benz S500 has a value of N\$700,000 today, a station wagon N\$600,000 and I really want it to be minuted that the

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Official Opposition, the DTA and the UDF, have reservations on these expensive vehicles.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussions?
Honourable Pretorius.

HON PRETORIUS: Mr Chairman, I can remember another thing. I was very impressed one day when a former Minister of Justice said in this House that there is nothing worth more than rumours. Therefore, I wonder whether he could mention the names of the people who are getting pensions.

HON NAMISES: I am on point 3 of the Schedule. I actually do not know why it is official residence at any place in Windhoek only. Why not the whole Namibia? The President could actually go and live in Okahao. Why only in Windhoek? Does it mean this State House will be the one?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: First of all, this Bill is referring to "he or she". Does the Honourable Minister wish to reply?

HON MINISTER OF JUSTICE: Comrade Chairperson, let me repeat what I said during my response. I have a problem with certain Political Parties, which were conceived in the corridors of apartheid. I have a problem with certain Political Parties, which were conceived in the northern hemisphere. The SWAPO Party in Namibia is the only Party, which grew from the roots of this Nation. We are determined to be an exception. Africa has been marginalised for too long. We want our national leaders to have adequate, verifiable, transparent income so that we encourage those corrupt leaders of Africa not to loot the resources of their nations and enrich those who are already rich. Therefore, I am saying we are making history and those who want to make history must vote with us and support this Bill.

Regarding the question by Honourable Namises, these residences are Government or State properties. That is why we put a condition of only in Windhoek, so that in the event of a natural calamity and the President is no more, that property can be sold on the open market

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or it can be utilised within the capital city. However, if it is built somewhere in a remote area, the State stands to lose. We are trying to protect the State. (Interjections). I do not understand some of the Political Parties, which are making political capital, although they are going to be defeated in the elections. Only yesterday, they had slush funds, more than 300 million. Why did they not say no to taxpayers' money? The DTA and MAG got 300 million. Why did you not say no to taxpayers' money? Do not forget the slush funds. That is why I am even going to move a Motion in this august House that John Meinert Press must come back to state ownership, because that press was purchased with slush fund money, the money that belongs to this Nation. I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Minister for his reply and I now put the Schedule. Any objections?

HON SCHIMMING-CHASE: I object.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: There is an objection, thus the House is divided.

HON PRETORIUS: Is it only about the Schedule or the Bill?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Schedule. I have not put the Title yet.

HON PRETORIUS: There was a misunderstanding. I accept the Bill except for Clause 2 and the Schedule. I want my opposition recorded on legal grounds.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Will all those in favour of the Schedule please rise? Will all those against please rise? Will all those abstaining please

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rise? The results are as follows:

Those in favour:	42
Those against:	11
Abstentions	0

Schedule agreed to.

Title put.

HON MINISTER OF JUSTICE: Honourable Speaker, I wish to Move an Amendment to the Schedule so that it could tally with the short Title as follows:

Amendments to the covering pages accompanying the Former Presidents' Pension and Other Benefits Bill, 2004:

That the following be substituted for the short Title appearing on the covering pages accompanying the Former Presidents' Pension and Other Benefits Bill: "*Former Presidents' Pension and Other Benefits Bill*".

I so Move.

Amendment put.

HON PRETORIUS: Mr Chairman, I just want to thank the Honourable Minister for taking note of my query for a change. Thank you.

HON MINISTER OF JUSTICE AND ATTORNEY GENERAL: I thank the Honourable Members who have supported the Amendment.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Title, as amended, agreed to.

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FORMER PRESIDENTS' PENSION FUND BILL

ASSEMBLY RESUMED:

Bill reported with Amendment.

**THIRD READING : FORMER PRESIDENTS' PENSION
AND OTHER BENEFITS FUND BILL**

HON SPEAKER: Does the Honourable Minister of Justice, Honourable Kawana, Move that the Bill be now read a Third Time?

HON MINISTER OF JUSTICE: I so Move.

HON SPEAKER: Any objection? May you rise and state your objection, Honourable Mr Pretorius?

HON PRETORIUS: Mr Speaker, just for clarity, I again want to say that I want to record my opposition only to Clause 2 and the Schedule on legal grounds.

HON SPEAKER: Recorded. Who seconds this Motion by the Honourable Minister of Justice? Any further discussion? Honourable Namises.

HON NAMISES: I must say in the Third Reading that this Bill has come as a surprise and I hope what we have done this afternoon will take us down a long road. It is clear that it is really a Bill geared for individual people, but I hope that the Bill will come back with Amendments next time in a different Parliament that is not dominated by "Mannetjie".

HON SPEAKER: Any further discussions? I call on the Honourable Minister of Justice if

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HON WENTWORTH**

he wishes to say something by way of concluding the Third Reading.

HON MINISTER OF JUSTICE: Comrade Speaker, I wish to express my appreciation and gratitude, especially to my comrades in the SWAPO Party, and the Honourable Members who supported the Bill. It is a sign that the ruling party will continue to take care of the welfare of our people, including former Presidents and we will continue to take care of the welfare of the Members of the opposition although they will continue to shrink. But it is our responsibility as the ruling party to take care of everybody. I thank you.

HON SPEAKER: I thank the Honourable Minister for his concluding remarks and I now Put the Question, that this Bill be now read a Third Time. Any objections? So agreed to. The Secretary will read the Bill a Third Time.

FORMER PRESIDENTS' PENSION AND OTHER BENEFITS FUND BILL

**RESUMPTION OF COMMITTEE STAGE :
NATIONAL HERITAGE BILL**

HON SPEAKER: Does the Honourable Deputy Minister of Basic Education, Sport and Culture Move that this Assembly now goes into the Whole House Committee? It is therefore Moved that I leave the Chair. Any objections? Who seconds the Motion? I now call on the Honourable Chairperson of the Whole House Committee to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the National Heritage Bill.

Clause 1 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: Comrade Chairperson, when the Committee Stage was reached last week, I already presented

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an Amendment on Clause 1 to indicate how we have accommodated the recommendations of the Standing Committee and also the explanation as to why the term “*museum*”, which was recommended in the report was not defined in the Amendment.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Minister for that explanation.

Amendment put.

HON PRETORIUS: Mr Chairman, I think I must make use of this opportunity just to say that I have made my point and I think I have reached what I wanted to reach, so I am not going to be difficult this time. I will agree with the Amendment as tabled.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment agreed to.

Clause 1, as amended, agreed to.

Clauses 2 to 45 put and agreed to.

Clause 46 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:
Comrade Chairman, we have taken note of the recommendation of the Standing Committee and in Clause 46 substitute Sub-clause (2) for the following Subsection:

“A person must not –

- (a) remove or demolish;
- (b) damage or destroy;
- (c) alter or excavate; or
- (d) export from Namibia

a protected object.” I so Move.

Amendment put.

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: Comrade Chairperson, I rise to support the Amendment because it will allow us to protect our heritage. In the case of two offices left in Shoprite in Katutura, that building is a symbol of the suffering of the workers of this country and they are left to be there as that, but the owners of that complex could one day destroy those two buildings. Therefore, I fully support this Amendment because now we will secure that those symbols will remain there for the future generations of this country to know that their fathers and uncles were killed in that area. Thank you very much.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Any further discussion? Would the Honourable Deputy Minister wish to say anything about the contribution made?

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I would just like to thank Honourable Iilonga for speaking on behalf of the hearts of all Namibians. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment agreed to.

Clause 46, as amended, put and agreed to.

Clause 47 to 53 put and agreed to.

Clause 54 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:
Once more to accommodate sound advice:

1. In Clause 54 insert the following Sub-clause after Sub-clause (4) and subsequent existing Sub-clauses (5) to (8) be renumbered to (6) to (9) accordingly:

“A person must not undertake the work referred to in Sub-section (6) unless that person has complied with all the requirements of this Section and permission has been given to that person by the Council in terms of Sub-section (10).”

2. In Sub-clause (6), substitute the figure “to” where it appears for the figure “90”; and

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3. Insert the following subsection after subsection (9) and renumber existing Sub-clause (9) as (11):

“(10) The Council may, after considering the report and any other information submitted to it in terms of this Section, submit, subject to any conditions which it may impose, the person who has given notice to it in terms of Sub-section (6), to undertake the proposed work.”

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 54, as amended, agreed to.

Clauses 55 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: In Clause 55:

Substitute the title for the following –

“Archaeological and paleontological sites, meteorites and other heritage resources.”

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 55, as amended, agreed to.

Clause 56 and 57 put and agreed to.

Clause 58 put.

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: In Clause 58 –

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In Sub-clause (2)(c) insert the expression “traditional authority as defined in the Traditional Authorities Act, 2000 (Act 25 of 2000)” after the word “person” wherever that word appears.

In Sub-clause (3), insert the following paragraph after paragraph (d), the existing paragraphs (e) to (g) being renumbered (f) to (h) accordingly –

“(e) the provision of information and education about the site which will lead to an understanding and appreciation of the heritage significance and values associated with the site.”

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put.

HON PRETORIUS: Mr Chairman, the recommendations of the Standing Committee was about community rights. That was changed by the legal advisors to Traditional Authorities. I have no problem with that, but the problem that the Honourable Deputy Minister and myself will experience in future is that certain communities are excluded, the Basters, himself and myself. How are we going to solve that problem as long as they see us as second-class citizens? When will we get our Traditional Authorities?

HON MINISTER OF MINES AND ENERGY: Comrade Chairperson, way back when I was the Minister of Regional, Local Government, and Housing I advised Honourable Pretorius very strongly to come sit for the recognition of a Traditional Authority of the Afrikaners. Therefore, he has only himself to blame. He did not come.

HON PRETORIUS: I will supply the Honourable Minister with all my correspondence with the Minister who took over from him. I think he will then help me. Thank you very much.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment agreed to.

Clause 58, as amended, agreed to.

Remaining Clauses and the Title put and agreed to.

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HON WENTWORTH / HON IIVULA ITHANA**

ASSEMBLY RESUMED:

Bill reported with Amendment.

**THIRD READING:
NATIONAL HERITAGE BILL**

HON SPEAKER: Does the Honourable Deputy Minister Move that the Bill be now read a Third Time?

HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: I so Move, Comrade Speaker.

HON SPEAKER: Objections? Who seconds the Motion? So agreed. Any further discussions in the Third Reading? Honourable Ithana.

HON ATTORNEY-GENERAL: Thank you, Comrade Speaker. I am rising to give my wholehearted support to the passing of this important legislation, which is long overdue, and I am registering my appreciation, taking into consideration that many important, memorable institutions have fallen prey to those who are opposed to some of these historic sites. I have in mind a church that was built in Klein Windhoek which black Namibians used to go to, but before this Bill was enacted, this building was destroyed and there was no way our Government could protect the destruction of such a historic site. Therefore, I appreciate the passing of this law and hope that its enactment will serve the purpose to protect those historic sites. I thank you.

HON SPEAKER: I thank the Honourable Attorney General for her remarks. Any further discussions? I call on the Honourable Deputy Minister of Basic Education, Sport and Culture if he has something to say by way of concluding the Third Reading.

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HON DEPUTY MINISTER OF BASIC EDUCATION, SPORT AND CULTURE:

Thank you, Comrade Speaker. The Honourable Attorney-General has articulated the objective of this Bill by example and I wish to thank all the others who participated in the discussion. I particularly wish to thank the Standing Committee. I actually requested that this Bill be referred to the Standing Committee before I was recycled to Basic Education and they have really done an outstanding piece of work. I thank the Chairperson and all Members of that Committee most sincerely.

I would also like to tell Mr Pretorius that I do not think that his interventions were trying to be difficult, that I am sure he was seeking further clarity and in the process of the consultations that took place we all benefited. I think we have learned something and in that respect I also wish to thank the Chairman of the Whole House Committee, Honourable Konjore, for his wise guidance that brought us to this position. I thank you very much.

HON SPEAKER: I thank the Honourable Deputy Minister for his concluding remarks and I now Put the Question that this Bill be read a Third Time. Are there any objections? Agreed to. The Secretary will now read the Bill a Third Time.

NATIONAL HERITAGE BILL.

HON SPEAKER: I am asking the concurrence of the Chamber that it agrees that we go through all three stages today so that we can complete the Bill. Agreed to. Thank you. I will now ask the Secretary to read the Third Order of the Day.

**RESUMPTION OF SECOND READING :
PUBLIC HOLIDAYS AMENDMENT BILL**

HON SPEAKER: When this Debate was adjourned, the Question before the Assembly was a Motion by the Honourable Prime Minister. The Debate was interrupted by Rule 90 of our Standing Rules and Orders and Honourable Pretorius had the Floor.

HON PRETORIUS: Honourable Speaker, I am getting the impression that a perception is developing that Monitor Action Group is not accepting, recognising women as people and human beings, that we are not acknowledging their progress and the role they play. Now to prove the opposite I just want to quote from this very high standard magazine of October 1991. Please note the date, October 1991. I shall read to you in Afrikaans and then I will translate it: (Intervention)

HON MINISTER OF HEALTH AND SOCIAL SERVICES: On a very brief Point of Order. I do not want us to waste time on these lip-service speeches in the newspapers. In practice nothing is done, but on paper you are writing beautiful things. Do not waste time to read.

HON SPEAKER: The view expressed by the Honourable Minister of Health noted. Proceed, Honourable Pretorius.

HON PRETORIUS: Mr Speaker, it was written there:

“Net om te bewys dat Monitor graag op meriete oordeel, wil ons voorstel dat Dr Libertine Amathila, huidige Minister van Plaaslike Owerhede en Behuising, verkies word as President van Namibia wanneer President Sam Nujoma eendag aftreë.”

That was in October 1991. What is more, there is a lovely picture of her. The translation is: *“Just to prove that Monitor wants to judge on merit, we want to propose that Dr Libertine Amathila, the present Minister of Local Authorities and Housing, should be elected as President of Namibia when President Sam Nujoma one day retires.”*

Mr Speaker, I want to conclude my speech without repeating. The Minister of Water Affairs and Forestry in South Africa Ms Buyelwa Sonjica recently said: *“The greatness of any Nation is measured by the way it celebrates its children and their achievements.”* The proposed Women’s Day wants us to look back at the past, the Children’s Day, on the other hand, would motivate and inspire us and our children to look at the future.

Mr Speaker, it was my intention to move an Amendment that this should also be referred to a Standing Committee, but I will withdraw it and I want to say, I think I will settle on a Family Day that would include women, children and fathers and we use to highlight our women. (Intervention)

HON MINISTER OF BASIC EDUCATION, SPORT AND CULTURE: May I pose a question to Honourable Pretorius? You have just read to us what you said in 1991, but I have here your press release, which was issued on the 13th of August 2004. In here you are saying you confirm and diligently support all the decisions and actions taken by the Executive Committee and the Management Committee of MAG up to now in connection with the Presidential and National Assembly elections which will take place on the 15th and 16th of November, namely that:

“(a) That Mr Pretorius will nominated as the presidential candidate.

(b) That Mr J F Pretorius, D W Schaaf, S F Coetzee, J J Viljoen, A W J Pretorius and J S Niewhoudt will fill the first six places on the Party list.”

Is there any female here, just to confirm what you said in 1991?

HON PRETORIUS: Mr Chairman, I am very, very thankful for that question. Those were the decisions, the real discussion was about asking Dr Libertine Amathila to be there.. (Laughter) ... but then it was said she would be accused of disloyalty and we left it. The other six names were the first on the list, but there are 72 on the list and it is up to the electorate to choose those 72, because Monitor Action Group has the biggest percentage of women on that list, namely 35%. Thank you.

HON SPEAKER: I would like to thank Honourable Mr Pretorius for his contribution to this Bill. Honourable Ndjoze.

HON NDJOZE: Honourable Speaker, Honourable Members, I rise to add my voice to those who have spoken and supported the Public Holidays Amendment Bill.

According to women themselves, the events at the Old Location on 10 December 1959, where Meme Kakurukaze Mungunda sacrificed and lost her life with others whose names were never mentioned in their efforts to resist the colonial yoke, I totally agree that this must be remembered as Namibian Women's Day.

Honourable Speaker, Honourable Members, women are very brave and important in different Religions. In the old days women fought wars and rescued their nations, for example, Ester, Deborah, to mention but a few. I would like to appreciate the SADC Declaration on Women

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HON MUNGUNDA

Representation and Participation in decision-making positions. I will also support the encouragement from the Right Honourable Prime Minister for us as women to concentrate mostly on the present and future challenge, like women to acquire education for development.

I would also recognise His Excellency Comrade President Sam Nujoma for renaming a Vessel Kakurukaze Mungunda in his efforts of promoting and supporting women in all spheres of life, as well as appointing 60% women on the list of ten.

In conclusion, Honourable Speaker, I hope and believe that our gender-sensitive incoming President will appoint more women as well as all the other leaders of the other parties, for us to reach and go beyond the SADC 30% target, because the 30% is the minimum, not the maximum.

With these few remarks, I support the Bill and rest my case.

HON SPEAKER: I thank Honourable Ndjoze for her contribution. I now call on Honourable Mungunda.

HON MINISTER OF LABOUR: I thank you, Honourable Speaker and Members of this august House. The 10th of December each year is celebrated in the whole world as Human Rights Day. This year marks the 56th anniversary of the adoption of the UN Universal Declaration of Human Rights. It is a very important document, as much as the concept of human rights is a vitally important concept that all countries and peoples should respect and uphold.

Our struggle for freedom and Independence of Namibia was also a human rights struggle, because under apartheid the majority of our people were denied their basic human and civil rights. That is why I think it is proper that we add specifically a Namibian flavour to the observance of the International Human Rights Day. We can do that by highlighting our special contribution to the universal struggle for human rights.

We all know what had happened at the Old Location and what role women played in resistance to apartheid and in our fight for freedom. That is why we have been commemorating the 10th of December primarily as the Namibian Women's Day. We must remember important events of our liberation history as a reminder and encouragement to the future generations to continue pursuing the same path of freedom loving.

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It is also necessary to have a special day for Namibian women as such a day can greatly contribute to and boost our efforts to achieve gender equality and women empowerment. The 10th of December is already inscribed in our history of liberation, there is no need to invent another date. I think that it is a happy coincidence that our Women's Day falls on the International Human Rights Day, because it symbolically underlines the fact that women's rights are human rights.

I strongly support the proposal to proclaim the 10th December officially the Day of the Namibian Women, to be celebrated annually as an official public holiday. This is also how we can best honour and observe the UN International Human Rights Day as Namibia is not only a respected UN member, but also held an important position at the UN Security Council in 1999 to 2000.

In conclusion, by making the 10th of December the Day of the Namibian Women, we put emphasis on our Namibian perspectives, needs and priorities in observing human rights. In our situation, it is the women who suffered the most from poverty, ignorance, diseases and other hardships. That is why we should give priority to rectifying the injustices done to women in the past and concentrate on concrete ways and means to uplift and promote women that they will help create greater public awareness about those issues.

With these few words, God bless the Namibian women!

HON SPEAKER: I thank the Honourable Deputy Minister for her contribution. Honourable Namises.

HON NAMISES: Honourable Speaker, actually this is one of those things that I sometimes say that I would not really like to want to talk about because one of the great contributors on this day is a woman, but as a person who also likes to look at things a bit critically and not just to absorb what is coming, I have the following to say:

I rise to contribute to the Debate on the issue of having a special holiday for women. Whilst I would like to support this Bill, I cannot do so because of what so clearly is an attempt to garner the votes of the women in the forthcoming election. Why do I say so? Let me explain why I say so.

Firstly, for the past fifteen years, there has been ample time in this House to work on such a Bill, but the ruling party failed dismally to bring it up. In fact, during this legislative period that we are now, we as CoD twice tried through motions tabled by Honourable Tsudao

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Gurirab to debate the issue of public holidays in this House and on both occasions, the South West African Peoples Organisation voted it down. With that record one has to interrogate very seriously what could be the possible reason for tabling a Bill for women too late in the day when Parliament is about at the point of rising. One only has to look at the South West African Peoples Organisation's party list to get an answer. For a party that wants a national holiday for women, how can the South West African Peoples Organisation explain the following realities? (Intervention)

HON DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: May I ask the Honourable Member a question, through you? Honourable Namises, you condemn SWAPO, but were you not supposed to thank SWAPO for giving you that opportunity to speak for the last time?

HON NAMISES: Actually, I do not have a history of being given any opportunity by SWAPO. Other people are saying I was taught by SWAPO, I was never taught by SWAPO. I wrote my exams myself and I passed it myself. (Intervention)

HON MINISTER WITHOUT PORTFOLIO: On a Point of Order. I want to be guided by the Chair, please. There are official names of the Parties that are represented in the Parliament and they are known as such. Of course, I am not talking about somebody making an interjection here, calling the Party whatever he wants, but on the Floor where it is being

recorded, is it permissible to call a Political Party by a name that it is not registered, that is not the official name of the Political Party?

HON SPEAKER: I think the most logical answer that is not necessarily based on facts and interpretations of those Rules, the most logical answer is no, you cannot be called by a name that you are not known by. Proceed.

HON NAMISES: I left when it was the South West African Peoples Organisation, so I have not been part of the SWAPO Party. I was part of the South West African People's Organisation and Honourable Ilonga, I was taught by Non-Governmental Organisations and

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the churches, not by the SWAPO Party. (Intervention)

HON DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: May I ask Honourable Namises a question? Having replaced Honourable Linus Chata with Honourable Linus Muchila and Elizabeth Amukugo with the Honourable Ndumbu, are you sure that they are as committed as the other persons they replaced?

HON SPEAKER: The Honourable Deputy Minister is Out of Order. On a serious note, Honourable Members, I think you were managing time very well, but now you are degenerating. What is all this? This is the item and I think we have to discuss it with all the diligence to conclude.

HON NAMISES: I was saying that we must look at the following realities: Amongst the top ten candidates, they have one women or 10% in the top twenty. They have 5 women or 25%. Overall, they have only 25% women, way below our SADC commitment of 30%. Let us look at the top level of decision-makers in the South West Africa People's Organisation. (Intervention)

HON SPEAKER: Honourable Namises, I respectfully ruled Honourable Katali Out of Order, because he followed exactly that line of asking questions on matters that are not relevant for this Debate. Now you are going into detail. I do not know how he knew that you are going to do it. Please address the Public Holidays Bill.

HON NAMISES: This is written in my speech, honestly, I do not know how he knew. However, this is my speech. (Intervention)

HON MINISTER OF HOME AFFAIRS: May I ask a small question? I did not draft all those things you are mentioning there. I drafted that speech for you, but now you added other things.

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HON SPEAKER: If what Honourable Minister Jerry Ekandjo is saying is to be taken seriously, then I think Honourable Dr Kawana must address the serious problem, because he is the one who is drafting speeches for CoD. Please proceed. He is Out of Order.

HON NAMISES: Honourable Speaker, I was saying I like critical thinking and that is why I changed it.

I want to compare it to the CoD and I am talking about women who were asking to have a public holiday. Compare this to the CoD's 40% women in the top ten, 30% in the top twenty, 42% overall. (Intervention)

HON ATTORNEY-GENERAL: On a Point of Order. The Honourable Member is indulging in irrelevance. May I ask her a question? The Honourable Member is dwelling on how many women are in which party, can the Honourable Member cleverly predict how many seats SWAPO is going to win in the forthcoming elections and the number by which the CoD is going to be reduced? She is dwelling in irrelevance, I can ask her an irrelevant question.

HON SPEAKER: The Honourable Attorney-General has started by saying the Honourable Member is indulging in irrelevancies. Now she is putting questions to those irrelevancies. Two wrongs cannot make a right, so I respectfully rule the Attorney-General Out of Order and allow you to continue addressing the 10th of December and its significance.

HON NAMISES: A closer scrutiny of the reason behind choosing a special day for women looks like history repeating itself. Mr Speaker, I am reminded of the French Revolution when Marie Antoinette was told by the masses that they were hungry, they wanted bread, and she said, "*Let them have cake.*" Centuries later when women are asking for gender equality, when they are demanding equal representation in decision-making, when they were hoping for 30% to which our Government has committed itself, they say "*let them have a public holiday.*" Marie Antoinette lost her head, the South African Peoples Organisation will lose the women's vote.

Mr Speaker, a second aspect of this Bill, which causes great concern on our part, is the continued attempt to write people out of history. We were present and participated on the

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10th of December. I was a child at that time. There are those who participated and there are those who were about to be born. This day represents a watershed in the transition from peaceful resistance to armed struggle. As much as it represents the continuation of the liberation struggle, this 10th of December is not the beginning, as some of us think, it is a continuation from the resistance against German colonial dispossession to the fight against the apartheid Fascist regime. Most of all it is symbolic of the internal struggle for liberation and the clarion call for the United Nations to wake up and act as a successor of the League of Nations to carry out their responsibility, to carry out a sacred trust of the mandate.

I can only hope that those in the South West African People's Organisation Party will understand the significance of that day. (Intervention)

HON BOOYS: Comrade Speaker, may I ask a very small question? Honourable Namises, last Tuesday two Members of CoD were sworn in, both of them men. What is your comment? Why did you not bring in one woman and one man?

HON NAMISES: I cannot hope that those in the Ruling Party will understand the significance of this day. Those of us who dodged the bullets, who took care of the wounded and buried the women and children and men will not accept that their sacrifices, their pain, their loss of life, their memory should be hidden under a cloak of recognising us women. (Intervention)

HON MINISTER OF JUSTICE: On a Point of Order, Comrade Speaker. I have listened to the CoD propaganda regarding gender equality. However, allow me to put on record that for a long time the CoD did not even have what we call a Women's League. They only recently established a Women's League, so they should not boast about gender equality.

HON NAMISES: Actually it is quite a milestone for us, because before the Women's League could be established, the women had to understand why they have a women's organisation and not a league, like a league that is playing soccer, a league of social services. We will not do social services in our Women's Democratic Organisation. We deal with matters. (Intervention)

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HON MINISTER OF HOME AFFAIRS: On a Point of Order. Comrade Speaker, is it really necessary to be lectured about the UN, etcetera, when the champions of the Namibian revolution, those who made the UN aware, Comrade Ya Toivo, the Prime Minister, are here? Now you are teaching them, instead of them teaching you.

HON SPEAKER: The Honourable Minister of Home Affairs that is definitely not a Point of Order.

HON NAMISES: Mr Speaker, the 10th of December 1959 was a day in our history, which deserves commemoration in its own right. From 1959 until Independence, this was a day that Namibians who remained in the country rededicated themselves to the struggle and committed themselves at their graves never to forget them. That is why we always sing, and I hope the Members remember that song: *“People do not forget the month of December, we lost our heroes in our land which was wrenched from us with blood and which will return to us with blood”*.

Mr Speaker, today we easily we forget at what cost we commemorate that day and I want to say this because I know that usually when we commemorate this day, it is made a SWAPO day and therefore, I want us to look at this day... (Intervention)

HON MINISTER OF HOME AFFAIRS: Comrade Speaker, Honourable Namises shared many platforms with us in the eighties as a SWAPO Member and there was a time when the SWAPO Youth League and SWANU had a meeting somewhere in Soweto, where she was also talking about 10 December, SWAPO, etcetera. She cannot now distort SWAPO history.

HON NAMISES: Today we go to the graves in peace, we put down flowers and make speeches unhindered, but that time we could not. Those who are not here do not know that the torchbearers of this day were the Damara Councillors of SWANU and those Namibians who remained in the country were the ones who stood at those graves (Intervention)

HON MINISTER WITHOUT PORTFOLIO: On a Point of Order. Comrade Speaker, I really think we cannot be terrorised in such a way. I know very well, Comrade Speaker, that

on 10 December 1959 some of us were here, we participated, including yourself, Comrade Speaker. Now where were they? They were children and we participated, I was there!

HON SPEAKER: Honourable Members, I just do not know what is going on. I thought we are allowing the Members to express their views in this Chamber and the only thing I cannot do is to stop a Member from speaking. It is not always true and history is not normally told by those who are making it, because it is history. It does not warrant someone to be disqualified on that point. It is after six and I am here to facilitate your Debate, I will never stop it. Proceed.

HON NAMISES: I am saying we were the ones who stood at those graves when it was not peaceful with guns and arms surrounding us. We were the ones who went to the graves, knowing that very day we would be beaten up, sometimes arrested, abused. (Intervention)

HON ATTORNEY-GENERAL: On a Point of Order, Comrade Speaker. We should not trivialise the death of our people. Whether they died here inside the country or outside, that is not the issue today. Today we are talking about the Amendment of the public holidays with a view to set that day aside for the memory of those who died, irrespective of where they died. As long as they are Namibians and died for the cause of this country, we commemorate their death without any discrimination. The speech of my sister here wants to create a wedge between those who were inside the country and those who were outside. Should we talk about the graves that died in exile? Is that the issue in which we should indulge ourselves today? Comrade Speaker, I really think this Debate is degenerating and I think at one point we should just call the Honourable Member to Order.

HON SPEAKER: Point of order noted. Let us, if Members can afford it, and I have no doubt given your abilities, go back to the purpose of this Bill, 10th of December, what it means to Namibia and why it is being designated to be the Namibian Women's Day while it is at the same time the United Nations Human Rights Day. There are no conflicts in that. I want the Members now to address the two-pronged approach and why they are complementary and not contradictory to one another and Namibia as a member of the United Nations and international community accepting this day as International Human Rights Day while at the same time commemorating and recognising our women folks in the struggle and

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the role that they continue to play. Let us address those. It is very simple and then we can proceed.

HON NAMISES: I actually do not know the difference, because I cannot talk about those who were outside, I was in this country and my testimony would only be... (Intervention)

HON SPEAKER: Honourable Namises, the question whether you were in the country or in Vietnam or Korea is of no significance. What is of significance is what this day means and what it ought to mean to the people of Namibia or what we want it to mean to the people of Namibia – period.

HON MINISTER OF FISHERIES AND MARINE RESOURCES: Honourable Speaker, I am rising on a point of order and I would like the Honourable Speaker to invoke Rule 102 that reads as follows: “*After the Presiding Member has called attention to the conduct of a Member who persists in irrelevance or in repeating arguments, he or she may direct the Member to discontinue his or her speech.*” I, therefore, move that because of the repetition we invoke this Rule 102.

HON SPEAKER: Thank you, but I have not ruled the Honourable Member based on that Rule that has not been my concern. My concern is the insistence on other matters. We will invoke this Rule at an appropriate time. Please Honourable Namises, if you could conclude and put your Speaker at ease.

HON NAMISES: Therefore, Honourable Speaker, this day would be a day to be commemorated and celebrated not only as a single entity of those political activities, but it should be a celebration that would be inclusive... (Intervention)

HON SPEAKER: I am not allowing any Point of Order now. Any other Point of Order I will rule the person on the Floor Out of Order and we will continue with someone else. Please conclude.

HON NAMISES: Yes, I conclude. Therefore, I am saying that the celebration or the commemoration of this day should be an inclusive one where we look at ourselves as women and Namibian people by rededicating ourselves, educating ourselves and looking at the progress that we have made, but also recognising the mistakes and build on that by improving. Therefore, I would say that the 10th December symbolises the struggle and, therefore, I would like to support this Bill.

HON SPEAKER: I thank Honourable Namises. The Members who are about to take the Floor, please address yourselves to the significance of the 10th of December. I call on Honourable Katjita.

HON KATJITA: Thank you, Honourable Speaker. I will be very brief, but I will fail in my duty if I do not salute the women and men who had fallen on the 10th of December 1959. The heroism and bravery of the Namibian women did not only start at the Old Location in 1959 but all along our occupational history. The wives of our fallen heroes were since 1904 fighting alongside their husbands. Women played a very important role in encouraging men even on the battle fields, but they were not noted in history and that is why the mighty SWAPO Party, under the Government of SWAPO, came up in the seminar that was held at the Safari Hotel in 2001, that a research team must be put together as a joint venture between SWAPO and UNAM, of which I was a part, to research on the participation and involvement and contribution of women to the liberation struggle since 1959 to 1990 at our independence so that the participation of women and their contribution can be noted in the history books of Namibia alongside their male counterparts.

What we as researchers are getting from the interviews is just unbelievable. The women really participated in Namibia, some of them even risks their lives. Because of the time, I will not go into detail. The Namibian women, indeed, deserve to have a specific day that caters from them. Since the human rights of women is severely inflicted upon, for instance violence and rape, I support the celebration of the Namibian Women's Day with the International Human Rights Day on the same day, the 10th of December and to say that the ruling party did not do well in putting women on the party list, I would like to assure the Opposition Parties here that because my number is 72, I will be coming back to Parliament. I will make sure that my number 72 is coming back to Parliament, so there is no space for other parties in this Parliament.

With these few remarks, I rest my case. Thank you.

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HON SPEAKER: I thank the Honourable Member Katjita, but I think she has uttered a serious threat to the Honourable Members of the opposition. Honourable Moongo.

HON MOONGO: Honourable Speaker, my intervention will be very brief. First of all, I recognise the role of women in the liberation because I was also part of it and I salute them.

On the other hand, I want to remind the House that when a country is at peace, they easily forget that situations change and when it changes whereby people have been maimed and killed, the majority of them will be women and as humans, we easily forget. I, therefore, want to advise the House not to do away with Human Rights Day, but rather say Human Rights with women Holiday. That sounds better, because number one, Namibia is a product of the UN, secondly Namibia is a member of the UN and the 10th December is not only crucial for women, it covers everybody. How can you now only dedicate it to women? I think this is a serious violation of the international law. Therefore, I have mixed feelings and I need serious Amendments on this, because the situation can change from this Government to the other Government and what can you do? (Intervention)

HON ULENGA: On a Point of Order, Honourable Speaker. Am I imagining it or has the Honourable Member already spoken on this Bill?

HON SPEAKER: Have you spoken on this Bill?

HON MOONGO: No, I only asked a question.

HON SPEAKER: So, if you asked, a question and you have rested your case, then it is alright, but if you had spoken on it, Then we delete all this because it is unprocedural. Honourable Amathila, you are the last person to make a contribution.

HON B AMATHILA: Honourable Speaker, if I am the last person then I do not need to take the Floor, because the purpose was only to try and appeal to the Members that we have extended the time in order to get business done, but now it looks like we are exploiting the

patience of others by getting involved in irrelevancy and things that we do not know of at the expense of other Members who have other things to do. I was just going to appeal to the Members to be brief so that we can complete this work as soon as possible. Thank you.

HON SPEAKER: Any further discussion? No further discussions. I call on the Right Honourable Prime Minister to reply to the Second Reading Debate so that we can proceed to the next stage.

RT HON PRIME MINISTER: I shall be generous, I thank all the Members for their contributions, some enlightening and that is what we are here for in Parliament. Thank you.

HON SPEAKER: I thank the Right Honourable Prime Minister for his concluding remarks on the Second Reading stage. I now Put the Question, that this Bill be now read a Second Time. Any objections? So agreed. Secretary, will you read the Bill a Second Time?

PUBLIC HOLIDAYS AMENDMENT BILL

COMMITTEE STAGE
PUBLIC HOLIDAYS AMENDMENT BILL

HON SPEAKER: Does the Right Honourable Prime Minister that this Assembly now goes into the Whole House Committee? It is therefore moved that I leave the Chair. Are there any objections? Who seconds this motion? Agreed to. I now call on the Chairperson of the Whole House Committee, Honourable Willem Konjore, to take the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: The Committee has to consider the Public Holidays Amendment Bill.

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HON DR TJIRIANGE / HON PRETORIUS

Clause 1 put.

HON MINISTER WITHOUT PORTFOLIO: I have sensed that a consensus has emerged in this House that we recognise the fact that we have to create a Women's Day because of historical reasons that this day also has been recognised as such as Day of the Namibian Women. All of us know the history of this particular request, why we want it that way and I am not going into that.

Immediately after Independence, we also in our calendar had this day as the International Human Rights Day, which is equally important because this is a United Nations day, which was created in recognition of the fact that on 10th December 1949 the United Nations adopted the Universal Declaration of Human Rights. As such, this day was declared by the United Nations to be International Human Rights Day. We, being members of the United States are bound to respect this day as such.

Therefore, the consensus, as I have read it in this House, is that there is no problem for us to have the day to be commemorated here for both of these events. In order to meet this consensus, I am proposing an Amendment to Clause 1, which will read as follows;

“In section 1, the words *“Day of the Namibian Women and International Human Rights Day”* are substituted for the words *“Day of the Namibian Women”*. I so Move.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Please table the Amendment, Honourable Minister. Mr Pretorius.

HON PRETORIUS: Mr Chairman, I always expect other people to respect and honour my sentiments, therefore I have the obligation to do the same as far as other people are concerned. Therefore, I will not oppose the Amendment, I will abstain from voting, because personally I prefer that “Women” should be replaced by the word “Family”, including everybody and not again creating the image of “you and me”.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank Honourable Pretorius. Any further discussion on the Amendment? Honourable Attorney-General.

HON ATTORNEY-GENERAL: Comrade Chairman, I am grateful to the Minister without Portfolio, our Secretary-General, for introducing this Amendment which makes this commemoration a comprehensive one, covering both our international obligation to pay attention to human rights issues and remembering the day on which the Namibian women had committed themselves to the fight for the liberation of their country. I would, therefore like to support that proposition and would further like to appeal to Honourable Pretorius that we should not compound the day with other facets that have their own significance. The 26th of December in many Christian families is taken as Family Day and I thought that being a public holiday of some kind could be honoured for that particular celebration. Knowing the Honourable Member to be a Christian and a very understanding person, I hope he would not insist on his Amendment. I thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: I thank the Honourable Attorney-General. Honourable Ulenga.

HON ULENGA: Honourable Chairman, I did not take part in the Second Reading Debate, but I must say I was silently getting concerned that we may be putting up one candle while at the same time snuffing out another. I must say I am very much encouraged by the Amendment by the Minister who is also the Secretary-General of the other Party. (Interjections).

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Ulenga, may I request you to withdraw that “other Party”. You can use the name of the Party if you so wish.

HON ULENGA: That is right, if I so wish. Honourable Chairman, I did not attach any loaded etiquette really, I just said the “*other party*” and if the Members do not like that, let me not mention any Party except my Party, the Congress of Democrats. (Interjections).

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Ulenga, you referred to a Secretary-General of a party, he is the Secretary-General of a particular Party. That is why I say name the Party or otherwise withdraw “*that other Party*” so that we proceed. May I have your cooperation?

HON ULENGA: Honourable Chairman, honestly speaking, with all due respect, you are looking for a fight where there is none.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEES: No, I am not looking for a fight.

HON ULENGA: What is it that I must withdraw? “*Other Party?*” The other party is not CoD. I did not say “*a Party*”, I said “the other Party.” There is no quarrel here, I am speaking in support of this Amendment. What is it? (Interjections). You can fight on other issues, “*the other Party*”, not “*a Party*.”

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: You rested your case or did you withdraw? Do you refuse to withdraw? The reference to say “other Party” whilst referring to a particular Secretary-General.

HON ULENGA: Why must I withdraw? On which grounds? Where is it wrong for me to speak like that? According to which Rule?

HON MINISTER OF HOME AFFAIRS: Comrade Chair, the Honourable Member referred to the Minister without Portfolio who is at the same time the Secretary-General of the other Party. That is what he said, the Minister without Portfolio and who is at the same time the Secretary-General of the other party, referring to him, not to the CoD, the other Party.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Members, the logic here is that we are not discussing Parties and the Honourable Member really started off very well and it is his right to refer to the Secretary-General of a particular Political Party and then to say the Secretary General of SWAPO or whatever party he mentioned. However, the reference to say “*of the other Party*”, that is not respectful to each other. However, if you refuse, continue.

HON ULENGA: Honourable Speaker, if you can just allow me to get back into the peaceful mood that I started with. My main contribution here has nothing to do with parties. To tell the truth, when the Attorney-General spoke she also referred to the Honourable Member as Secretary-General, she did not mention any Party. I do not want to argue any further with the Deputy Speaker or any other Member, can I just say what I wanted to say?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Member, with all due respect, since you do not cooperate with me, you are now requested to discontinue.

HON ULENGA: No, that is unfair. It looks like somebody is frustrated.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Order in the House. Any further discussions? Honourable Ulenga.

HON ULENGA: Thank you very much, Honourable Chairman. In brief really, I am grateful for the ... (Intervention)

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Honourable Ulenga, you do not want to cooperate with the Chair.... (Interjection)

HON ULENGA: Why must I cooperate, Honourable Chairman?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: If that is the case, then discontinue. You do not see any need to cooperate with the Chair.

HON ULENGA: Then just explain the Rules to me, why must I withdraw?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Because you are refusing an instruction from the Chair.

HON ULENGA: No, judge me fairly, judge me according to the Rules. What is the Rule?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: You are refusing the instruction from the Chair.

HON ULENGA: Under what Rule?

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: You do not argue, I am not supposed to debate with you. Any further discussion? In the absence there, would the Right Honourable Prime Minister wish to say anything on the Amendment as proposed?

RT HON PRIME MINISTER: When Shakespeare said “*all is well that ends well*”, he did not mean this kind of a mess. Thank you.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Clause 1, as amended, agreed to.

Clause 2 put and agreed to.

Title put.

HON MINISTER WITHOUT PORTFOLIO: Thank you, Comrade Chair, I would humbly like to propose an Amendment in the long title to bring the whole Bill into perspective. I propose that in the long title the words, “*Day of the Namibian Women and International Human Rights Day*” be substituted for the words “*Day of the Namibian Women*”. It means it will now read, “*Day of the Namibian Women and the International Human Rights Day*”.

CHAIRPERSON OF THE WHOLE HOUSE COMMITTEE: Amendment put and agreed to.

Title, as amended, agreed to.

ASSEMBLY RESUMED:

Bill reported with Amendments.

THIRD READING
PUBLIC HOLIDAYS AMENDMENT BILL

HON SPEAKER: Does the Right Honourable Prime Minister Move that this Bill be now read a Third Time? Any objections? Who seconds the Motion? So agreed. Any further discussions in the Third Reading? Honourable Namises.

HON NAMISES: Thank you, Honourable Speaker. I only want to say that I am quite pleased with the Amendment, but what I wanted to say is that comes 10 December 2004, I hope that the Namibian women this year will organise and celebrate the day as the whole country and not as exclusive as it has been. I want to say thank you very much and say to all the Namibian women that we will celebrate together and not exclusively as was done previously. I support the Bill.

HON ATTORNEY-GENERAL: Thank you, Comrade Speaker. The Amendment has added another dimension to our historic events and I think the Amendment is timely it is my wish and hope that it should not create an inferiority complex among those who are feeling small. The day is for the Namibian women and I do not think the enactment of this legislation will force the State to go into people’s homes and pull out those who are running

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away from the reality and call them to come and commemorate. All Namibians should embrace this law irrespective of their political affiliation. I thank you.

HON SPEAKER: I thank the Honourable Attorney-General. Honourable Moongo.

HON MOONGO: Thank you, Mr Speaker. Allow me to congratulate the Minister without Portfolio who made it possible for us to come to terms and accept the international concept and I also congratulate the whole House. Thank you.

HON SPEAKER: Honourable Muharukua.

HON DEPUTY MINISTER OF WOMEN AFFAIRS AND CHILD WELFARE: Thank you, Honourable Speaker. I rise to thank Comrade Prime Minister for bringing this important Bill to the House and our Secretary General of SWAPO Party for bringing the Amendments and I thank the whole House for their cooperation on this Bill. We are going to commemorate the day as Namibian women because we in the Ministry of Women Affairs and Child Welfare we are supporting all the Namibian women and children. I thank you.

HON SPEAKER: And that indeed concludes the remarks in the Third Reading stage. I, therefore, call on the Right Honourable Prime Minister to say something by way of concluding the Debate.

RT HON PRIME MINISTER: Honourable Speaker, I thank all the Honourable Members and I particularly thank my Colleague, the Minister without Portfolio, the Secretary General of SWAPO Party, for rescuing the situation and improving the language and import of the Bill. Thank you.

HON SPEAKER: I thank the Honourable Prime Minister for his concluding remarks and I now Put the Question, that this Bill be now read a Third Time. Any objections? So agreed.

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**CONCLUDING REMARKS
RT HON T-B GURIRAB**

The Secretary will read the Bill a Third Time.

PUBLIC HOLIDAYS AMENDMENT BILL

HON SPEAKER: That brings us to the end of the business of this Chamber as scheduled for this session. This being the day on which the House has decided to rise, I am sure the Prime Minister would want to say something and wish his Colleagues good wishes. Honourable Prime Minister.

CONCLUDING REMARKS

RT HON PRIME MINISTER: Thank you very much, Honourable Speaker. I will start with you and your Colleague, the Deputy Speaker, to congratulate you for the leadership that you have provided to end this session of the House and to sing a song of praise to all of us that emotions might arise, disagreements might be registered, but at the end of the day we end our business by agreeing and to continue to serve the Namibian people who sent us here. In their own way they decided through a democratic process to send to this House the mix that we see and this is not the first mix, those of us who started in this House can remember the faces across were different and they have moved on for so many reasons and we have added new faces and at each election, that has to date been free, fair and transparent, the Namibian voters have decided to send their representatives here, representing different Political Parties, but collectively to serve the public interest.

We are standing on the eve of yet another cycle of elections in November and they will pass their verdict based on the contributions that we have made here individually and collectively. They will reward the party that has served that public interest and they will rearrange the seats by the judgment that they will pass on the others and we would come back and continue to work. I have every reason to believe that the majority of us sitting here will come back, but some will not. It might be the defeat of a leader, it might be the defeat of a Political Party, but it will be the victory of the democratic process and if we are democrats and believe in change and continuity, that is what elections are about and we must continue to celebrate that democratic process, because at the end of the day what will keep our Republic together and enable us to serve the people would be if we continue to make the democratic Parties to win.

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ADJOURNMENT

I wish each Member well, go back to work, we are still Members of Parliament of the Namibian people, continue to work to ensure that the elections will be transparent, free and fair, free of all other disturbances and that at the end of the day we will all be proud that we are Namibians. I thank you.

HON SPEAKER: I would like to thank the Right Honourable Prime Minister who has given those good wishes as the House rises to go and seek a new mandate from the electorate. I will now ask the Prime Minister to adjourn this House.

RT HON PRIME MINISTER: I rise to Move the adjournment of the House until a date that will be indicated in the proclamation. I so Move.