

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th May, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Seventh Session of the African, Caribbean, Pacific and the European Union (ACP-EU) Joint Parliamentary Assembly held between 16th and 19th February, 2004, in Addis Ababa, Ethiopia.

(By Mr. Kamotho)

NOTICE OF MOTION

ADOPTION OF REPORT ON
SEVENTH ACP-EU JOINT
PARLIAMENTARY ASSEMBLY

Mr. Kamotho: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House adopts the Report on the Seventh Session of the African, Caribbean, Pacific and the European Union (ACP-EU) Joint Parliamentary Assembly held between 16th and 19th February 2004, in Addis Ababa, Ethiopia, laid on the Table today.

ORAL ANSWERS TO QUESTIONS

Question No.061

INSECURITY IN KITUTU MASABA

Mr. Speaker: Is Mr. Okioma not here? Let us move to the next Question by Mr. Muchiri!

Question No.244

FLOUTING OF VALUERS ACT
BY BANKS

Mr. Muchiri asked the Minister for Finance:-

- (a) whether he is aware that banks are flouting the Valuers Act Cap.532 by listing certain valuers in their lists at the exclusion of many others; and,
 (b) what urgent measures he is taking to correct the situation.

The Assistant Minister for Finance (Mr. Katuku): Mr. Speaker, Sir, I beg to reply.

- (a) I am not aware.
 (b) In view of the answer to part "a" above, "b" does not arise.

Mr. Muchiri: Mr. Speaker, Sir, I am actually surprised by the answer given by the Assistant Minister. In this country, there are about 300 valuers practising that profession. For example, in Kenya Commercial Bank (KCB) where the public is a major shareholder, there are only 73 valuers who are allowed to value for the bank. Some private banks, only allow 28 valuers.

Mr. Speaker, Sir, could the Assistant Minister tell this House whether the law relating to discriminatory trade practices has been shelved in this country? Why are the banks, under his docket, discriminating those well-deserving professionals?

Mr. Katuku: Mr. Speaker, Sir, I am not aware of any discrimination. What I am aware of is that in October 2003, KCB placed advertisements in both the *East African Standard* and the *Daily Nation* newspapers, trying to get people to apply to be in their list of surveyors.

So, I am not aware of any discrimination.

Mr. Speaker, Sir, it is a common practice for companies to invite professionals to be in their list so that once they get assignments, they can assign them.

Mr. Muchiri: Mr. Speaker, Sir, I think the Assistant Minister is hoodwinking this House. I have a list, which I can table, from KCB. The Government is a major shareholder in the bank! Why does the Government, therefore, wish to deny those many valuers jobs?

Mr. Speaker: Order, Mr. Muchiri! Are you implying that the Assistant Minister can actually direct a bank to employ a certain valuer? Is this not really the business of the bank?

Mr. Muchiri: Mr. Speaker, Sir, the Valuers Act requires that a valuer must have an insurance cover of Kshs200,000. However, these banks are now insisting that for a valuer to practice that profession, he or she must have an insurance cover of Kshs40 million. That is the problem.

Mr. Speaker, Sir, the Valuers Act passed by this House---

Mr. Speaker: Order, Mr. Muchiri! It is not a debate!

Could you respond to that, Mr. Katuku?

Mr. Katuku: Mr. Speaker, Sir, I am not aware that any bank is insisting on a fee that is not in the Act. So, if the hon. Member has any information to that effect, he could provide it to me and I will take the necessary action.

Mr. Speaker: Very well. Next

Question, by Dr. Kibunguchy!

Question No.181

MOTIVATION FOR LUGARI FARMERS

Dr. Kibunguchy asked the Minister for Agriculture:-

- (a) how much maize, wheat and milk was produced in Lugari Constituency in the last three years;
 (b) where these products were sold; and,
 (c) how much money, per unit, the farmers made and what plans he has to motivate the farmers of Lugari to produce more.

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

(a) The following quantities of maize, wheat and milk were produced in Lugari Constituency in the last three years.

<u>Commodity</u>	<u>Year</u>	<u>Production Bags/Litres</u>
Maize	2000	1,000,000
	2001	1,131,000
	2002	563,000
	2003	901,000
Wheat	2000	651
	2001	252
	2002	269
	2003	338
Milk	2000	Over 18,000,000
	2001	23,000,000
	2002	24,000,000
	2003	19,000,000

(b) Maize and wheat were sold mainly locally through middlemen, while some were sold directly to the National Cereals and Produce Board (NCPB), Moi's Bridge, Kipkaren and Lugari Depots.

(c) Income received per unit of produce was as follows:-

<u>Crop/Year</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Maize/90				
kg bag(Kshs)	600	450	850	1,150
kg bag(Kshs)1,100	1,200	1,300	1,550	
Milk per				
litre(Kshs)	15	18	23	25

The Government is doing a number of things to facilitate greater production of the commodities. First, it has revitalized the Agricultural Finance Corporation (AFC), Agricultural Development Corporation (ADC) and streamlined the management of the Kenya Co-operative Creameries (KCC). We are also encouraging farmers and farmers' organisations to do the bargaining through various organisations.

Finally, the provision of market information to enable farmers access best markets for their commodities.

Dr. Kibunguchy: Mr. Speaker, Sir, first, I would like to thank the Minister for that detailed answer. Secondly, I think what comes out of the answer clearly, is that there has been declining production of those commodities in this country and there is a problem in marketing. The Minister really needs to come out clearly and tell this House the measures he intends to take in order to tackle the two issues of production and marketing.

Mr. Kirwa: Mr. Speaker, Sir, as far as production is concerned, I have said that we have put in place various measures to assist the farmers. One of those measures is credit facilitation through the AFC. We have also made it possible for farmers to access affordable farm inputs through the NCPB.

As far as marketing is concerned, we have revitalised the KCC so that it can buy excess milk in the market. We have also assisted the NCPB to be a buyer of the last resort and also provide a good price for the produce.

Mr. Manoti: Thank you, Mr. Speaker, Sir. Most farmers in this country are discouraged to

grow maize and other crops because fertilizer is very expensive. Now that the Government has imported cheap fertilizer what has the Minister done to make sure that all the farmers in the country, and especially those in Gucha District where I come from get the commodity?

(Applause)

Mr. Kirwa: Mr. Speaker, Sir, that is a very good question. Indeed, when we received the fertilizer mainly for top-dressing and the NPK for planting of wheat and other crops last week, we gave clear instructions to the NCPB to distribute it to its depots numbering 110 throughout the country. We also insisted that when somebody is purchasing a large amount of fertilizer, the Board must ascertain that it will be taken to the farmer, so that middlemen do not take advantage of availability of the commodity in the market now.

Capt. Nakitare: Thank you, Mr. Speaker, Sir. I appreciate the answers given by the Minister for Agriculture. But is the Minister aware that Trans Nzoia farmers have not been protected from the influx of substandard maize sold from Uganda?

Mr. Kirwa: Mr. Speaker, Sir, indeed, I am not aware of any substandard maize getting into this country because the regulations are clear. Any foodstuff imported into Kenya must meet the minimum standards set by this country. The Kenya Bureau of Standards (KEBS) has been vigilant in all our borders to ensure that the commodities which do not meet the set standard do not get into the country.

Mr. Speaker: Mr. Kibunguchy, ask the last question!

Dr. Kibunguchy: Mr. Speaker, Sir, I am Dr. Kibunguchy.

(Laughter)

Mr. Speaker: I am sorry! Indeed, you are a doctor.

Dr. Kibunguchy: Mr. Speaker, Sir, I would like the Minister to tell us why the loans given to farmers by the AFC have so many stringent conditions attached to them. What will he do to assist, especially, the small-scale farmers, some of who do not have the five-acres of land which are required to get a loan from the AFC?

Mr. Kirwa: Mr. Speaker, Sir, the issue of loans from the AFC will be addressed effectively in the next couple of minutes. But I would like to say that we made that necessary in order to be more vigilant, given the experience of the past. But on the issue raised by Dr. Kibunguchy on the farmers whose acreage falls below five acres, it is a matter we are considering as a Government, with a view to looking at the value of the land instead of its size.

Question No.196

CONTROL OF TICK-BORNE
DISEASES IN BUTULA

Prof. Mango asked the Minister for Livestock and Fisheries Development:-

- (a) whether he is aware that trypanosomiasis and tick-borne diseases are major constraints to dairy development in Butula Division; and,
- (b) what the Ministry is doing to control these diseases.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, do I wait until you call my name out?

Mr. Speaker: No, you have the Floor, Mr. Minister!

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, I seek your indulgence to read out the two-page written answer. But I will be very quick.

I beg to reply.

(a) I am aware that trypanosomiasis and tick-borne diseases are major constraints to dairy development in Butula Division.

(b) However, it is the responsibility of farmers to control ticks and tick-borne diseases through dipping or spraying. Tsetse flies and trypanosomiasis control is the responsibility of all stakeholders, namely public, private and local communities. The Ministry has done the following to control trypanosomiasis and tick-borne diseases.

It has gazetted the latest tsetse fly and tick control products, pyrethroid based acaricides to use in this area. This product controls both tsetse flies and ticks. This product is now readily available as several pharmaceutical companies are marketing it. The Ministry is empowering the community through continuous training on all aspects of tsetse and tick control, thereby enhancing the awareness of the problem and the way forward. My Ministry is collaborating with Farming in Tsetse Infected Areas (FITCA) and has done the following. It has organised an educational tour for two weeks for farmers from Busia District to Mukono District in Uganda. The farmers were exposed to a sustainable communal tsetse and tick control programme through crush pen.

It has assisted the community to run the crush pens programme by training the crush pen communities on proper management, providing the initial insecticides and subsidising the purchase of spray pumps by 60 per cent. Farmers now pay Kshs20 per every animal sprayed, to enable the committees to buy subsequent insecticides.

It has also carried out a longitudinal survey to establish the impact of trypanosomiasis and tick borne diseases in the division. It has formed sub-locational and locational committees which act as the linkage between farmers and the Veterinary Department in matters of tsetse flies and tick control.

Finally, it has formed "Bulwani" as a model crush pen that will act as a clinic for all veterinary diseases. The Ministry has organised an animal screening programme. The animals will be screened for both trypanosomiasis and tick borne diseases. The positive cases will be treated.

Prof. Mango: Mr. Speaker, Sir, I thank the Minister for the lengthy answer that he has given. But I would like to remind him that Busia, as a district, is one of the poorest in this Republic. Therefore, farmers cannot afford what he is talking about. Besides, sensitization is not curative to the animal diseases. Could he tell us how many functioning cattle dips are there in Butula Division?

Mr. Munyao: Mr. Speaker, Sir, we know what the hon. Member is saying. I, personally, have been to that region to assess the situation. We have, so far, reduced the price of spraying per animal from whatever it was to Kshs20. It is my hope that with time, and as the economy improves, we will try and push that price further down.

Mr. Speaker, Sir, as at now, the area has 16 established crush pens and 14 cattle dips. But only two of those are working. They are at Ekioma and Bosiada.

Mr. Sambu: Mr. Speaker, Sir, the Ministry of Livestock and Fisheries Development, through the Cattle Cleansing Act, controls what type of acaricide is to be used by farmers. That is where the disaster is! That is because some people in the Ministry collude with some marketing companies. Could the Minister allow farmers to choose which acaricide to use, provided that it has been passed by the Kenya Foods and Poisons Board? In Uasin Gishu District, they have changed from Triatix and controlled the ticks. In Nandi District, we are still being forced to use Triatix, and our cattle are dying. Could you consider lifting that provision, so that people are free to choose which acaricide to use?

Mr. Munyao: Mr. Speaker, Sir, I am very thankful to the hon. Member because his opening words were: "It used to be!" That means it is not happening now. I also agree with the hon. Member

that there should be that freedom of choice. The farmers ought to be allowed to choose the acaricide to use because they are the ones spending the money! There will be no tying up of the farmers to a particular firm. That is because the Government is not a shareholder in any of the companies. Therefore, that freedom ought to be given!

Mr. Wario: Bw. Spika, maradhi ya mbung'o yamewaathiri Wakenya kwa jumla, na hasa jamii ya wafugaji. Chuo cha utafiti cha maradhi ya mbung'o, Kenya Trypanosomiasis Research Institute (KETRI), kiliamishwa kutoka kwa Wizara ya Ustawishaji wa Mifugo na Samaki na kupelekwa katika Wizara ya Kilimo. Je, KETRI inaenda kufanya utafiti wa maharagwe na mahindi au ilibuniwa kwa sababu gani?

Mr. Munyao: Mr. Speaker, Sir, you must come to my help. I am the Minister for Livestock and Fisheries Development! I do not transfer functions to Ministries---

Mr. Speaker: Yes, indeed!

Mr. Munyao: Therefore, could I skip that question? I do not transfer functions to Ministries.

Mr. Speaker: In fact, you should go the whole way and say that you do not assign yourself responsibility! You only do those that are assigned to you.

Mr. Wario: On a point of order, Mr. Speaker, Sir. I am seeking the indulgence of the Chair. The entire Kenyan population, and especially the pastoralist community, rely on that particular institute to do research on animal diseases. Now that, that particular institute has been transferred from where it belongs to a Ministry which has no role--- I am seeking for your indulgence! It is supposed to be under the Ministry of Livestock and Fisheries Development. But, today, it is under the Ministry of Agriculture. The KETRI has no role under the Ministry of Agriculture!

Mr. Speaker: Order! I will help you. You know, sometimes, there are things that can be like oil and water, fish and cattle. You see what I mean?

(Laughter)

So, sometimes, there is a wrong mixture. I suggest that you put a Question to the office that actually gives responsibility. That is the Office of the President! Then, they can come and explain. All right?

Last question! Prof. Mango!

Mr. Kimeto: On a point of order, Mr. Speaker, Sir. Would I be in order if I asked the Minister for Livestock and Fisheries Development to give free acaricides to livestock farmers in this Republic?

(Laughter)

Mr. Speaker: You are totally out of order! Pro. Mango, please, proceed!

Prof. Mango: Thank you, Mr. Speaker, Sir. The Ministry is in charge of livestock in this country and, from the lengthy answer that has been given by the Minister, he seems to be shirking his responsibility to a Non-Governmental Organisation (NGO) known as FITCA, which is operating, as he said, from Busia to Mukono in Uganda. Are we, as a Government, going to rely on NGOs? We should come up with development projects for our people.

Mr. Sambu: Absconding responsibility! Say "yes"!

Mr. Munyao: Mr. Speaker, Sir, I had some difficulty in following that question because, in our new agreement now, the Kenyan Government has been inviting investors to come to the country. There is a joint venture between the Government and the private sector. That is the only way we can go. However, that NGO called FITCA has been in that area for a long time. This is their final year because their period expired last year. We are enjoying a one-year free-of-cost service, as

we wait to negotiate and give them a new mandate.

Prof. Mango: On a point of order, Mr. Speaker, Sir. Is the Minister aware that, even in Busia District, that NGO has only been operating in Amagoro District? It has left the rest of the districts un-attended to? As I stand here, the tsetse flies have killed all the livestock within Butula Division.

Mr. Speaker: That is not a point of order!
Next Question! Mr. Abdirahman Hassan!

Question No.209

STATUS OF EU-FUNDED KLDP
PROJECT IN HABASWEIN

Mr. Abdirahman asked the Minister for Livestock and Fisheries Development:-

(a) whether he could explain the status of the European Union (EU) funded Arid and Semi-Arid Lands/Kenya Livestock Development Project (ASAL/KLDP) project in Habaswein;

(b) how much money was allocated to Wajir District to undertake the project; and,

(c) what is the Government's position on range resource management.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, I beg to reply.

(a) The Habaswein Holding Ground was rehabilitated by the EU funded ASAL/KLDP Project in 1991. Currently, the facility is managed by a Users Association Committee, composed of nine members. All the facilities are in good condition except the laboratory, which is not utilised due to inadequate equipment and lack of staff and electricity. The tractor is currently grounded mainly due to mechanical defects and lack of a plant operator. The association also manages a [ontingency borehole at "Bar-ak-hot-ha"---

Mr. Speaker, Sir, I cannot pronounce that.

Mr. Speaker: What is that?

The Minister for Livestock and Fisheries Development (Mr. Munyao): It is an area he knows. How do you pronounce it?

(Laughter)

Mr. Abdirahman: I will help you! It is Hara-khot-khot.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Speaker, Sir, on part (b) of the Question, the district was provided with a sum of approximately Kshs6 million by the EU/GoK for the rehabilitation of the facility in 1991. The Government, through the Ministry of Livestock Development, has developed a range resource management strategy which includes involving communities in ASAL areas in planning and implementation of sustainable natural resource management through livestock production and marketing, reseeding of fragile ecosystems, drought management and early warning systems and general management of ASAL rangelands and fodder and pasture conservation through increased research investment.

Mr. Abdirahman: Mr. Speaker, Sir, I want to say thank you to the Minister for giving a very elaborate answer this time round and not like the other times we have asked him questions. I want to point out that this project was conceived in 1991 and you will agree with me that Kshs6 million in 1991 was an enormous amount of money. This project has not taken off. The laboratory which the Minister talks about has not been functional from day one. The first batch of the reagents that were sent were never used. My question to the Minister is: Do you remember you told us the

other day that the only dip for animals in the entire North Eastern Province is in Garissa? What will the Minister do to be able to operationalise that facility in terms of staffing and providing new equipment? The Livestock Department would have been effective if you revitalised this particular item. What will the Minister do to help this project set off this financial year?

Mr. Munyao: Mr. Speaker, Sir, allow me to accept the compliments from the Member of Parliament who rarely appreciates what I do. What the hon. Member has said is quite true and we are even receiving much more money on ASAL projects and I would request the hon. Member to now work on it, so that it can be included in the items to be done this financial year.

Mr. Abdirahman: Mr. Speaker, Sir, part 'c' of my Question was about the resource management strategy. We know lives are getting threatened very frequently more than ever, by the looming drought in Northern Kenya at the moment. What does his Ministry intend to do in terms of regulating--- Of all the points he raised there, besides the one on extension, I do not see one other major item you do but I appreciate the efforts you are making. Do not worry. I am not commenting badly on everything. What will the Minister do to regulate the use of water and pastures as they relate to those areas?

Mr. Munyao: Mr. Speaker, Sir, my Ministry is so much concerned about issues of livestock and livestock development. That ASAL project has got issues like dips and water pumps to make sure that the problem raised by the hon. Member will be addressed when the implementation starts. It is only one more month to go and come July, the money will be here.

Question 207

RECONSTRUCTION OF BUMULA-MABUSI BRIDGE

Mr. Bifwoli asked the Minister for Roads, Public Works and Housing:-

- (a) whether the Minister is aware that the bridge linking Bumula and Mabusi locations has been washed away; and,
- (b) when the Ministry is planning to reconstruct this bridge.

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

(a) What we have as a link connecting Bumula and Mabusi locations is a drift and not a proper bridge as such. It is true that the culverts which had been installed on this drift to facilitate the crossing of pedestrians and vehicles have been washed away.

(b) The construction and maintenance of this crossing is funded by Mumias Sugar Company with the technical assistance coming from my Ministry. The company in liaison with the Bungoma County Council is in the process of reconstructing the crossing using the sugar cess levy.

Mr. Bifwoli: Mr. Speaker, Sir, I am not happy with the answer. I want to go on record and tell my friend I am not happy because there is no bridge and he knows it. When is the Assistant Minister planning to build a bridge for the people of Bumula connecting Bumula and Mabusi locations? The money from Mumias Sugar Company or the culverts cannot build a bridge on a big river. When are you building a good bridge?

Eng. Toro: Mr. Speaker, Sir, the information I have is that the crossing where the drift is constructed is on a seasonal stream which is located in the rural access Road No.R15 which runs from Mumias to Namatotoa in Bungoma District. At the moment, a proper bridge cannot be constructed. At the moment, what is feasible and what could be of help to the people of Bungoma is the reconstruction of the washed away culverts with the help of the levy from the sugar factories around. However, if Bungoma County Council in liaison with Mumias Sugar Company are unable

to do the work, then they should be able to advise us so that we can see what we can do.

Mr. Wamunyinyi: Mr. Speaker, Sir, the Assistant Minister is misleading the House. Mayanja River which hon. Bifwoli is talking about is a big river. It is not a stream and we come from there and so, we have first hand information. The Assistant Minister's officers must be misleading him because we know the river and it is difficult for people to cross. Right now, the community is not able to cross over because water flows permanently in this river. Could the Assistant Minister give an undertaking to the House that he is taking the necessary steps to ensure that there is a bridge built for the community to cross?

Eng. Toro: Mr. Speaker, Sir, if the facts that I have been given are contrary to what the Members of Parliament are saying, then I have no alternative but to establish for myself whether there is a river or a seasonal stream.

Mr. Bifwoli: Mr. Speaker, Sir, the Assistant Minister does not know what he is talking about. I beg that we defer this Question, so that I take him along and show him the river.

Mr. Speaker: It is unnecessary. The Question is transacted. I think what you should do is to get in touch with the Assistant Minister and have this thing done because I truly believe there is no law that this drift or bridge must be done by the sugar company and the county council, to the total exclusion of the Ministry. Just get in touch.

Next Question by Mr. Kombe!

Question No.242

NON-SUPPLY OF ELECTRICITY
TO MR. GODFREY KATSOLE

Mr. Speaker: Mr. Kombe is not here? We will leave his Question until the end.
Next Question by Mr. J.M. Mutiso!

Question No.233

EXPLOITATION OF WORKERS BY
STRABAG CONSTRUCTION COMPANY

Mr. J.M. Mutiso asked the Minister for Labour and Human Resource Development:-

- (a) whether he is aware that Strabag Construction Company is recarpeting Sultan Hamud-Mtito Andei Road on the Nairobi Mombasa highway under a European Union contract;
- (b) if he could table a list of employees including expatriates who have been given work permits under the contract; and,
- (c) whether he is aware that the company is exploiting the workers by paying low wages to the casual employees as compared to international labour standards.

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

- (a) Yes, I am aware.
- (b) I do hereby table the list as requested

*(Mr. Mwakwere laid the list
on the Table)*

(c) No, I am not aware that employees are being exploited. However, I am aware that the lowest paid casual employee earns Kshs240.55 per day, which is far well above the prescribed statutory minimum remuneration of Kshs105.60 per day as provided for in the Regulation of Wages (Building & Construction Industry) Order Legal Notice No.153 of 1998 as read together with the Regulation of Wages (General) Order Legal Notice No.47 of 2003.

Mr. J.M. Mutiso: Mr. Speaker, Sir, I want to thank the Minister for giving me this answer. However, Sultan Hamud-Mtito Andei Road is the largest construction project ever undertaken in this country. It is valued at about Kshs4.5 billion Kenya Shillings.

At the commencement of the contract, the company was paying Kshs500 to drivers and Kshs350 to labourers. I would like to ask the Minister this: Under the Collective Bargaining Agreement between the Kenya Building Construction, Timber and Allied Workers Union and the Kenya Association of Building and Civil Engineering, of which Strabag is a member, what was the agreement between the two parties concerning payment of workers?

Mr. Mwakwere: Mr. Speaker, Sir, my records indicate that the agreement was Kshs240.55 per day. However, the representatives of the workers, that is, the Kenya Building Construction, Timber and Allied Workers Union and the representatives of employers, that is the Kenya Association of Building and Civil Engineering Contractors are at liberty to sit down and agree on a package which should be signed as the Collective Bargaining Agreement at any time.

Mr. Bifwoli: Mr. Speaker, Sir, I want to know why the Government is giving out permits to strangers when Kenyans, including graduates, are unemployed?

Mr. Mwakwere: Mr. Speaker, Sir, the rationale used to award permits depends on the nature of work that is to be done. In the case of Strabag International (GMBH), we all know that this is a German company incorporated in Cologne Germany and there is a tendency that whenever they get jobs internationally, they have a core team of experts who move around with them. So, the Kenyan case is not unique. It is the same process that is used elsewhere.

Mr. J.M. Mutiso: Mr. Speaker Sir, you just heard the Minister say that the minimum remuneration is Kshs105.60 per day as provided for by the Regulations of Wages. This applies to permanent employees of a company. Here we are talking of a unique situation of casual labourers. What is the Ministry doing to protect the interests of casual labourers employed by contractors such as Strabag International?

Mr. Mwakwere: Mr. Speaker, Sir, the protection that they are accorded is that they should be paid not less than Kshs105.60 per day. That is the protection that we have given them as of now, but that also varies yearly, depending on certain considerations made by the Ministry.

Question No. 021

ILLEGAL ENCROACHMENT ON AIRPORTS LAND

Mr. Speaker: Mr. Angwenyi is still not in. The Question is deferred.

(Question deferred)

Question No.252

COMPENSATION FOR MR. GISHIRAN LESAREWA

Mr. Speaker: Mr. Lesrima is also not present. His Question is deferred.

(Question deferred)

(Mr. Mwanicha stood up in his place)

Mr. Speaker: Order, Mr. Mwanicha! You were not there the first time your Question was called.

Mr. Mwanicha: Mr. Speaker, Sir, I had gone to your office and I apologise for being late. I offer one thousand apologies.

Question No.061

INSECURITY IN KITUTU MASABA

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

(a) whether he is aware that between January and December 2003, the following were killed in East Kitutu and Gachuba Locations and the security personnel have not apprehended the culprits: Mr. Edwin Nyamari Ogoro, Mrs. Florence Nyachongi Ogoti, Mr. Caren Nyamari, Mr. David Nyamari and Mr. Hudson Sibota Sibwoga; and,

(b) what measures he has taken to improve security in the area.

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

(a) Yes, I am aware that Mr. Edwin Nyamari, Mrs. Caren Nyamari and Mr. Hudson Sibota Sibwoga were killed. However, investigations to establish the circumstances under which Mrs. Florence Nyachongi Ogoti was killed are still going on.

(b) In order to improve security in the area, the following measures have been taken: Intensified beats and patrols in the area and its environs; and, appeals to *wananchi* through public barazas to volunteer information on suspected criminals so that they can be apprehended.

Mr. Mwanicha: Mr. Speaker, Sir, according to the answer by the Assistant Minister, they are still following up the case of Mrs. Florence Nyachongi who was killed. What about the other people who were also killed? The killings occurred in a village of about half a kilometre in radius. Five people were killed and as yet nobody has been arrested.

Mr. Tarus: Mr. Speaker, Sir, four suspects were arrested, but after investigations, there was no evidence linking them to the killings and they were accordingly released.

Mr. Onyancha: Mr. Speaker, Sir, life is very precious. Americans cannot afford to lose even one life. It seems that Kenyans do not care much about how many people die whenever investigations are carried out. Could the Assistant Minister give us the names of the suspects who were brought to his attention only for him to discover that they were not the ones involved in the murder of the five people?

Mr. Tarus: Mr. Speaker, Sir, the suspects were: Mr. Peter Maikuri, Mrs. Josephine Maikuri, Mr. Henry Onywere and Mr. Kivino Gituma.

Mr. Mwanicha: Mr. Speaker, Sir, five people were killed in one village in a span of six months. I would like to know what steps the Assistant Minister is taking to ensure that no more people are killed since the killers have not been arrested.

Mr. Tarus: Mr. Speaker, Sir, the Government is doing a lot to make sure that security, indeed, prevails in this particular area and across the country. In addition, we want to request hon. Members that when there are incidences like this one, the public needs to be sensitized to volunteer information because that is the only sure way we can apprehend criminals.

*Question No.242*NON-SUPPLY OF ELECTRICITY TO
MR. GODFREY KATSOLE

Mr. Speaker: Mr. Kombe's Question for the second time now! He is not present so, the Question is dropped!

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

RETIREMENT OF POLICE OFFICERS

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

(a) Under what circumstances were 57 senior police officers retired and/or dismissed by the Commissioner of Police?

(b) What procedures were followed in effecting the retirements and dismissals?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, may I seek the indulgence of the House. Unfortunately, I have not received appropriate details to satisfy this particular Question. May I request that I answer this Question on Thursday.

Mr. Speaker: Is that okay with you, Mr. Cheboi?

Mr. Cheboi: Mr. Speaker, Sir, it is okay, especially considering that two of the officers are from the Assistant Minister's constituency.

(Loud consultations)

Mr. Speaker: Order, Members! We are unable to transact business. Please, maintain calm.

(Question deferred)

EXEMPTION OF DEPARTMENTS
FROM PROCUREMENT REGULATIONS

Mr. Kajwang: Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) What is the legal foundation for exempting the procurement of goods and services to certain departments in the Office of the President, for example, the Kenya Police, the Department of Defence, the Government Printer and State House from open and transparent competitive bidding in accordance with the provisions of the Procurement Regulations?

(b) Is the Minister aware that the secrecy shrouded transactions are breeding grounds for corruption?

(c) When will this exemption be lifted?

The Assistant Minister for Finance (Mr. Katuku): Mr. Speaker, Sir, I beg to reply.

(a) There is no Government department that has been exempted from open and transparent competitive bidding in the procurement of goods and services.

However, an application can be made for exemption from open competitive bidding on matters of

security concern, in which every case is considered on its merit.

(b) I am not aware of secrecy shrouded transactions that are breeding grounds for corruption.

(c) In view of my answer in "a" above, "c" does not arise.

Mr. Kajwang: Mr. Speaker, Sir, I have read the Exchequer and Audit Act, especially the public procurement regulations. In Section 3, there is mention of national security or national defence, in which case then, the Minister may vary the procurement rules.

But the question is: What is national security or national defence? Does buying the following items, if the Assistant Minister could answer me, for example, fall under that category? Handcuffs, printing equipment, teargas and police vehicles.

(Loud consultations)

Mr. Speaker: Order! Order, all of you! Please, will everybody let the Assistant Minister hear what the hon. Member is saying because he must respond!

Mr. Kajwang: Yes, Mr. Speaker, Sir. Would the purchase of printing equipment or even tear gas, as my brother has put it, including printing passports and identification cards, amount to things which should be exempted because of national security and national defence?

Mr. Katuku: Mr. Speaker, Sir, as I said in my earlier response, each request made is considered on its own merit. So, in any case, if it is a matter which is brought before the Minister for consideration, we will consider it either as a matter of national security which should be exempted as such. So, some of the items which the hon. Member is listing may be considered as national security and some may not.

Mr. Midiwo: The Assistant Minister has said that each case is considered on its own merit when it comes to procurement. Could he deny or confirm that in each of these cases, there are allegations of corruption and that these are the "cash-cows" within Ministries and among Ministers concerned?

Mr. Katuku: Mr. Speaker, Sir, I deny.

Dr. Godana: Mr. Speaker, Sir, I think the Assistant Minister has not really addressed his mind to the Question. Even as framed, the Question starts with the words: "What is the legal foundation for exempting procurement of goods and services". Obviously, Government departments will always be in a position to consider whether a particular matter is one of national security or not. But there must be certain standard guidelines and criteria, even if they are internal to the Ministry.

Mr. Speaker, Sir, could the Assistant Minister tell us whether the Minister considers himself to have a blanket discretion in deciding what is a matter of security or not, or whether, in fact, the Minister follows certain guidelines and standards which could be seen objectively even among the outsiders?

Mr. Katuku: Mr. Speaker, Sir, the legal foundation for such exemption is provided for by Regulation 3, Sub-section 1 which, of course, gives the Minister the authority or the power to exempt. But that does not give the Minister, as the hon. Member said, a "blanket exemption". What happens is that the Minister considers each case, and based on the merit of each case, he may decide the method to be used in procuring certain goods and services in relation to the request.

Mr. Speaker: Last question, Mr. Kajwang!

Mr. Kajwang: Mr. Speaker, Sir, could the Assistant Minister now tell the House whether when police vehicles including lorries and Land Rovers were bought recently, it was tendered openly, restrictively or single sourced? What were the reasons for it? Regarding the passports issue which is still pending---

Mr. Speaker: The passport issue is still before the Public Accounts Committee, so Mr. Katuku, just answer the other question!

Mr. Katuku: Mr. Speaker, Sir, I agree with you. But on the issue of the vehicles, I am not aware which vehicles he is talking about.

Mr. Speaker: Police vehicles---

(Loud consultations)

Order! Order! Order, all of you! Order! He asked you a question about police lorries and Land Rovers which you bought recently.

Mr. Katuku: Mr. Speaker, Sir, I may not be aware of those vehicles and the procurement that he is talking about. If he can be specific by quoting the procurement number, I will be able to deal with the question.

Mr. Speaker: Could you be specific, Mr. Kajwang?

Mr. Kajwang: Mr. Speaker, Sir, I cannot be more specific because just the other day, the Minister of State, Office of the President was distributing a Land Rover to the hon. Member for Kabete in his own constituency. This Land Rover was bought during this financial year.

So, could you tell me, with regard to the vehicle which was given to the hon. Member for Kabete, was it done under the rules or did you single-source? What was the reason for doing that?

(Applause)

Mr. Katuku: I would want to state that every purchase has been done within the rules.

Mr. Speaker: Very well. Next Question! Mr. Kipchumba!

ACCESSING OF AFC LOANS BY FARMERS

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

(a) Is the Minister aware that farmers in Rift Valley will not plant their wheat this season since they cannot access loans from Agricultural Finance Company?

(b) Why is it a condition that those who had their loans waived by the Government in the past are denied loans?

(c) Could the Minister waive this condition since majority of wheat farmers had their loans waived?

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

(a) Farmers in the Rift Valley Province are already planting wheat as they are able to access loans from AFC through the ongoing seasonal crop credit programme which commenced in April, 2004. So far, Kshs425.1 million has been loaned to farmers in the province through this programme.

(b) It is not a condition that farmers who had their loans waived by the Government in the past are denied loan facilities. However, AFC has been careful not to advance loans to those farmers whose past repayment record was poor.

(c) My Ministry will continue monitoring the disbursement of these loans to ensure fair play.

Mr. Kipchumba: Mr. Speaker, Sir, I appreciate the answer given by the Minister. But could it be a coincidence, therefore, that all those farmers who, indeed, borrowed loans from AFC are all poor payers of the loans so that they are not able to access the loans? All of them have been

unable to access the loans.

Mr. Kirwa: Mr. Speaker, Sir, out of Kshs607 million that we advanced to Rift Valley Province, already Ksh425.1 million has been taken by farmers. If the hon. Member has specific cases, either emanating from his constituency or any part of the province, I am willing to address those cases.

Mr. Osundwa: Could the Minister explain why AFC is denying farmers who cannot provide collateral loans? Yet in the past, the crop used to be given as a collateral?

Mr. Kirwa: Mr. Speaker, Sir, as I said at the beginning, we are putting more stringent conditions, given the experience of the past. We do not want to run into the same pitfalls, and we want to see farmers performance and at the same time to see how we will be able to improve our rate of recovery.

Mr. Koros: Mr. Speaker, Sir, could the Minister explain why the Agricultural Finance Corporation (AFC) is charging Kshs700 for the processing of applications?

Could he also explain why out of the 4,000 applicants in Uasin Gishu, only 60 of them got the loans?

Mr. Kirwa: Mr. Speaker, Sir, just like any other loan application, there are certain conditions which the applicant must meet. One of the conditions is charging the title deed to assist us in doing the search. He should also pay the normal application fees. The AFC is not doing anything out of the ordinary.

With regard to the loan applicants in Uasin Gishu, it is not true that it is only 60 applicants who got the loans. My records are clear and more than 400 people got the loans. Indeed, Uasin Gishu happens to have got the largest amount of money in the entire Rift Valley Province. It got Kshs195 million.

Mr. Kipchumba: Mr. Speaker, Sir, just like I said, those who are being denied loans are the large-scale farmers who produce the bulk of the wheat in this country. It is important that the Minister advises his officers in the field that for those farmers who had their loans waived, it was not necessarily as a result of poor repayment records. This will assist those farmers to access the loans.

Mr. Kirwa: Mr. Speaker, Sir, as I said, each farmer is considered on his or her own merit. If there are any specific cases, more so for the large-scale farmers in Uasin Gishu, the AFC officers are willing to consider and take the appropriate action before 15th June, 2004.

Mr. Speaker: Next Question by Mr. Ethuro!

MEDICAL SUPPLIES FOR
LODWAR DISTRICT HOSPITAL

Mr. Ethuro: Mr. Speaker, Sir, I have not received a written answer to my Question. However, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that maternity charges at Lodwar District Hospital are too high?

(b) Could the Minister consider posting surgeons, waiving of maternity fee and provision of adequate medical supplies to the district hospital as a matter of priority?

Mr. Speaker: I am sorry, Mr. Ethuro, the Minister for Health is not here to answer your Question. Can I defer it?

Mr. Ethuro: What do we do, Mr. Speaker, Sir?

Mr. Speaker: Let us try tomorrow afternoon!

(Question deferred)

Next Question by Mr. Rai!

HEAD TEACHER'S FAILURE
TO ACCOUNT FOR SCHOOL FUNDS

(Mr. Rai) to ask the Minister for Education, Science and Technology:-

(a) Is the Minister aware that Mr. Daniel Maundu, a head teacher in Ndauni Primary School in Kinango Division, Kwale District, could not account for school funds amounting to Kshs331,171 between 19th May, 2003, and 14th November, 2003, and thereafter he repaid Kshs245,000 leaving an outstanding balance of Kshs86,171?

(b) What steps is the Minister taking to ensure that the outstanding balance of Kshs86,171 is recovered to enable the school to run?

(c) What disciplinary action is the Minister taking against the head teacher as a deterrent measure against other head teachers misappropriating school funds?

Mr. Speaker: Mr. Rai is not here? The Question is dropped.

(Question dropped)

That is the end of Question Time. I had two hon. Members who wanted to seek Ministerial Statements. I will begin with Mr. Ethuro.

POINTS OF ORDER

FAMINE IN TURKANA DISTRICT

Mr. Ethuro: Mr. Speaker, Sir, I rise to seek a Ministerial Statement---

(Loud consultations)

Mr. Speaker: Order, hon. Members! Order! Could we listen to Mr. Ethuro?

Mr. Ethuro: Mr. Speaker, Sir, I rise to seek a Ministerial Statement on the state of drought, famine and resultant deaths in Turkana District. I think the whole country is fully aware of the reported cases of deaths due to starvation. I am hoping that in his reply, the Minister will consider the amount of food that is being taken to the district and the distribution mechanism to ensure that it reaches all the corners of the district.

Dr. Godana: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Certainly not on that one, Dr. Godana! I am sorry, you have to wait for the Minister to reply.

Mr. Tarus, this is a very sensitive issue. It is an issue of life and death. Kenyans are dying of hunger and you can figure out the amount of pain they go through before they die. So, when are you going to respond to this?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, may I respond on Thursday?

Mr. Speaker: Why? People are dying!

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, let me

respond tomorrow afternoon.

Mr. Speaker: Very well. You may respond tomorrow afternoon, but you should understand that the hon. Member is saying that already over 40 people have starved to death.

An hon. Member: Pastoralists!

Mr. Speaker: Order! Are there different Kenyans called pastoralists and others called Kenyans? They are all Kenyans!

So, Mr. Tarus, you will respond tomorrow afternoon.

The Assistant Minister, Office of the President (Mr. Tarus): Yes, Mr. Speaker, Sir.

PRIVATISATION OF SOLID WASTE MANAGEMENT BY NCC

Mr. Sirma: Mr. Speaker, Sir, I rise to demand a Ministerial Statement from the Minister for Local Government on a matter of national importance.

It is public knowledge that the Nairobi City Council has signed an agreement on solid waste management with an Italian company called M/s Jacorossi Impresse Aniset African Ltd amid protests from the Nairobi City councillors and the Kenya Local Government Workers Union leaders. This has generated fear and anxiety among the City Council employees over the fate of their jobs as a result of the privatisation. The Minister's Statement should include:-

(a) The process used to award this tender to the Italian company; Jacorossi Impresse Aniset African Ltd.

(b) The list of all the tenderers for this programme and the technical evaluation report of each.

(c) The fate of the City Council workers employed in the Garbage Collection Section.

I wish to give to the Clerk of the National Assembly this written request because I can see the Minister is not around.

Mr. Speaker: The HANSARD is there, keep your paper.

Mr. Sirma: Thank you.

Mr. Speaker: Hon. Members, it is emerging quite clearly to me that hon. Members are no longer interested in putting Questions. They are going for the easy option of seeking Ministerial Statements. Now, this easy option is going to be made difficult. You are not going to spend all the time seeking Ministerial Statements. You must put the Questions, so that the Ministers are bound to come and they have the answers which you want to seek.

IMPORTATION OF SUBSTANDARD FERTILIZER

Mr. Mwancha: Mr. Speaker, Sir, I stand to seek a Ministerial Statement from the Minister for Agriculture regarding a consignment of fertilizer that was destined for tea farmers. The issue of fertilizer to tea farmers has been a major problem for a couple of years now. The consignment has been found to be defective and does not meet the standard for the tea growers in this country. Unfortunately, we had a similar problem last year and farmers have recorded low production because of the substandard fertilizer that they got last year. This year, again, we have the same problem. The Minister should tell the House why there was no pre-shipment inspection before the shipping of this fertilizer. He should also tell us what companies tendered and what company was awarded the tender. We need an assurance from the Minister that the farmers will not be required to pay any demurrage charges for the fertilizer that has not been allowed in because of that problem. The Minister should also inform the House what steps he intends to take, so that this problem does

not keep recurring.

Mr. Speaker: Order, hon. Members! Was there a Minister who was ready to make a Ministerial Statement? But I realize if we go this direction, very soon this House will be turned into a tender board. I hope that time does not arrive soon. Is there any Minister ready to give any Ministerial Statement?

MINISTERIAL STATEMENT

RE-NEGOTIATION OF RIVER NILE TREATY

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Speaker, Sir, I wish to give a Ministerial Statement on the Nile Basin Initiative. I am glad to note that Mr. Ndambuki, the Shadow Minister for Water Resources Management and Development, who asked for the Ministerial Statement is here.

The Nile Basin Initiative was established in February 1999. It is a transnational institutional arrangement that provides a framework to promote co-operative socio-economic development in the Nile Basin countries which are, Kenya, Burundi, DR Congo, Egypt, Eritrea, Ethiopia, Rwanda, Sudan, Tanzania and Uganda. The initiative has the following objectives: To develop the water resources of the Nile Basin in a sustainable and equitable manner, to ensure prosperity, security and peace for all people in the basin; to ensure efficient water management and optimal use of the resources and promote co-operation and joint action between the riparian countries; and, to improve socio-economic status of the member States through harnessing of their resources and promoting economic integration. The initiative is guided by a shared vision and the shared vision is to achieve sustainable socio-economic development, through the equitable utilization of, and benefit from the common Nile Basin water resources. That shared vision clearly accepts that all the ten riparian countries, Kenya included, are entitled to utilise the waters of the Nile Basin and that what this co-operative framework is seeking is a formula for the reasonable and equitable utilization by all the countries. Therefore, we should dispel the impression among Members that any of the Nile Basin riparian countries is preventing Kenya from undertaking development in the Nile Basin.

Mr. Speaker, Sir, as the Minister for Water Resources Management and Development, I have not come across, in the Ministry, any record to show that Kenya has at any one time wanted to put up any development within the Nile Basin and within the lake basin which falls along the Nile Basin and has been stopped by any of the riparian countries.

I would like the hon. Members to know that, since the Nile Basin Initiative started in 1999, it is only in December last year that it moved a step further by establishing the negotiating committee which is negotiating the new co-operative framework. Kenya is fully represented in that committee, and I am privileged to be the current Chair of the Nile Basin Initiative.

Mr. Speaker, Sir, we, the Nile Basin countries, recognise that having a shared water resource means that the only option open to us is to move together in a co-operative framework. That is the only way we can develop the entire Nile Basin countries. We are moving in this direction and we have shared vision projects, the first of which I am travelling to Sudan tomorrow to launch on 27th. Those projects cover all the ten riparian countries and we, as a country, Kenya, are also preparing flood control works on River Nyando and River Nzoia which fall under the Lake Basin and the larger Nile Basin. When we are ready, we will, of course, share our plans with the rest of the riparian countries, and I do not see that there will be any objection.

Mr. Speaker, Sir, I am aware that Ethiopia has a very big power project going on, on the Blue Nile, and none of the countries has raised any objection.

Mr. Speaker, Sir, information on the Nile Basin can be availed to hon. Members so that they are better briefed and we can then all know what is happening. The hon. Members are welcome to raise their concerns either directly with the Ministry or through this House so that we are able to take them into account as we move on in the Nile Basin.

Mr. Ndambuki: Mr. Speaker, Sir, I congratulate the Minister for being nominated the chairperson of that committee. I sought this Ministerial Statement because the previous agreement was signed when Kenya was not Independent. It was signed during the colonial time. Our interest was not really taken care of, but I am happy that the Minister is making sure that all our interests as Kenyans are taken care of, in these negotiations.

Mr. Speaker: Very well! It is not a debate!

Mr. Sungu: Mr. Speaker, Sir, I would like to have some clarification. I am an interested party because I represent a constituency on the lake.

I am very grateful to the Minister for bringing that Ministerial Statement to the Floor of the House. What we want addressed is the issue of the use of the waters of the Nile by two states; Egypt and Sudan at the expense of other dependant states. I do remember an occasion when the Minister was in Addis Ababa, when Egypt threatened war on any state that would use this water, while currently Egypt is actually pumping out the water from the Nile Basin into the Sinai Desert to use for agricultural purposes.

Mr. Speaker, Sir, I would like the Minister to assure us that as chairman of this Nile Basin Initiative, that all development in this area is going to be taken care of, and that the laws that were assured by this initiative, for example, the one for development of the area concerned, around the lake will be given to us.

Mr. Speaker: Order, hon. Members! You realize that we hardly do any business these days. Anyhow, I must rush into business. It is very unfortunate.

Dr. Godana: Thank you, Mr. Speaker, Sir. I also want to thank the Minister for giving an elaborate Ministerial Statement. But following up on the observation by the last speaker about inter-basin, indeed, inter-continental transfer of water by Egypt, water which it uses while restricting our own rights to use, and being aware - I am sure the Minister is - that there have been designs, studies done about transferring limited quantities of water from the upstream rivers; Nzoia and others which flow from Mt. Elgon down into the Kerio Valley, will the Minister promise to negotiate that we be allowed as the major contributor to the out-flow of the Lake Victoria, to transfer some of these water quantities from the Lake Basin into the Kerio Valley and Turkana?

Mr. Speaker: Are we disallowed actually?

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Speaker, Sir, may I begin by saying that the Statement was very clear, that we begin from a premise in the Nile Basin Initiative; that all the ten riparian countries, Kenya included, are entitled to use the waters of the Nile.

Mr. Speaker, Sir, if previous regimes have gone under the cover that we are not allowed by the Treaty, and that is why they were not acting, that was not a forthright statement. We cannot blame Egypt and Sudan for utilizing the waters when we have not had any cogent plans to utilise it. I want to promise this House that this Government is rising up to its responsibility, and whatever we find we need to do, whether it is inter-basin transfer or any other matter that arises, to ensure that our people's socio-economic development forges ahead, we will do.

Mr. Speaker, Sir, as pertains to the question about Ethiopia last year, I am not aware of any declaration of war by my colleague Minister from Egypt who happens to be on his way here, this evening. I would like to say that I also saw it in the newspapers, but there was no such a thing. Governments normally have a way of communicating to each other. We, however, as Nile Basin

countries, want to admit that we have failed in one respect; giving information to important institutions like Parliament, other policy-makers and the population, so that they know exactly what is happening. This is what has given rise to speculation. We are now in full gear and are ready to give all the available information to share with Parliament and policy-makers so that there is no misunderstanding. The proper name to address me as chair of the Nile Basin Initiative is not "chairman". It is just "chair" or "chairperson".

Mr. Speaker: Very well. Let us move on to the next Order!

Mr. Tarus will give his Ministerial Statement tomorrow morning. Enough is enough! We must now move on to Business. However, we shall not move on to the next Order because it requires the Minister for Finance. Order No.7 is downgraded. We shall now move on to Order No.8.

BILL

Second Reading

THE FORESTS BILL

The Minister for Environment, Natural Resources and Wildlife (Dr. Kulundu): Mr. Speaker, Sir, I beg to move that the Forests Bill be now read a second time.

Kenya's first comprehensive forest legislation was the Forest Ordinance, Cap. 385, of 1942, enacted as an ordinance to amend and consolidate the law relating to forests. In 1964, the Forest Ordinance was amended and adopted as the Forest Act, Cap.385. The amended Act provided for the establishment, control and regulation of central forests and forest areas in Nairobi, and on alienated Government land. Since then, this legislation has received only minor amendments, mainly with regard to rules made by the Ministers in charge of forests as provided in Section 15 of the Act. However, these minor and piecemeal changes have not accommodated new and emerging national and global-related challenges.

The first step to address these emerging challenges was the development of the Kenya Forest Master Plan (KFMP), 1994. The KFMP, which was adopted by the Government, identified critical deficiencies in the forest policy legislation, institutional framework and need for reforms. The Forest Act in operation before and after Independence, was formulated within the colonial institutional framework that heavily relied on State machinery for the management of the sector. Demand on forest-based products and services was low at that time due to the small population and the few players in the sector. The weaknesses inherent in the current forest legislation proved inadequate in addressing the threats facing forest cover through excisions, over-exploitation and encroachment. This has negatively affected the environment and the economy, including water supply, depletion of water catchment areas, accelerated soil erosion and monetary losses from forest resources and services. The Forests Bill is intended to support and address the challenges of population growth, high poverty levels, creation of employment, inefficiency in resource utilisation and environmentally-advanced effects of development. It also intends to reverse the current low forest cover, which stands at 1.7 per cent, that compares unfavourably to the internationally recommended minimum of 10 per cent.

In addressing national concerns, the new Forests Bill takes into account the country's obligations to international conventions and to agreements, to which Kenya is a signatory. The Forests Bill 2004, provides for the establishment, development, sustainable management, utilisation as well as conservation of forest resources for the socio-economic development of the country. The provisions of the Bill will apply to all types of forests and wood logs on State, local authority and

private land, but with varying provisions applicable to the respective ownership categories. Other salient features of this Bill are highlighted below.

The first one is administration. The Bill provides for the establishment of a forests authority to be known as the Forest Service, under the management of a board. The decision to transform the Forest Department into a service was based on studies carried out mid-1990s. The studies revealed that the department's performance was hampered by a high staff turnover, inefficiencies, inadequate operational resources and low stakeholder participation. In order to address these shortfalls, the proposed Kenya Forest Service shall perform the following functions.

First, it will formulate policies and regulations pertaining to all forests, both indigenous and plantations. Secondly, the service will handle management and conservation of indigenous forests and, lastly, manage provisional forests in consultation with the owners. The service shall have a strengthened forest inspection and protection unit (FIPU) to oversee the protection of all forests in accordance with the provisions of the Act. It will also provide technical and financial incentives to other forest owners in the management of their forests, collaborating with other agencies on matters of promoting sustainable forest management and enforcing forest-related laws, rules and regulations in the country.

[Mr. Speaker left the Chair]

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

The Board will comprise of seven representatives from the public sector, including the director of forests as the secretary, and another eight members representing various interests related to forests, taking into account regional and gender representation. I must add that we have reverted to the term "director" as a result of the concerns expressed by hon. Members, that the title "Chief Conservator of Forests" is colonial in origin. We have responded accordingly by making the necessary amendments. Therefore, the Chief Conservator of Forests becomes the Director of Forest Service.

The Bill further provides for the financing of the Kenya Forests Reserve from a Forest Management Conservation Fund comprising funds from levies, investment incomes and grants solicited by the board and approved by Parliament. The Bill vests all forests, earth and private forests in the State and provides for four categories of forests, that is State, local authority, private and provisional forests. Provisional forests are private forests that may have been mismanaged against public interest. In such cases, the Minister, on the advice of the board may approve the management by the Service jointly with the owners.

Mr. Temporary Deputy Speaker, Sir, the Bill provides for the board to advise the Minister on issues pertaining to boundary changes for creation, cessation and exchanges of State and local authority forests. It also provides modalities for resolving conflicts between aggrieved parties. In addition, the Bill provides for the Director of Forests, or local authorities, upon approval by the board, to enter into forest management and conservation agreements with other parties on the basis of approved conditions and regulations, where such arrangements will enhance management of forests.

There are also provisions for conservation of unique bio-diversity on all forests, including protection by special presidential decrees. The Bill emphasises the continued reservation and increase of forest areas. Stringent measures have been put in place in the Bill for conversion of forest land to other uses through application of an environmental impact assessment, after adequate

consultation with local forest conservation committees and approval of change of land use by Parliament.

To guard against the destruction of critical catchment areas, the Bill requires preparation of forest management plans, which will designate areas for reservation, limited exploitation and industrial forest plantation development. The Bill recognises the local community members as major stakeholders in the management of forests, and provides for the formation of associations to participate in forest management, conservation, development through joint management agreements, as well as representation in local conservation committees.

The Forests Bill provides for the management of indigenous forests on sustainable basis for purposes of water, soil, bio-diversity conservation, cultural use and heritage values, recreation and tourism, carbon sequestration and sustainable production of wood and non-wood forest products to enhance conservation of bio-diversity and water catchment protection.

Areas currently under forest plantations, which have been identified as important water catchment areas, will be converted into indigenous forests. This will be done through an aggressive afforestation and natural resource programme to replace the exotic trees with indigenous trees.

Mr. Temporary Deputy Speaker, Sir, the Bill provides for management of industrial forest plantations on a sustainable basis. It provides for production of wood and other forest products and services. Industrial forest plantation development has been recognised as a business venture that could be carried out on a commercial basis. In view of this, the management of industrial plantations has been identified as one of the functions that could be leased to the private sector on a pilot basis.

Commercial tree-growing by the private sector, farmers and communities will be promoted through provision of necessary incentives for forestry development. Under this arrangement, it is expected that more public and private land will be set aside for forest development, leading to increased forest cover. Mr. Temporary Deputy Speaker, Sir, the Bill provides for stiffer penalties for offenses committed under the proposed Act. The penalties range from six months to ten years imprisonment while fines imposed extend to Kshs1 million. The low levels of fines in the previous Act were not deterrent enough to avert forest destruction. The Forests Bill, 2004 has been prepared through an elaborate consultative process, involving a broad spectrum of stakeholders, and ensures that all the issues related to forest administration, regulation and management are addressed. This Bill is in line with the Government policy towards economic recovery, poverty alleviation and the creation of employment. The Bill further endeavours to be in harmony with other laws on land use and management. This is in line with the Environment Management and Co-ordination Act, 1999, and the Water Act, among others. I urge this House to consider the tabled Forests Bill for debate and subsequent enactment.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

The Temporary Deputy Speaker (Mr. Khamasi): Who is seconding you?

The Minister for Environment, Natural Resources and Wildlife (Dr. Kulundu): My Seconder is the hon. Assistant Minister for Education, Science and Technology, Mrs. Mugo.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Thank you, Mr. Temporary Deputy Speaker, Sir.

I beg to second the Forests Bill, 2004, which is before the House.

I wish to thank the Minister for his timeliness in bringing this Bill to this House. I would also like to thank him for the work done when preparing this Bill. We are emerging from a period where there has been wanton destruction of our forests. This happened so much that today Kenya boasts of less than 2 per cent of forest cover. We know that this is a very serious situation as life depends on this very important commodity.

We cannot get rainfall in this country unless we take care of our forests. Desertification has

already started taking place. That is why, in this House, there is a lot of hue and cry about hunger and lack of rainfall. There used to be a time when this country enjoyed a lot of forest cover, but that is a thing of the past. This Bill deserves support, not only in this House, but also from communities, the private sector, NGOs and everybody else.

Mr. Temporary Deputy Speaker, Sir, I would like to commend the Minister for hosting a very successful workshop on this Bill at White Sands Hotel in Mombasa. All hon. Members supported this Bill very strongly. I would like to call upon this House to fully support this Bill.

We cannot forget the fighting that went on in Karura Forest. In the recent past, we witnessed battles between the NGOs, individuals and the police when plots in this forest were illegally allocated to some individuals through corruption. We also know of the situation around Mt. Kenya. Logging and planting of bhang has made this forest to be almost extinct. There are other forests where logging and charcoal burning still goes on; for example, in Kakamega Forest. Therefore, we need a Bill; a very strong regulation which will make sure that this wanton destruction of our forests is checked once and for all.

Mr. Temporary Deputy Speaker, Sir, I cannot forget to thank the private sector who have really done a lot to maintain some of our forests. I especially would like to commend the Nation Media Group. They have led a very strong campaign to fence the Aberdare Forest. They have really assisted to save this very important water catchment area. I would like to ask other private companies to follow suit because this is a battle for everybody. I know of a country, for example, Japan, where the forest cover is 80 per cent of the land mass. This is a developed country. Yet, we are still struggling with our poverty. One of the causes of poverty in this country is as a result of degradation of our environment. So, if we want to rid ourselves of poverty and join the developed nations of the world, we must also protect our natural resources. We must start by supporting this Bill. We all know that water is a source of development. I would like to urge the Minister that, after we have passed this Bill, he should come up with strong regulations so that this wanton destruction of our forests will never happen again.

Mr. Temporary Deputy Speaker, Sir, one area that we must address very seriously is accessibility of cheap sources of energy for cooking. Most women depend on firewood and charcoal for cooking. We must quickly find an alternative cheap source of energy so that women can access it. This is the only way we can stop the destruction and degradation of our environment. I remember, during the workshop in Mombasa, the Minister said that they are looking for ways of bringing in the private sector to participate in afforestation. I hope the private sector will also support this by having agro-forestry which many countries have adopted as a way of afforesting their countries. If this is left to only the meagre funds from the Government, it will take a very long time.

Mr. Temporary Deputy Speaker, Sir, there is also the question of our peasant farmers who derive their livelihood from tending tree seedlings and, at the same time, planting food crops. I would like the Minister to hastily look for alternative land to settle these peasant farmers. Until we take care of these people, the destruction of our forests will go on because these peasant farmers will struggle to get a livelihood out of these forests.

I would also like to commend the Minister for the management of our forests which is proposed, especially in the area of involving our communities. Communities must have the ownership of these forests. They must feel that these important resources belong to them so that they can protect them. Therefore, we have to involve them in the very management; from the top to the bottom. On this issue, I am very pleased to hear of the gender balance that will be struck. I hope that women will out-number men because they are the ones who are most involved when it comes to maintaining the environment and such other areas. This should go along with training.

We must create awareness and also provide training for the communities on the management and use of the forests. They must understand this fully in order to take care of our forests.

Mr. Temporary Deputy Speaker, Sir, I believe there has been a lot of compromise on the part of the authorities and that is why we got where we are. I would hate to think that bhang was being grown around Mt. Kenya without the Government's knowledge. I really hope that what the former regime did to this country will never happen again. Bhang was not only grown in some forests, but it also corrupted the minds of our children. Our children are consuming bhang all over the country. That was the greatest mismanagement of our forest resources. I am, therefore, calling upon the Minister to bring very strong regulations. I hope that bhang plantations are now a thing of the past. It is a pity we read that some police officers were the ones who were escorting bhang. If they were the ones doing so---

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kipchumba! There is plenty of time for this Bill. If you have got any different views, could you, please, wait until I propose the Question?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me.

I believe that one of the greatest tests that this House will give this country is to get our forests back in order. We can do this. We are able to do so, because we are the people who make laws. We must see to it that laws passed in this House are implemented. So, I would like to ask my colleagues in this House not to always read mischief in whatever this Government does. The issue of "my people" should not arise when laws are being implemented. So, let us all agree in this House, that no matter who will degrade our forests, serious action will be taken against him or her. We do not want to hear anybody saying, "we will do this or that, if certain action is taken against our people." As a civilised nation, we must stand up to be counted. What is the alternative when we degrade our forests the way we have done? For example, we have seen people dying in Turkana District because of lack of food. That place has literally turned into a desert. If we are not careful, the other half of this country will soon turn into a desert.

Mr. Temporary Deputy Speaker, Sir, I would like to also call for a strong programme where trees are planted in our schools and *shambas* and not just on the designated forest areas. Let Kenya become a forest because it is possible. In the recent past, Nairobi used to be known as the Green City in the sun. I hope that we will plant more trees also in Nairobi, have a plan and make sure that the few paths we have will be filled with trees. Unfortunately, most of them were grabbed and divided into plots for setting up buildings. I hope that the Minister for Lands and Settlement will repossess those plots, starting with Karura Forest. We would like to assist in afforesting all plots which were grabbed during the KANU regime. Those people should even be prosecuted in court, so that everybody knows that corruption will not be there forever. Sooner than later, whether it is this Government, the past or the future one, people must know that public resources are public property and will never be owned by any particular individual. This is because no one will be in power forever.

Mr. Temporary Deputy Speaker, Sir, a time comes when you have to answer. That is what separates human beings from animals. Even animals take care of their own. I do not know what to compare human beings with. It came to a point where we thought individuals owned Kenya. They owned forests and so on. There is nothing we could not touch. Thank goodness! The Assistant Minister for Environment, Natural Resources and Wildlife is saving us. Prof. Maathai saved the park just here. It could now be full of buildings. Nairobi is concrete everywhere.

Mr. Temporary Deputy Speaker, Sir, this Bill is very timely and, if properly managed, will

save Kenya. It will bring prosperity in this country. It could also help to eradicate poverty because we could rekindle our economy, if we have the right environment.

Mr. Temporary Deputy Speaker, Sir, pollution is another area that is very worrying. We know how polluted our air is. We also know that it brings diseases. I am not a doctor, but some diseases could be prevented if we have clean air. Planting of trees, especially in our urban centres, would help a great deal. I hope that the Ministry of Environment, Natural Resources and Wildlife, together with the Ministry of Transport and Communications, would get together and make sure that all the vehicles that pollute air, are removed from the roads. That is because we do not plant trees to purify the air. There is a law against air pollution.

With those few remarks, I very strongly support and second this Bill, and call upon this House to save Kenya by passing it.

(Question proposed)

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I wish to respond to this Bill. I wish to say that we, as KANU, are happy about this Bill because we prepared it. It was, subsequently, taken over by the NARC Government through the *nyayo* philosophy of following what the predecessors have done.

Mr. Temporary Deputy Speaker, Sir, I read this Bill in its formative stages and, initially, there were many flaws! I thought KANU was blind. The same Bill has been published the way it was, meaning that we are all blind! That is why there are anomalies in the Bill.

Mr. Mwenje: On a point of order Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that this Bill, which has been published by the NARC Government with many amendments, is the same as what KANU published?

Mr. Sirma: I know that, that is your work, Mr. Mwenje---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sirma! I want to advise this Bench that, if you have got anything to say, you will have to stand up and catch my eye. I am not going to allow you to shout across the Dispatch Box!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I am introducing the Bill, which means a lot. We started from far, for this Bill to come to this House.

Mr. Temporary Deputy Speaker, Sir, I would like to say that the Minister should have brought a report to this House on this Bill, before publishing it, so that we can really--- This is a complete overhaul of Cap.385 which existed initially. We went to Mombasa, but we were not shown the Bill. We stayed there for three days, but never saw the Bill.

Finally, there were resolutions which were read. They were contrary to what we actually discussed. That was really tragic because we wanted to see this Bill and discuss it. I do not think that it has really been discussed at length. Even if we support the Bill, it needs the goodwill of Kenyans. It needs very high levels of goodwill because the participation of the communities must be taken into consideration. It has only been mentioned in conservancies and other areas.

This Bill also gives a lot of power to the Minister and the Director of Forests. That is because if somebody could come and take your land and call it a provisional forest, so that he could protect it on your behalf, we do not know what kind of law is that. We know that there are water catchment areas which every individual in this country would think of managing and preserving. But when you give dictatorial powers to the Minister and the Director of Forests to acquire individual and local authorities land and call it something "provisional on behalf of the Government", that is not--- I think it is just the nature of this Government to disobey the law, and do things through the jungle law. That is one of the ways.

Mr. Temporary Deputy Speaker, Sir, I wish to commend the establishment of the Inspectorate Unit, with its proper cadres and responsibilities. From time immemorial, when the Forest Department was started, forest guards and the likes have never been promoted through the ranks. But I am happy that they are now able to climb up the ladder from a simple constable to a commandant of the force. That will enhance protection and responsibility. They will not depend on general police and the Administration Police, who have really destroyed our forests.

Mr. Temporary Deputy Speaker, Sir, the Board to be established should not be a rubber stamp board. I hope the Minister will restrain himself from the usual work of Government Ministers of interfering with the boards by making decisions on their behalf. We hope the Board will be independent and have strong people who would be able to stand up against that.

Mr. Temporary Deputy Speaker, Sir, the Minister has also talked about increasing the morale of workers in the department. That is welcomed because the morale of an individual who collects revenue for the Government and is not given his dues would be very low. Such a person would definitely turn to corrupt ways of life. This is a positive move which I would like to commend.

In the recent past, we have been calling for devolution in this country. We have actually put it in the draft which, although contentious to some, I think it is in the right direction. Devolution should also come with these forests. We need to manage our forests locally. The Kenya Forest Service should only be contracted but the local authorities should be the owners, on behalf of *wananchi* on the ground. We need to own these forests because we have seen mismanagement of the forests by the officers and residents and have done nothing about it. So, we want to have a say on this.

There are trust lands where forests are established by the local authorities. We want the Kenya Forest Service to manage them also so that they can make them viable for the local authorities.

Mr. Temporary Deputy Speaker, Sir, this Bill talks about the membership of the forest community. Forests are there no matter how far you are. Forests should be owned; not only by the five-kilometre radius which the Bill is talking about. It should be within the jurisdiction of where the forest areas are. The community is a stakeholder because, in a forest, will have water running down to the drier areas. Those people in the lowlands are also stakeholders because they are interested in the water. If Egypt can still dictate to us now, why do we not also dictate to our people who live next to the forests? So, we actually need to be put close to it.

There are traditional associations, which have also been mentioned in the Bill. Traditional associations by the community; their interests being taken care of is of much importance. The people who actually protect the forests are not the officers. It should be the local community themselves because they are the people who see what happens, on a daily basis, in the forests. We have used the forests in the past for many traditional rites and that right should not be denied to us. We need it, we have been taking our boys there, we have been doing other things there, even the rain-makers have been going there. We need that right to be put in the Act so that the Minister, the next day, may not declare that area to be forbidden to residents who are used to it. We are used to those things and, therefore, we cannot be denied our right.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to disturb my friend, hon. Sirma, but I am wondering what they take their boys to do in the forest!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, circumcision ceremonies in our places are still done in the forests and not in the hospitals like where hon. Mwenje takes them.

(Applause)

Mr. Mwenje: That is where they plan tribal clashes!

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Mwenje!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the management of the Kenya Forest Service is much welcome. I support it, but there are issues which need to be addressed by the Minister and this is of much importance to Kenyans. I think we even discussed it in Mombasa. That is the issue of the regularisation of charcoal burning in this country.

The Bill actually talks about it. But, vividly, it is still interested in giving the police a way of engaging in corruption. Police officers have really harassed Kenyans in this country. Anybody seen with charcoal is a "thief" from the forest. We must understand that not all charcoal emanates from the forest. We also have bushes in our farms where we clear them so that we can grow our crops. We have areas where we want to graze our animals and so we deforest those thorny trees. This has become a terrible issue which the Government should actually address so that police officers will forget about the "toll stations" they have been having in this country, everywhere. You go to any town, even those ones on bicycles, I am told they are now demanding Kshs20 per bicycle. They have now gone up to Kshs2,000 for a pick-up and thousands and thousands more for the others. The regularisation of the charcoal burning in this country should be a priority because if we want to address poverty eradication, as the Minister said, we cannot just go and enrich police officers in our efforts to do this.

Mr. Temporary Deputy Speaker, Sir, the Minister has also mentioned the issue of leases. I think we were so categorical in Mombasa that the issue of lease is not a welcome idea and we shall not support it. If today, I am over 40 years old and I am given a lease of 30 years, of course, that is my lifetime. What will others do to get that forest? There is that right which they need to have. There is the issue of those who are living around there to get firewood, graze their animals and even to do cultivation. So, we do not need to give out leases. We may get foreigners who are very barbaric and colonial. We do not understand what kind of lease will be given. Will the community be involved in the writing of the lease? If not, then we are not part of that. We do not need to be part of an agreement where our people will suffer. This is so important because we may think we are trying to make the forest better. Yes, the Bill addresses it, but if we are going to bring other mechanisms which will remove other people from the forest, then it is not a good Bill.

Mr. Temporary Deputy Speaker, Sir, there is the issue of the forest conservancy areas which I think, vividly, the Bill has divided this country into. The Bill says, from the direction of the Minister, certain things will happen in that conservancy. But I want to say that it should be the other way. On proposals from the conservancy committees, the Minister may approve what is right for those people. We have been going from top to bottom. Why do we not just start from the ground and go up so that it gets the goodwill of Kenyans? Kenyans need to be involved in the management of forests. As you can see there is a composition of the conservancy committees areas, but where are the Members of Parliament, the representatives of the people? Even if we do not become executive members of that Board, we need to be *ex-officio* members so that we can give our input. This is because we are really the voice of the people; the voice of the many who are not able to talk in that area. We need the hon. Members of Parliament to be involved in the conservation of forests.

Mr. Temporary Deputy Speaker, Sir, the establishment of the Forest Conservation Fund is a welcome move. I think this Fund should actually be used for the protection of the indigenous forests and the funding of the local authority forests where there is mismanagement due to lack of funds. If

they had the management and funding capacity, those local authorities would have managed our forests as well as the Kenya Forest Services. This is so important because our people have a lot of attachment to forests. The management of the indigenous forests for purpose of wildlife, soil and water conservation is a welcome move because it is our source of water. However, we also want the Government to think about those who live around there. Most of the time water sources emanate from forest areas and the people who live around there usually do not get water. It is supplied downstream and then we leave the people living around that area to go back to the water source and destroy it because they have no access to water. We need stakeholders to be given priority in matters that concern our environment so that they can conserve the forests.

On the issue of participation of the community in management of forests, there are times when directives are against the wishes of the people. I have always said that we need consultation so that we can get the goodwill of the people.

On the issue of penalties, Sections 56, 57 and 58 are so open that anybody can be framed for an offence. Offences should be clearly defined so that local people do not become victims. We should have the rights of the people put in one chapter and the wrong-doings of the *wananchi* in another.

I wish to also comment on what Mrs. Mugo has said about bhang growing. It is still an ongoing process and there is no Government which can be blamed. However, if anybody was to be blamed, then everybody is carrying the blame as of now because it has not stopped. It is an illegality that is still going on. As I have always said, this Government is really adhering to the *Nyayo* philosophy. The untouchables in the KANU Government as far as forest harvesting is concerned still exist and the NARC Government has continued to shield them.

Africans have been disadvantaged in this country more than anybody else as far as forest management is concerned. Asians are the only people allowed by law of this country and the law of this Government, as of now, to harvest forests. They are being given subsidised prices. Where an African buys a cubic metre of wood at Kshs1,350, an Asian buys at Kshs360. What a discrepancy if this Government is serious about corruption! There is no seriousness; the order is the same yesterday, today and forever. We need to be told if we are going on with what they - the people who actually were agitating against destruction are the same masters today.

The Government has stopped the *shamba* system in the forests. Let me tell his Government that the *shamba* system is the only way of ensuring that forests are taken care of. The department concerned with forest management does not have the capacity to take care of our forests after the retrenchment of its staff and the expiry of the Kenya Forest Development Project which was funded by the World Bank. The department has remained poor and cannot raise seedlings. Indeed, it is our farmers who have been taking care of our forests through the *shamba* system. We should not blame our farmers for the shortcomings, but the poor management of the forests. The *shamba* system has done us well; we have established plantations. What the M/S Rai Ply Wood Limited and the other Asians are cutting at the moment is as a result of the *shamba* system which was started way back before Independence. We really need the department to address itself to this issue. This is because you need about 50 man-days to establish a one-hectare plantation.

Mr. Temporary Deputy Speaker, Sir, in the current system, we only need 12 man-days to establish the same. I have tried it and it is an impossibility! Through the *shamba* system, we save a lot of time and we can afforest this country within a very short time, if we are serious. If this Government is serious, we want them also to show us what the M/S Rai Ply Wood Limited and M/S Pan African Paper Mills have been planting on television. This is because we have been seeing demonstrations through the electronic and print media. We see on television people planting trees but when we go to the ground, they are not there. We need to see that.

Mr. Temporary Deputy Speaker, Sir, on the issue of public utilities, the past Government allowed schools and hospitals to be built. These are public utilities and we need the Minister to move with speed and gazette those areas so that these facilities can be built. We do not need to be harassed! In many of our schools, currently, our pupils and parents are being harassed and we need to stop this.

On the current state of our forests, we are talking about 1.7 per cent. This percentage is just not - possibly the people who have been doing this survey have been doing it because they want work so that every time they are assessing. I wish they could be able to tell us what is in our land and *shambas* so that we can exactly know.

Finally, I would like to ask the Minister to move fast and stop corruption that is going on in the department. When forest officers were interdicted, M/S Rai Ply Wood Limited and M/S Pan African Paper Mills were cutting trees. They were cutting those trees, but we did not know who was being paid the revenue. Some officers were reinstated after giving inducements. Therefore, the Minister should actually curtail what is going on in our forests. Our communities are ready to protect our forests. Recently, in my constituency, there was a forest officer who was shown on television cutting down trees indiscriminately. However, the department claimed that what we saw on television was not the truth, but a stage-managed show. How could we stage-manage destruction activities in our forests? We do not stage-manage such activities. We were only trying to expose that corrupt officer. Corrupt forest officers should actually be contained. Recently, His Excellency the President said that such officers should be caned before they are sacked. I wish he made good his threat.

In fact, he should visit Koibatek District and most parts of Rift Valley Province to see for himself the wanton destruction of our forests. At one time, we saw on television the destruction activities being carried out in Uasin Gishu District. It involved forest officers who claim to be protecting our forests, but they denied. It is a pity that the same people who are supposed to protect our forests have now turned out to be the real "butchers" of our forests. We do not need those "butchers" of our forests at the moment. We need them to protect our forests.

Mr. Temporary Deputy Speaker, Sir, I hope we will come up with the necessary amendments to this Bill, so that we give it a safe landing.

With those few remarks, I beg to support the Bill.

Mr. Sungu: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I also stand to support this Bill. I want to thank the Minister for bringing it at this very time. Unlike other Bills that we have seen before in this House, this Bill is as a result of very wide consultation. I remember we did hold a workshop in Mombasa which was an eye-opener. In the workshop, we were saddened to learn that the forest cover in this country is only 1.7 per cent as opposed to 10 per cent, which is the international standard under the International Convention. This is a disaster!

Mr. Temporary Deputy Speaker, Sir, the result of that low forest cover portends that there is change in rainfall patterns and major soil erosion. This has resulted into siltation of our major rivers, dams and lakes. Fertile soil has been washed away by these rivers and lakes. This is evident in River Nyamsoi in Kisumu, Budalangi, Nyatike, River Kuja and River Miriu. This is a result of heavy soil erosion because of the low forest cover. It is also because of the use of fertilizers in upstream areas. The result, of course, in Lake Victoria, for example, is the water hyacinth. The water hyacinth is growing in the water because of heavy nutrient loading from these rivers which results indirectly from deforestation.

Mr. Temporary Deputy Speaker, Sir, although there are pros and cons for the new wetlands in Lake Victoria area, we must recognise the fact that cultivation of food crops has reduced. For example, Kisumu is a net importer of food right now. We import most of the horticultural products

from Kakamega, where the Chair comes from, Kisii Highlands, Kericho, Nandi and even as far as Kinangop and Molo. This is the case, and yet we can grow those crops in the area because it has very fertile soils. Therefore, deforestation has affected my constituency very much. I agree with the Minister that deforestation is an emerging challenge that we must come face to face with, right now. Although he referred to a Forest Master Plan, which I do not know whether it was produced in 1984 or 1994, I want to criticise one aspect.

(Mr. Mwenje consulted with Mr. Sirma)

Mr. Temporary Deputy Speaker, Sir, protect me from Mr. Mwenje because I can hear him consult from here and I can hardly think!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Mwenje!

Mr. Sungu: Thank you, Mr. Temporary Deputy Speaker, Sir. If we had a Master Plan in 1984 or 1994, and I stand corrected on the year it was produced, why has it been in the shelve all this time? It is reminiscent of the previous Government where many studies had been done by experts but the results gathered dust in Government shelves in every Ministry without being implemented. This country is blessed with the most important resource - the human resource. We have got people who are highly educated and yet we do not take advantage of them. Instead, we want to listen to foreigners and expatriates at very high costs, and yet we have studies which have been carried out by our people but have not been implemented. I would like the Minister to request his other colleagues to bring more similar Bills before the House, and take advantage of the information which is already available after consultation with hon. Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, this Bill is timely because it will provide for legislation and an institutional framework under which we can reform this sector. I now want to say that protection of our forests must be our first priority.

Mr. Temporary Deputy Speaker, Sir, you and I come from Western Kenya. You know very well that even in Shinyalu and Kakamega forests, the forest cover is only one kilometre or half a kilometre. If you are on the road, you will see the forest cover, but if you go inside, you find a huge maize plantation and other crops. Crops are grown where forests ought to have been. Even the hon. Assistant Minister said that, in some areas, they even plant bhang. I am really concerned about the condition of Mau Forest. I urge the Minister to take immediate action. If you had a chance to fly over Mau Forest or even Aberdares Forest, you would even cry because there is no forest left. This is the case, and yet the Mau water catchment area is the lifeline of Lake Victoria. It feeds rivers Miriu, Gucha and Mara and many other small rivers with water. Those rivers will dry up. We know very well that about 80 per cent of the water which goes into Lake Victoria comes from Kenya. Could the Chair imagine a situation whereby the water level of Lake Victoria eventually reduces and dries up because of lack of afforestation in the water catchment areas, such as Mt. Elgon? It is unthinkable! It means that there will be no rain in Kisii, Kericho, Mt. Elgon, Kakamega, Shinyalu and even in Kisumu Town East Constituency which I represent. That will be a disaster. This is why we have to take action now. Now means now!

I must encourage and agree with the Minister that those forests must be managed efficiently and effectively, and that we must enforce forest protection properly. I have already talked about the dangers that we face because of acute deforestation of our forests. Protection of water catchment areas must be given the first priority. We must know that the net effect of deforestation is that we will have less rainfall in those areas and soil erosion. Because of this, our future is not guaranteed.

I am glad to note that the Bill provides for the establishment of a Board which will manage and handle consumption of forest resources. This is very important. I would like to tell the Minister

that, when this is done, we must be transparent and accountable. We have heard of somebody called the "Chief Conservator of Forests". The Minister has referred to that title as being colonial. If you gave me a chance to rename that title, I would have called him the "Chief Destroyer of Forests." This is because his job was simply to license the destruction of one forest after the other. We know people who were allocated large chunks of forests which they did not do anything with, except to sell and make huge profits. Commercialization of forestry is very important because it has got a lot of money.

We know for sure that, in South Africa, for example, there is an initiative whereby genetically modified tree species are being planted. Those are fast-growing tree species and can be used to make money within three years. If we taught our people that there is money in afforestation, they would be friends of forests other than enemies. They will not see the need to clear forests, but they will see need to conserve them for posterity as they farm and earn from them. Therefore, the habit of clearing forests to provide room for agricultural cultivation must be checked immediately. Although we may get our maize in the short-term, the net effect will be serious in the long run. That effect could well provide for the extinction of Kenya.

This Bill provides for the establishment of the Forest Authority and the Minister will transfer the Forest Department to that Authority. I do hope that the Minister will now have a chance to get rid of those people in the Forest Department who have been responsible for the destruction of forests because they are well known. They have been mentioned in reports and in this House. We know them and, if he wants our help, we can always provide it to him.

I think the duties and functions of the Authority are well formulated, for example, formulation of policies, management, conservation, forest protection and enforcement of laws. Of course, this should result in proper management of forests and discourage illegal logging and clearing of forests. I agree with the Minister that the most important thing that he has provided for in this Board, which has not been provided for in many other Authorities, is the approval of Parliament. I want to disagree with one colleague who has said that hon. Members of Parliament should, in fact, be members of this Board. The role of Parliament is oversight. We want to approve those who are qualified when the Minister brings their names to the House, so that they do their job when they are appointed. If they make a mistake and appear before a Committee of this House, we will dress them down and show them the door. Honourable Members of Parliament should not be directly involved, except in an oversight capacity. In that respect, I entirely agree with the Minister on that aspect.

Mr. Temporary Deputy Speaker, Sir, the Minister has also talked about categorisation of forests. That is State, local authorities, private and provisional forests. I want to remind him of one thing that we agreed on in Mombasa. As I have said, the Mombasa Workshop was an eye-opener. That workshop really educated us on the need for afforestation.

Mr. Temporary Deputy Speaker, Sir, could I please implore the Minister because there was an idea that we discussed, of inheriting hills that cannot be farmed and plant them with forests. The Government should provide a special funding for that. Even in Kisumu, when you are at the airport and you look yonder, you see the Kisumu Hills. On the sides of those hills, nobody can live there and cultivate. If you planted a forest on that hill, you will make that area more beautiful and, above all, you would make it more environmental friendly and encourage rainfall from Lake Victoria.

I come from Kajulu, which neighbours Aldai, Serem and Hamisi areas. In my area, there have been two freak storms. Last year, immediately after being elected and sworn in, there was a freak storm which occurred about one kilometre from my home. It was right next to Nyando or Nandi Escarpment. That kind of storm has never been heard of or seen, since my grandmother was born! Nobody in living memory remembers any such occurrence. That storm blew off the roofs of

over 70 homes! It is just fortunate that nobody died! But we had to go there as a matter of emergency.

Now, the other day, in fact this month, a whole primary school, built using donor funds, had the roofs of about 16 classrooms blown off by the same freak storm in the same area. The reason for that has been mentioned. Although somebody has not stated clearly the effects of charcoal burning, I want to say that it must be discouraged. That is because it has reduced the forest cover in Nyando or Nandi Escarpment, up to Bojoge area. That has resulted from charcoal burning and cultivation on very steep hill sides.

Mr. Temporary Deputy Speaker, Sir, those are our voters! Let us provide them with the means. Afforestation can provide them with the means of having a livelihood and earning good money, rather than destroying our forests. The freak winds that I am talking about; the extreme weather conditions are due to the fact that, the forest cover has been destroyed, and the land has been laid bare.

I want to implore my colleagues on the Nandi side of the escarpment to discourage the annual ritual of setting fire to the forests, so that it can provide fresh grass for grazing. That also destroys indigenous trees. We have talked about the bio-diversity and the tragedy in Africa, and Kenya in particular. We have managed to destroy the original indigenous species of trees and forest cover in this country. Now, we are going to rely on new species from outside the country.

Mr. Temporary Deputy Speaker, Sir, there is untold damage being done to the bio-diversity of this country. Even our forefathers relied on those trees for medicine! We are going to lose a lot! We are going to lose certain species of trees, if nothing is done about it now. The burning of those forests is a danger to the future. We are not talking about the present! Mr. Sungu may well live for another 40 years if God is willing, although the average life span of a Kenyan today is 39 years. Therefore, right now, at 50 years of age, if I died, people would as well say that I died of old age.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, what about our grandchildren? What will happen to them? We must take action now, and "now" means "now"! I want to agree with the Minister that we must encourage the proper exploitation of forests. Like I said before, we must seriously consider the question of commercialising forestry so that--- There is a noble idea that has come up. A group of people from South Africa are coming to study a way in which we, in this country, could plant trees in areas which are not under agricultural cultivation. We can plant one or two acres of trees and, in three years time, we will be getting Kshs6,000 per tree. You can calculate that. In one acre only, if you count the number of trees - and the experts are there to tell you - you will be getting something close to Kshs1 million. That is an amount that you cannot get from many other crops. You do not even get that kind of money from sugar-cane, which is now the prevalent crop in my area. So, we should encourage commercialisation of forestry, so that our people could look at it more as a way of making a living, rather than just clearing the trees and so on.

Mr. Temporary Deputy Speaker, Sir, let me say that, in fact, the species of hard wood are no more in this country. In Ukambani, a lot of it has been used for carving. It was for a short-term gain. It is like somebody in my area scooping sand from agricultural land and selling it to the people with big lorries for Kshs20,000. He then, maybe, pays school fees, eats a few *omenas* here and drinks something here and there. After doing all that, that Kshs20,000 will be gone within one week, but the land that he would have farmed for years and years on end is gone because it is now going to be a dam whenever it rains, and the dam takes a long time to dry. By the time it dries, he cannot plant and it is a disaster. So, we must look into the question of our own heritage that we have inherited

from our forefathers.

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

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

Mr. Temporary Deputy Speaker, Sir, I would like to criticise one element about the Director being allowed to enter into agreements. I hope that transparency and accountability will rule, and that there will be a way in which Parliament and the board can supervise and ensure that the rules are followed. Like we said, prevention is better than cure, and conversion of forest land for other uses is something that we should never accept in this country. I know there are my brothers who are now farming in the forests, but believe me or not, and I am very concerned about this, in the short-run, they will harvest their maize and so on, but in the long-run, they are going to do untold damage to themselves because the rainfall pattern in that area is going to be affected. This must be stopped for the sake of future generations.

Mr. Kipchumba: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Sungu, would you like to be informed?

Mr. Sungu: Yes, Mr. Temporary Deputy Speaker, Sir. I do not mind to be informed by my friend, hon. Kipchumba.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I wanted to inform the hon. Member that, indeed, the farmers who practise farming do not harvest the trees but they are the ones who plant the trees. They just harvest the crops.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I appreciate the information, except the fact that we should be fair to each other. When you clear an indigenous forest and you are now encouraging the main trees to grow, in the undergrowth that you are clearing, there is a balance that you are destroying that will never return. If I am wrong, let the Minister go to his experts and come back with an answer to that. You are going to destroy a natural balance because most forests have some undergrowth which goes with them, even crawlers, and this would be destroyed by the farmers.

Mr. Sirma: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Sungu is actually misleading the House. There is no area cleared in indigenous forests where people plant. They plant where plantations have been cleared.

The Temporary Deputy Speaker (Mr. Ethuro): That is not a point of order; it is a point of argument!

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I do not know how this argument is going to go. How was it cleared in the first place? When it was cleared, it was originally indigenous, and so, damage has already been done there. I think, let me continue because my time is running out.

Mr. Temporary Deputy Speaker, Sir, as I said before, forest damage has got very long-term effects and loggers and farmers will not see the long-term effects. They will only see the short-term effects and charcoal burning must be discouraged. We must educate our people about the importance of forests. Management and education of communities is important. There is one thing we discussed in Mombasa and I want to remind you that we discussed something about school-based forestry planting programme. This should also be encouraged because we want to make sure

that these forests are planted in as many areas as possible for the future of this country.

Mr. Temporary Deputy Speaker, Sir, it is lamentable, if I may go back, that most of our forests are not forests at all, and it is true even outside Kenya. If you look at the equatorial forest in the Congo, it no longer exists. It has been ripped and "raped". It has been looted by the foreign armies that have been going there without any concern whatsoever for the future, and the effect is going to be astronomical. We must never let this happen, even if it is in Kakamega Forest where the Minister comes from because I know you are my neighbour and I know the area very well, and I have been in that area.

With those few remarks, I beg to support.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, thank you for recognising me to contribute to this Bill, whose philosophy is very close to my heart. Forests and forest management are areas that successive governments in Kenya have not paid adequate attention to. Every single year, our forest cover reduces alarmingly. We have been told of the disaster that has visited the Mau, Mount Elgon, Mount Kenya forests, Aberdares Ranges and many others. There is nowhere where we can pride ourselves with improvement and extension of forest cover. Everywhere is reduction. Every single place where we have had tree harvests, human settlements move in, sometimes under the guise and promise that the farmers will come in, uproot the stumps and two to three years after that, trees will be planted again, but the story is routinely the same. No re-planting is done.

Mr. Temporary Deputy Speaker, Sir, when we talk of forests, we have to identify the human needs and the benefits that come from forests. Forests are not forests when we declare them no-go zones. We need a philosophy, an orientation and an attitude of Kenyans learning how to live within and with forests. Our great grandfathers and our forefathers--- I believe even at the time our older brothers here like *Mzee* Nyachae were born, their parents lived very harmoniously with forests. Forests were the source of life. They provided us with medicine, food, including fruits and so on and so forth. Then, some mania came into us, and we have had prime enemies of forests in this country which or who I can identify. The first one is the British American Tobacco (BAT) Company. Wherever BAT operates, forests are disseminated en masse under the guise of curing and smoking tobacco leaves. No efforts are made to re-plant trees. No penalties are meted against them. We have saw millers who have visited untold destruction on forests. They need to be prosecuted when this law comes into place. We have companies like Rai Ply that have elaborate programmes on television, showing how they are planting trees and greening, their attitude and every aspect. There is no tree they plant. All they do is to harvest trees everywhere. This dishonest behaviour by corporate organisations must be checked and stopped.

Mr. Temporary Deputy Speaker, Sir, then you have the last individual enemies of forests who are the charcoal poachers and burners, who burn charcoal day in, day out. They cut even immature trees. There is no regulation on who burns charcoal and how charcoal trade and use can be regulated. This, again, must be addressed.

Mr. Temporary Deputy Speaker, Sir, this Bill attempts to address several of those issues, but not very adequately. I would have loved if, in the usual manner, there was an input from the Departmental Committee responsible for oversight to the Ministry of Environment, Natural Resources and Wildlife, to look at the Bill as is required and bring us a detailed report. Unfortunately, I do not know what is happening to the rules of this House. When we prepared and wrote down the current Standing Orders, it was mandatory that every Bill that comes to this House must go to the relevant Departmental Committee, which would then do a thorough job and bring a report to this House. In return, that report would give us an informed direction of debate. This has not been done on this Bill and other several Bills we have been debating on the Floor of this House.

I think this lapse in the management of the business of debate in the House ought to be checked. All hon. Members of this House must do that because when we set up Committees of the House, we give them a narrow view of every Bill so that they can give us a better idea.

Mr. Temporary Deputy Speaker, Sir, one of the things which this Bill leaves out; and I want the Minister who has been very active on environment issues to pay close attention, is the protection of the riparian forests. In the colonial days, and about ten years after Independence, it was a criminal offence to cultivate land up to 20 metres from the river bank. This was meant to protect the rivers and to curb soil erosion. Nowadays, people plant crops up to the river itself. You will find trees planted by human beings in the river. That is the destruction of soil protection and the river alike. So, heavy penalties should be meted against people who violate such regulations. I want to urge the Minister to make sure that this point is captured at the end of the debate.

Mr. Temporary Deputy Speaker, Sir, this Bill has provided very well, in general terms, about the management of forests. It has also provided for creation of forests. Knowing and seeing how Kenyans have become callously irresponsible and failing to obey the law, I would prefer that the Minister introduces criminal sanctions to owners of land who fail to set a portion of their land for tree planting. I have constantly said that whether you are planting a woodlot or a fence around your land, there should be sufficient extension officers to advise landowners who must be required by law, with sufficient criminal sanctions, to plant a minimum of 10 per cent of the landholding with trees. This is the only way we will be able to resuscitate the environment that we have so badly damaged.

All good things must come through sacrifices and that must include sending a few landowners to jail if at all they do not abide by the law. If you go to Kitale or Eldoret, the farmers who owned large tracts of land had rain-fenced their lands or set up woodlots of very admirable trees which now the new generation of African landowners including Members of Parliament have destroyed as if they are at war with the environment. I think we need to go back to the good old days. We should make sure, it does not matter how small or large your parcel of land is, that we plant trees.

Equally, Mr. Temporary Deputy Speaker, Sir, there must be regulation on tree harvesting. We do not want to go back to the draconian days of prying into people's private property. But the Government has a duty, as the custodian of public good, to make sure that if a landowner is mowing down 50 acres of forest land, some duty is imposed on him or her to re-plant a similar acreage, either on the same plot or in the adjacent plot. That is the only way we can sustain forest cover.

Mr. Temporary Deputy Speaker, Sir, due to population pressure, we have had a very reckless system of cultivation of land, especially in rocky and hilly areas; even where you can see very clearly that any misadventure of farming will yield nothing, people are still cracking through rocks purporting to plant crops. This Bill should also address the issue of afforesting hills and little mountains, where people have destroyed them to the extent that the slightest showers roll down tonnes and tonnes of loose soil cover. The rivers that flow into Lake Victoria and into the Indian Ocean; rivers that many years ago, about 10 to 15 years ago, used to run with crystal clear water through which you could see fish and other small animals in the rivers. Now you cannot see anything. All the rivers look blue, others red and others brown because of the heavy silt that they are carrying.

There is another thing which is not properly addressed in this Bill, Mr. Temporary Deputy Speaker, Sir. We need criminal sanctions imposed on people who recklessly expose soil cover to erosion, either by wind or by water, when it rains. Biologists will tell you that anywhere grass grows, a tree can also grow. Which means that even in Northern Kenya, which is described as Arid and Semi-Arid Land (ASAL), anytime it rains for two or three days, the whole area turns green. I

believe that with enough attention and investment, we can turn the whole of the northern part of this country into forest. This forest will attract rain, change the climate, and our brothers who live under the roughage of weather in Northern and North Eastern Kenya will enjoy the same pattern of life that other people in other parts of the country enjoy.

Mr. Temporary Deputy Speaker, Sir, I would also want the Minister to--- It is a pity that of late, in the name of clearing roadside reserves, the Ministry of Roads, Public Works and Housing has been recklessly destroying trees along the roads!

(Applause)

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the speaker on the Floor to criticize his fellow Minister in the name of collective responsibility? He is collectively irresponsible as these issues are supposed to be discussed at the Ministerial level. It is Government action!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Sungu! You do not know any better than the Assistant Minister. He has got a right as an hon. Member of this House to air his views!

(Applause)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir. We do not have any collective irresponsibility in the Government. We have collective responsibility, and cutting trees wantonly is irresponsibility and not responsibility!

(Mr. Sungu interjected)

Mr. Temporary Deputy Speaker, Sir, please protect me from Mr. Sungu!

The Temporary Deputy Speaker (Mr. Ethuro): There is no threat to you! You are the one who is--- Proceed, Mr. Wetangula!

(Laughter)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, you have seen the Ministry of Roads, Public Works and Housing cutting trees everywhere. In fact, I want hon. Kulundu to include in this Bill a clause to the effect that we should plant trees as avenues along all highways in this country. This will be one way of increasing our forest cover. We should not cause wanton destruction of trees along the roads. In fact, we need those roads to be repaired and we should not cut down trees along them.

Dr. Khalwale: On point of order, Mr. Temporary Deputy Speaker, Sir. The issue of afforestation is very close to the heart of Dr. Kulundu. If, indeed, there is a Member of the Cabinet who is responsible for deforestation and is frustrating Dr. Kulundu, as has been alleged by Mr. Wetangula, can the Chair ask Mr. Wetangula to name that Minister, so that Dr. Kulundu can deal with him?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, that is a mischievous request.

The Temporary Deputy Speaker (Mr. Ethuro): Dr. Khalwale, you are wasting Mr. Wetangula's time.

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

The Temporary Deputy Speaker (Mr. Ethuro): You are out of order!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, those who have lived in this country can tell you that apart from the times of flash floods, when we have storm water, every single river in this country, especially those flowing into Lake Victoria, have reduced the volume of their water flow by close to 50 per cent. They only swell up and destroy Budalangi and areas of Nyando when we have flash floods. This is because the water catchment areas have been destroyed through the destruction of trees.

Mr. Temporary Deputy Speaker, Sir, this may be in the Environmental Management Act, I am not quite sure, but I would want the Minister to address the issue of protection of wetlands and water catchment areas through this Bill. We have certain species of trees that protect and harness water sources. We have other species of trees that destroy water sources. Recently, I read some article where it was indicated that the flow of the Ewaso Nyiro North River; the one that flows from the Aberdares towards Isiolo through North Eastern Kenya, has virtually dried up because all the wetlands from where the river source lay in Nyandarua and Laikipia have been drained by farmers. I have also seen this in other areas. It does not matter the size of the wetland, but almost everywhere you go during the dry spells, you find subsistence farmers draining wet areas to plant vegetables. This should be checked because we are undermining the sources of our water.

Mr. Temporary Deputy Speaker, Sir, it is good that this Bill is setting up a Board for the management of forests. I do not know how the Minister will address the issue when the new Constitution comes into place and we have devolved areas. The presumption in this Bill is for the Central Government only. The Minister should have a provision that at appropriate times and as the need arises, he will set up boards at devolved areas, so that what is being done at the Central Government level is replicated at the local Government level. If we are going to have forests at all the levels that the Minister has set out, then management at the top only may not be helpful.

Mr. Temporary Deputy Speaker, Sir, something else that needs to be done urgently is that this country is in dire need of adequate supply of forest extension and environmental officers. In many parts of the country, most of the people who masquerade as foresters have no training in forestry at all, to the extent that when you seek professional advice from them, you do not get any at all. The Minister should, in this Bill, set up a training centre, that he may even upgrade to the degree level, to train people who can help the country in the management of our forests. When the Minister comes to reply, I would want him to tell us what his vision is if he continues to be the Minister for Environment, Natural Resources and Wildlife for the next five years. How many hectares of forest coverage of this country does he want to achieve at the end of his tenure of five years. This is the legacy that we would want Dr. Kulundu to leave to this country for the five years he will be privileged to be the Minister for Environment, Natural Resources and Wildlife. This is very important because it is this kind of vision that makes us support the idea that the Minister is doing a good job.

Mr. Temporary Deputy Speaker, Sir, Clause 56 provides for penalties against those who transgress the provisions of this Bill. This is a very dangerous clause. The Bill allows individuals to develop private forests. Once you develop a private forest under the Constitution of this country, it is your property and subject to certain regulations, you can use it the way you want, provided the Minister provides you with a provision like what the Sultan of Zanzibar did; you cut one and plant two or three trees. Offences are created here that can be used very vindictively. Clause 56 (1) says:-

" Any person who -

- (a) commits a breach of, or fails to comply with the provision of this Act;
- (b) commits a breach, or fails to comply with any of the terms and conditions of a

licence issued to him under this Act---"

That is all right.

"(c) fails to comply with a lawful requirement or demand made or given by a forest officer---"

This is very vague and it can be liable to abuse. The most dangerous one is (f), which states:-

"Any person who fells, cuts, takes, burns, injures or moves any forest produce".

How do you injure a forest produce, and who determines the degree of the injury? If you fell a tree on your own farm, how does it become an offence? If you go further, the punishment is very heavy. You are liable to conviction, to a fine not exceeding Kshs500,000 or imprisonment for a term not exceeding five years.

Mr. Temporary Deputy Speaker, Sir, (i) says that any person who damages, alters, shifts, removes or interferes in any way with the boundary of the forest is also liable to that kind of punishment. I am thinking of the poor people in the rural areas. If our constituents, whose only source of fuel is wood, go to a forest, whether it is a Government-owned forest or private forest, and fetch deadwood for fuel, under this Bill, they will be liable to imprisonment for five years or a fine not exceeding Kshs500,000. This cannot work, and the Minister should classify the offenses that carry those heavy penalties and the minor transgressions to forests that the ordinary mwananchi is bound to commit. Let him lock up saw millers who go out with power saws, mowing down trees everywhere. Let him lock up poachers of timber; people who go to forests and cut timber and take it away. This is why I said, when I started, that we should not treat forests as no-go zones. Forests must be part and parcel of our lifestyle. People must live with forests. If any community knows how to extract medicinal benefits from a forest, they should go and do it. If women who live along the forest edge want firewood, short of cutting trees, they should go and collect deadwood for firewood. If people live around forests and they can graze their animals without destroying the forest, why not? This is an issue we should address so that we learn how to live with forests. That is the only way we can care about forests.

Mr. Temporary Deputy Speaker, Sir, a good example are the Maasai people of Kenya. If you compare them with people from Western Kenya, where I come from; if you come to my place, people have eaten every single wild animal. They eat squirrels, rabbits, name it. But the Maasai have been wonderful conservationists. They have learnt how to look after game or wild animals, by simply saying they have enough domestic animals to eat, so they conserve wildlife for us. That way, you can credit the Maasai people for being wonderful conservationists. If we can encourage people that trees are part and parcel of our households and our lives, it will be wonderful.

Mr. Temporary Deputy Speaker, Sir, another point I want to mention is that the Minister should actually put in a provision that requires schools and public institutions to mandatorily plant trees. This issue we keep hearing here about roofs being blown off is because institutions do not just bother to plant trees, first as windbreaks, and secondly for the environment. Thirdly and more important, now that we are talking about forest farming, they will be earning income out of it.

As I finish, I would like the Minister to pay attention to the issue that is chocking this country. This is the issue of plastic paper. Recently, I went to Venezuela and I was pleasantly impressed that they have banned the use of plastic sheeting as wrapping materials, paper bags and so on. They only use pulp paper for packaging. If you drive along our highways; for example, in Industrial Area, Athi River and many other places, there are heaps and heaps of plastic paper that never rot; nobody collects it, nobody burns it, and nobody recycles it. The Minister must take a bold step in encouraging the growth of forests. We must equally encourage the use of forest products like pulp and paper for packaging, and ban the use of plastic sheeting for whatever reason within this country. Those like my colleague here who keep cattle know the dangers that plastics visit on their

cattle and so on and so forth.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to urge the Parliamentary Departmental Committee responsible for this Ministry to bring us their views on this Bill before we finish debating it. Lastly, I would like to thank the Minister for bringing this Bill. The spirit is good, and I hope he will take into account all the issues we are raising here, so that at the end of the day, we do not have a Bill like the Sugar Act, which we passed, and immediately it became unworkable. We are trying to amend it.

With those few remarks, I fully support this Bill.

Mr. Munya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I would like to thank the Minister for taking this bold step of bringing a really---

Mr. Kipchumba: On a point of order, Mr. Temporary Deputy Speaker, Sir. Many of us have been here this afternoon and you have actually failed to see that there is the other side of the House. I think it is only fair that you hear part of the Opposition. You have now called upon three hon. Members from the Government side.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kipchumba! I am sure you know you have to work hard to catch the Speaker's eye.

Proceed, Mr. Munya!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I was saying that this is a very bold step to address our forest sector that has really been hurt by first of all, a law that had many loopholes, and a regime that was ready to use those loopholes to enrich itself. This is what the Assistant Minister has described as the forest vultures. Many of them are roaming around even to this day, and being reported in the newspapers that they have not even paid for the forest produce that they have been collecting. I am left to wonder what the Minister is doing. In newspaper reports, very senior members of this society are still owing the Forest Department billions of shillings from forest products that they harvested many years ago, and they are not yet paying. Does that give us hope that what is in this Bill is going to be implemented if we have few debtors who are busy now trying to convince us on how they can advise us on how to conserve forests?

Mr. Temporary Deputy Speaker, Sir, the Bill is very good. There are many innovations that the Minister has come up with. One of the very important innovations is that the Bill takes away those draconian powers that the Minister used to exercise and vests them on a board. We expect that the board will be more responsible and act as a check and balance. When the Minister had all the powers to do whatever he wanted to do in the forests, it was terrible. You would wake up the following morning and you would find a gazette notice degazetting a certain forest, or giving them to connected individuals in Government. Chunks of forests were being given out as rewards for political support. We hope, with this new Bill, this will be history. We would not have the board itself using forests and its resources as a way of rewarding friends.

Mr. Temporary Deputy Speaker, Sir, the Minister suspended many forest officers from their work. We have never known what the vetting process was. Some of them found their way back; others went away, and we do not even know what process was used to hire new people in the forests. We have guidelines on how to hire staff and we would have expected the jobs to be advertised so that all Kenyans who want to work in the forests can get those jobs. Instead, what did we see? Those forest officers sneaked back into the Forest Department and immediately they were posted to the stations they were before, then the problem of forest destruction started again.

The biggest enemies to our forests are the forest officers. What do we do with them? We can have structural changes. We can change a forest department into a forest service and call it whatever we want to call it, but what is going to change the attitude, because that is the biggest problem we have? What will make the forester change from believing that he has been sent, for example, to

Nyambene Forest to sell those logs in the forest and make a fortune for himself, and that he has now become a conservator? The attitude issue must be addressed even as we try to change structures, seal all loopholes and all that.

Mr. Temporary Deputy Speaker, Sir, the Bill also has other kind of information. One of the important issues that I appreciate is the requirement that local authorities plant trees. When local authorities are developing new land, or constructing a housing estate, they are required to set aside 5 per cent of the land for forest cover. That is very important. Most of our towns are turning into concrete deserts, because no one controls the developers.

Any time I travelled to Meru using the Nyeri to Nanyuki Road, I used to see the Imenti Forest before getting to Meru Town. I now get shocked because the forest was cleared and allocated to private developers. What we now see there are houses. The private developers were not required to plant trees; they were only required to preserve some of the trees that were existing. Right now, there are no trees growing there. The provision that a certain percentage of development land be set aside for forests is important and should be enforced. We do not want to see it only in the Bill, but want it implemented. Giving of incentives to members of the public to own forests and develop them is very important. Giving loans, and reducing taxes so that individuals can grow forests is very important. We are told that our forest cover is below the required percentage of land that is supposed to be under forests in a country. We are approaching a danger zone. Any efforts that can assist individuals, communities, and institutions to start forests are welcome.

The Bill also contains the idea of joint management of forests between individuals and institutions. This is an important thing because it will bring partnership between the Government, the Forest Service, individuals and institutions that are interested in conserving forests and using forest resources. There is, however, a danger. What we are referring to as partnership can turn out to be a hand-over of forests. We must guard against any handing over of our forests to multinationals. Many such bodies are in this country. We see them in seminars addressing us on how to conserve forests and start plantations. This is a technology that we already have. We must guard against such organisations coming here and taking over our forests, running them and making a fortune out of them on the pretext of assisting us to conserve our forests.

We must also guard against the danger of importation of species of trees that are not good for our environment. It does not matter which country they are coming from. Such trees would make our land barren and we would not grow any crops or any other trees on our land. We need to have scientific knowledge before allowing any multinational company to import trees that mature very fast and cause danger to our bio-diversity; they would bring about an imbalance in our ecosystem. Joint management of forests must be handled very carefully and in a very constructive way, so that the benefits accruing are more than the danger of handing over our forests.

I have also read in the Bill the issue of starting an inspection and protection unit. This may be useful. However, if we have a unit of only five officers, they will not do much. Apart from creating bureaucracy, what else can they do to inspect and protect forests? I do not think that is very useful. We need to use the existing police machinery near forests. We need to train police officers to handle the inspection and protection of forests, instead of starting another small unit that will be operating in Nairobi where there are no forests.

I welcome the idea of community participation. What is happening now in this regard is a terrible stage. When the colonialists came to this country, they found us conserving our forests. Forests were sacred in our traditions. The Meru people always went to the forests to pray and make sacrifice to their gods. God was believed to live in forests. We respected forests. We respected forests! If you go to Meru, you will see that every *Njuri Ncheke* centre is a forest. You cannot touch a piece of wood from a *Njuri Ncheke* centre because the traditional Meru people know how to take

care of forests.

Mr. Temporary Deputy Speaker, Sir, in our traditional upbringing as Meru warriors, every young Meru man has to have several trees. Every grown-up Meru man who does not have a farm where he has his own trees is not respected. We had the technology, knowledge and cultural values for protection. But when whites came here, they made the forests their property. They took the forests away from us and told us we could not go to them. They brought characters who were trained in schools to cheat and steal. They planted them in our communities and called them forest officers. These are the vices we have to get rid of in forest management so that we can manage them properly, but the Minister has brought them back. He has told us that he has vetted them. How did he vet them? We have some who are senior officers in the Government, and we know which forests they destroyed. The Minister has told us that he vetted them. How did he vet them? We have some who are senior officers in this Government and we know which forest they destroyed. How are they still surviving in this Government? They have been promoted.

Are we sending the right message to the people? Are we telling them we are serious? I do not want to mention names. We know of forests that have been cleared completely, and yet the culprits in the Government have been promoted. How will we show the communities that we are serious with conserving forests when we are rewarding the destroyers of forests?

I welcome that idea about community participation and forest associations. I come from a community that respects forests. I have a tea factory in my constituency which I have been talking about all along, that uses forest products to cure tea. This factory has had a partnership with the Government on conserving forests for many years. It has started tree plantations without any help from the Government and using its own money to plant those tree plantations. It has a licence by the Government that once those trees mature, it can harvest them and use them for curing tea. Those plantations are there. The factory has even gone to the drier areas and started new forests using its own money. But when the blanket ban on the use of forest products came, the Government did not take cognisance of these special relationships that may have been existing between the Forest Department and tea factories like ours.

The *Mucii Mukuru* tea farmers have been suffering because they invested their money, but they cannot reap from their investment. I am encouraged by the Minister because he has accepted an invitation to go to Tigania East and see what the people of *Mucii Mukuru* have done so that he can use that example elsewhere. It is an existing partnership that already fulfils the provisions of this Bill. He can replicate it in other tea factories elsewhere, so that they can have a good partnership similar to that which has been existing between *Mucii Mukuru* and the Government on conservation and protection of forests. This will ensure that the communities that live around forests and use forest products, and have been protecting forests for years, can benefit from forest products.

I am not very happy with the idea that it is only the big companies like Raiply and Timsales which the Government finds capable of sustainably using forest products. We should make sure that peasants, who always survive on forests, are also involved. That is why I am welcoming this idea about forest associations; local people organise themselves into a group that can take care of forests and benefit from forest products. But this has to be controlled to make sure that these forest associations do not misuse the leeway that they will be given to use forest products to destroy our forests.

I would also say that I am not very happy with the idea of giving leases to companies, because you cannot control leases. Once you give a company a lease for 10 or 70 years to run a forest, it will become very difficult to solve disputes. If a dispute arises, it will take several years in court. If you try to throw a person out because he has breached the terms of the lease, he will go to court for an injunction. When he goes to court for an injunction, what will you do? This means the

court can give him another five years to destroy the remaining forest. It is very dangerous to give leases, or concessions as the Bill calls them, in the management of forests.

I am also very impressed with the idea of the Forest Service taking over forests from local authorities because they are unable to manage forests. These are what the Bill refers to as provisional forests. I gave an example of Narok County Council when I asked a Question in the House the other day, and I was called names. In the Mau region we have a lot of forests that are controlled by local authorities, and they are misused in the guise of trying to adjudicate land and give it to individuals. You will find that forests are cleared everyday and the local authorities say that the Government cannot say anything because these forests are under them. So, slowly and slowly, the many rivers that have their sources in the Mau region are drying up, because Narok County Council and other councils are not able to manage the forests in those areas. We have evidence to this effect, and the Minister said the matter is under investigation.

Immediately this Bill becomes law, I am urging the Minister to take over those forests. He should declare them provisional forests. He should have Narok County Council and the Forest Service managing those forests, because we are in danger of making all our rivers that have their sources in the Mau region dry up. We are not taking any action because we are saying this is trustland. This trustland is for everyone. Let us never encourage the idea that there is a forest that belongs to a community. Forests belong to all of us. They are our national heritage. If you clear a forest in the Mau region, this will affect people in Turkana. If you clear a forest in Mount Kenya region, it will affect the Sudan.

So, we can never have a forest that belongs to a community. We have to differentiate between community resources and national resources. National resources must be managed nationally to benefit the nation. I am urging the Minister to take over most of these local authority-run forests, that are not forests any more, immediately this Bill is enacted. They are cleared everyday.

I know that the Chair is from Turkana. I was impressed when I visited my constituency on Sunday. There is a small Turkana community in my constituency down there in the dry areas. You have to pass Isiolo to reach that community. My constituency is very big. It has expansive land. Most of it is in the dry northern grazing zone. I visited this community on Sunday. I was not impressed after travelling on very dry and bare land, where most trees had been cleared. But all of a sudden, I came to an area with big Acacia trees and a lot of grass cover. Immediately, the climate changed. I felt comfortable. I was impressed to see water springs. I asked myself where I could get the Minister for Environment, Natural Resources and Wildlife to see for himself what conservation is all about. Instead of going to the so-called experts, we could learn a lot about conservation from my constituents. That is why I am also happy that this Bill does take care of woodlands. We cannot dismiss that area as a woodland because it is a forest. Those people are actually taking care of their resources.

I observed that even when they want charcoal, they only cut a few branches and a few dead branches. After I left that area, I approached the settled communities. I was surprised to find out that all the trees had been cleared. So, I think we have a lot that we could learn from the so-called traditional people who we dismiss as dangerous. These are the people who have the traditional knowledge relating to the management and control of forests that has been passed from generation to generation.

Mr. Temporary Deputy Speaker, Sir, that is why I said, when the Minister visits my constituency, which he has promised to do, I would urge him to visit one of the *Njuri Ncheke* centres. The *Njuri Ncheke* have specific areas where they meet. All those areas are preserved as forests. There was no white man who taught them about forest conservation. There is also no

individual who can enter those areas and cut even a piece of firewood. If one does so, the traditional belief is that he is cursed. He will either die or his children. So, nobody can dare cut trees in those centres. This is an idea of conservation which we have to borrow. I would like to encourage the Minister to visit one of these centres. He will appreciate that our people had these traditional ways of conserving our natural resources. I am happy the Bill recognises the rights of the people to go into forests to pray.

The Assistant Minister for Labour and Human Resources Development (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House that the whole concept of *Njuri Ncheke* was conservation when he knows that the Meru people were worshipping---

The Temporary Deputy Speaker (Mr. Ethuro): What have you said, Mr. Odoyo?

The Assistant Minister for Labour and Human Resources Development (Mr. Odoyo): Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Member to mislead this House that the whole concept of *Njuri Ncheke* is about conservation of forests, when, in fact, it is to do with worshipping spiritual gods that were inherent in certain woods? Not all woods in the forest were considered.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Odoyo, that is not a point of order! Are you also implying that spiritual gods and conservation do not go together?

Proceed, Mr. Munya!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, Mr. Odoyo would benefit from visiting Tigania East Constituency to learn some of these things. He would also benefit from reading my LLB thesis which was on *Njuri Ncheke*. He will be able to learn a lot so that he is able to contribute in a knowledgeable way, instead of interrupting an expert giving important information on how the Meru people used to live.

Mr. Temporary Deputy Speaker, Sir, I said conservation was one of their roles. In fact, the *Njuri Ncheke* was a democratic, government, with all the structures that we talk about in modern Government in place. However, researchers have ignored us. They always want to treat *Njuri Ncheke* as some useless structures that existed traditionally. However, it was a complete government with spiritual, social and political structures. Everything was integrated. That is why I am encouraging the Assistant Minister to go to the University of Nairobi library and benefit from the research that I did when I was there.

Mr. Temporary Deputy Speaker, Sir, there is another provision in the Bill which is likely to contradict the Constitution, which is unacceptable. Section 55 of the Bill reads:-

"When, in any proceedings under this Act, a question arises as to whether forest produce has been cut or obtained from a provisional, private, local authority or state forest, it shall be presumed to have been so cut or obtained, until the party denying it satisfies the court to the contrary."

That is reversing the presumption of innocence in the Constitution. Our Constitution is very clear. It says that a person is presumed innocent until proven guilty. But the Bill presumes that someone is guilty until he proves himself innocent! That is, if I am not wrong, against Section 77 of the Constitution. That provision has to be removed because the burden is never on the person who is accused.

Mr. Temporary Deputy Speaker, Sir, the burden is always on the person who is accusing another person to prove that, that person has done something wrong. But the Bill is saying that it is the person who is being accused who should prove that he is wrong! That is against the grain of the Constitution and it goes against the entire criminal jurisprudence of the common law that we follow in this country. That provision must be revised if the Bill has to be put in strict compliance with the Constitution.

In summary, I want to say that, all in all, this is a very good Bill. It is, in fact, a revolutionary Bill. If it is implemented, we shall experience a big change in the way we view and manage our forests. But, again, I am saying that the devil is always in the practice. You could have a very good law with good

intentions, but the implementation---

Mr. Temporary Deputy Speaker, Sir, if the person implementing it does not have the will, he will not implement it properly. If you give the Bill to the forest officers that we have now to implement it, we can forget about it. So, I do not know what the Minister is going to do, because the real enemies of the forests are in his Ministry. They are not there in Tigania East. They are his employees; the people he pays salaries! So, whatever we do with the Bill, if we do not change the attitude of our officers, we are going to be in a lot of problems. The Minister must follow up the vultures that are looming around and keeping millions of shillings from forest produce! We read that in the newspapers! He could get that money and use it to conserve our forests by implementing this Bill.

With those few remarks, I beg to support.

Dr. Rutto: Mr. Temporary Deputy Speaker, Sir, thank you very much---

POINT OF ORDER

INCOMPLETE REPORT ON ACP-EU PARLIAMENTARY ASSEMBLY

The Minister for Health (Mrs Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir. This is not about contribution. I have just read the Paper that was laid on the Table this afternoon by Mr. Kamotho, Leader of Kenyan Delegation to ACP-EU. The Paper starts from page three. It, obviously, seems like he never went through it! There are no pages one and two. There are only pages three and four. That is not in order and he may have to bring to us a full report.

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, Dr. Rutto, while we determine the exact position of what Mrs. Ngilu has just told us.

(Resumption of Debate on the Forests Bill)

Dr. Rutto: Mr. Temporary Deputy Speaker, Sir, thank you very much. I would like to contribute to the Forest Bill, 2004 by, first of all, making a few remarks or observations.

First of all, it is important to ask ourselves why we set aside land for forests. It is important in the sense that the answer to such a question may certainly influence the policy direction that we could take. It could also influence the legal framework that we could adopt at any given time. It also affects how the policies we make are going to be carried out.

Mr. Temporary Deputy Speaker, Sir, first of all, the answer to the question why do we set aside land for forest seems to be quite obvious. Some of the reasons are scientific in the sense that in the Memorandum of Objects and Reasons as declared by the Bill, we are told that this Bill will take a better account of the significance of forests in relation to rainfall regimes, ground water, forest stabilisation and very many other scientific reasons. Forests also exist to provide some ecological balance, maintaining rainfall patterns, restoring soil fertility, maintaining the presence of fresh air, keeping away deserts and so on. Economically, forests, of course, exist to provide economic benefits in the way we utilise timber and honey harvesting. We also maintain forests in order to

preserve water catchment areas for sustainable flow of water and sustainable development.

Some other reasons which, of course, are the subject of debate in forest conservation, are cultural. We preserve forests, as hon. Munya has said, because they are sanctuaries. They are rituals sites, initiation sites and burial sites for various communities. Therefore, policy should be made to ensure that those factors are taken care of. In other words, policy must influence conservation in such a way that it enhances people's attachment to forests.

Mr. Temporary Deputy Speaker, Sir, forests are also set aside sometimes as buffer zones in no-man's land to create boundaries between communities and administrative units. These reasons create justification for the existence and the preservation of forest cover in many areas. Forests, therefore, exist as long as these reasons are sustained, and as long as they can generate the necessity, and when they become invalid, the existence of forests ceases to be justifiable.

Now, if you look at the Bill, there is always the question of stakeholders. Clearly, the Government here emerges as a major stakeholder. The communities are also stakeholders. The Bill recognises communities as stakeholders in forest conservation. It also recognises local authorities as stakeholders in forest conservation.

Mr. Temporary Deputy Speaker, Sir, but I am slightly disappointed that the State, through the Government, has allocated itself the role of the major stakeholder, while marginalising other stakeholders. Now, the State, for instance, has a stake in the forest mainly because of economic and scientific reasons and, perhaps, to a greater extent also, for political reasons. The communities have a stake in the forest because of their cultural, political and economic interests.

I would like to make an observation here, that forest legislation in the past has taken care of some of these interests seriously. I want to observe here that this Bill has remained traditional. In other words, the Forest Act of 1942 has maintained the strength and the position of the State with regard to ownership and regulation of the use of forest resources.

Mr. Temporary Deputy Speaker, Sir, some of the issues that have been central in the legislation of forest preservation include the following: One, is the ownership of forests. Who, for instance, has the final say in the excision of forests to create human settlement in this regard? This Bill seems to hold certain assumptions regarding the ownership of forest land, with specific respect to excision of land to create settlement.

Secondly, there is the issue of exploitation of forest resources. Who has the final say? Thirdly, who has the final say in the creation of forests? In other words, who has the final say in the creation of forests, where forests have not been there before?

Previous legislation, the Forest Act of 1942, which the Bill refers to, gave the State immense authority. The State has the right to demarcate boundaries without asking anybody. The State has the authority and right to create forest land without consulting with communities. The State can solely alienate forest land for settlement without serious consultation or without consulting the communities living around or in those forests. The authority of Government in this respect is emphasised by the presence of forest stations, rules and administrative units that enforce the rules with total disregard of how communities feel about those rules; administrative units which are meant to deal with any mischief, particularly from those communities living around and in forests.

Communities in such a situation have been handled previously with brutality. Forest guards arrest them and take them to remand homes. They extort money from them and they deal with them ruthlessly. In the process, the Government has created an image of those communities living around the forest of unwanted intruders who interfere with the preservation of forests. In the past, the Government has said it would propagate and maintain the *status quo*. It has portrayed itself as the master that pushes away communities and their socio-cultural rights. The Government owns, controls and knows it all, as well as excludes all other stakeholders in a very uncompromising

manner. It has portrayed itself as someone who carries around a heavy stick to deal with any mischief around and in the forest.

If we look at the Forest Act, it, indeed, points to some of the factors that are retained in this Bill, such as matters regarding licensing, the mere presence of community members in the forests, imposing unfriendly regulations regrading hunting, farming and grazing.

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member criticises the Government and yet the point is: If the Government did not control the forests, what would have happened today?

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are completely out of order!

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, is he in order to tell this House that it is wrong for the Government to have control of the forests?

The Temporary Deputy Speaker (Mr. Ethuro): You are completely out of order, Capt. Nakitare!

An hon. Member: He is still a new hon. Member!

Dr. Rutto: Thank you, Mr. Temporary Deputy Speaker, Sir. In fact, I want to inform the hon. Member that the Government previously never controlled preservation of forests. In other words, forests have been destroyed in the past while the Government watched. I do not know whether the NARC Government will be serious in this. However, I hope the Minister will take that seriously.

What I was saying is that the image that the Government previously created with regard to communities *vis-a-vis* preservation of forests has not been very favourable. The relationship that has been created in the past has tended to demonise communities living around and within forests. They have been seen as demons who have no regard at all for the preservation of forests.

Mr. Temporary Deputy Speaker, Sir, I would like to submit, in my contribution that, in fact, the State has been the demon rather than the communities.

Following on what Mr. Munya, for example, has said, he observed and asked the Minister to look at his own house. The enemies of forests have been Government officials rather than the communities.

(Applause)

What has resulted from that kind of relationship is the point that there has been suspicion. For instance, the Minister intends to create what he calls forest associations. There will be suspicion because the previous relationship between communities and the Government has tended to create that suspicion and mistrust. There has been hostility between communities and the Government previously. This is because the Government, through its instruments of control, has been brutal and unfriendly. As a result, the relationship between the Government and communities has been dichotomised, and even as we create an Act of Parliament through this Bill, we should try to merge and ensure that the Government and communities enter into partnership; a shared relationship in the preservation of forests. Without that, the point of this Bill may not succeed.

Mr. Temporary Deputy Speaker, Sir, the Government, for instance, should stop seeing the communities as enemies. If we look at this Bill, the kind of penalties that have been put in place are so exhaustive and harsh; they tend to look at communities as enemies of forests. We should encourage, as Mrs. Mugo said, a sense of partnership in the way forests are owned or visualised to be owned. The community should feel that the forest around them belongs to them in some specific way.

**COMMUNICATION FROM
THE CHAIR**

INCOMPLETE ACP-EU ASSEMBLY
REPORT UNACCEPTABLE

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Rutto! Before we interrupt our business, we wanted to respond to a matter that Mrs. Ngilu had brought to the attention of the Chair. It is about the incomplete report laid before the House by Mr. Kamotho on a Parliamentary visit.

I want to confirm that it is true that it is incomplete and, therefore, it is not acceptable until they bring a complete report.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro) Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 26th May, at 9.00 a.m.

The House rose at 6.30 p.m.