

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 9th June, 2004

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

ATTACK ON MR. WILLIAM MUKANGASIA
BY NISHI TRANSPORTERS GUARDS

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

(a) Is the Minister aware that on 6th May, 2004 at about 9.00 p.m, guards employed by Nishi Transporters in Mumias beat up William Onyango Mukangasia, who later died while undergoing treatment at St. Mary's Mission Hospital in Mumias?

(b) Under what circumstances did the management of the above firm transport the body of the deceased from Mumias to Bungoma Hospital, where a post-mortem was done without involving his family members?

(b) Could the Minister explain why Mr. Mukangasia was kept in Mumias Police Station for three days despite the injuries sustained and only released when his condition worsened?

The Assistant Minister, Office of the President (Mr. Dzoro): Mr. Deputy Speaker, Sir, the Minister who is supposed to answer this Question has not yet arrived. I request that we move on to the other Questions and then get back to it later.

Mr. Deputy Speaker: Mr. Dzoro, this is not the first time you are telling us that the person who is supposed to answer the Question is not here yet. You are an Assistant Minister in the same Ministry. You know how we handle matters of this House. Last week, you stood up and said the same thing you have said now. Why are you not taking responsibility?

The Assistant Minister, Office of the President (Mr. Dzoro): Mr. Deputy Speaker, Sir, I take responsibility. Although I am in the Office of the President, I handle the Public Service docket. This Question is for another department.

Mr. Deputy Speaker: The Office of the President, ought to show leadership in this House in answering Questions. We have three Assistant Ministers in that Office, and there should be no excuse for us to skip Questions because there is no one to answer them.

I hope that by the time we come back to this Question, there will be someone to answer it.

Mr. Osundwa: On a point of order, Mr. Deputy Speaker, Sir. Mr. Tarus is sitting at the Members Room. I believe--

Mr. Deputy Speaker: Mr. Osundwa, the Chair has already ruled that we will come back to this Question later. Will you hold your peace until we come back to it? You can then tell us where you

saw Mr. Tarus.

POLICE POST FOR
SOUTH "C" ESTATE

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

(a) Is the Minister aware that there is no Police Station or Police Post in South "C" Estate?

(b) When will one be built to curb insecurity, especially car-jacking in the area?

Mr. Deputy Speaker: Is Mr. Dzoro here to answer the Question, or has he disappeared? Mr. Tarus, are you in the mood to answer Questions this morning? I have already called out two Questions. Would you like to answer Question No.2 by Private Notice that has been asked by Mr. M. Maitha before we return to Question one?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, I apologise for coming in late. I beg that you defer the Question because the answer to it is not ready.

Mr. Deputy Speaker: We shall move on to the next Question by Prof. Olweny.

KCSE GRADING FOR GEM CANDIDATES

Prof. Olweny: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that three candidates for Kenya Certificate for Secondary Education (KCSE) Examinations, at Awasi Mixed Secondary School, and one at St. Alice Gem Mixed Secondary School, did not get their results as they were not graded?

(b) Why were the candidates not graded?

(c) Could the Minister ensure that they are urgently graded so that they get their results?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I beg your indulgence. By the time I left the office, the answer was being prepared. I thought that we would start with ordinary Questions. Please, allow me to answer it later.

Prof. Olweny: On a point of order, Mr. Deputy Speaker, Sir. I have a written answer with me, signed by the Minister.

Mr. Deputy Speaker: Mr. Assistant Minister, how can you say that the answer was not ready, yet it is already here?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I was not given any answer. It must have been supplied last week when I was not around. This morning, I was told that the answer was not ready and it was being prepared. There must have been some problem with communication.

Mr. Deputy Speaker: Mr. Assistant Minister, it is obviously clear to this House that something is seriously wrong. The written answer was brought to the National Assembly through the Clerk of the National Assembly's Office. It has also been passed on to the hon. Member, yet the Assistant Minister from the Ministry does not have the answer. I do not know what is happening!

Prof. Olweny: The answer sounds good to me! Why can he not read it?

*(Dr. Kituyi passed a document
to Dr. Mwiria)*

Mr. Deputy Speaker: Order! Can you now answer? You have just got the answer from Dr. Kituyi!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Not quite, Mr. Deputy Speaker, Sir. Let me first begin by apologising. There must have been a mix-up because our officers explained to me that they were preparing the answer.

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

(a) I am aware that three candidates for the Kenya Certificate of Secondary Education examination; two from Awasi Mixed School and one from St. Aloys Gem Mixed School, did not get their results as they were not graded.

(b) The mentioned candidates took subjects they were not registered for. The Ministry has however, investigated and resolved the matter, and the results of the three candidates are being processed.

(c) The candidates have been graded and their results will be released to their respective headmasters through the DEO's office by the end of this week.

Prof. Olweny: Mr. Deputy Speaker, Sir, how could candidates have been given papers they were not registered for? Under what conditions could they have been allowed to sit for papers for which they were not registered?

Dr. Mwiria: Mr. Deputy Speaker, Sir, sometimes that happens during invigilation. That is a common mistake made by invigilators. Once the problem is realised, then we try to resolve it.

Dr. Galgalo: Mr. Deputy Speaker, Sir, you realise that a mistake of the school administration has caused these children to stay without their examination results for a long time now. So, they have lost time. What disciplinary measures will the Assistant Minister take against these teachers for being so careless with young people's lives?

Dr. Mwiria: Once it is quite clear where the blame lies among the teachers, we will definitely discipline them.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that these children did the exam, although they never registered for it. At the same time he said that they are releasing results. Which results are they releasing when these students did examination papers for which they were not registered?

Dr. Mwiria: Mr. Deputy Speaker, Sir, they did papers for which they were not registered. But after investigations, it was found out that they also did other papers for which results were released.

Ms. Mwau: The issue of school leavers is one that is disturbing a lot of us. In some cases you will find that results are not released because students have not completed paying their school fees. Some students have stayed for years without receiving their results. What is the Ministry doing to make sure that school leavers get their certificates, even if they have fees arrears?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I know that this is a serious matter, and that a Motion has been filed on the issue. We have said before that headteachers find themselves in a very difficult situation with regard to how they get arrears of fees from students. Now that we have a bursary programme, we hope that many of the poor students will have their fees cleared before they actually sit for examinations.

Prof. Olweny: The Assistant Minister said that these students were not registered for some of the subjects they took. Let us assume that these students got the grades that would allow them admission into public universities. Supposing the subject combination of these various subjects is not proper because of the mix-up in registration will they still be admitted to university if they have the right grades?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we would not discriminate against the students because of a mistake which is not of their making. Certainly, they will be considered for university admission as long as they have the proper grades.

PUPILS' FAILURE TO SIT FOR
KCPE EXAMINATIONS

Mr. Moroto: Mr. Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that two pupils of Nateleng Primary School in West Pokot District were denied a chance to sit for the KCPE exams last year?

(b) What steps has the Minister taken against the officers administering the exams?

(c) What further action is he taking to ensure that the pupils continue with their education?

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, I apologise. I am waiting for the answer. That is why you see me running around. It should be coming any time. My officers told me they did not expect this Question to come to the House today morning. I will answer it later.

Mr. Deputy Speaker: Order, Madam Assistant Minister! This is unacceptable because we have just been treated to a situation where your colleague had to be given an answer by the Clerk-at-the-Table after saying that it was not available.

This is unacceptable. I appreciate the situation in which you have been put by civil servants in your Ministry, and hope that you will correct it. It is obvious that there is a problem.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Deputy Speaker, Sir, I accept that and apologise. We will correct the situation. I am sorry about it.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I also accept that there is a problem.

*(Mr. Raila was applauded as he
entered the Chamber)*

Mr. Deputy Speaker: Very well. We will come back to that Question later.

REPAIR OF MOYALE-DABEL ROAD

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

(a) Is the Minister aware that the Moyale-Dabel Road has been washed away by the recent rains?

(b) Could the Minister urgently provide funds to repair this road and make it passable?

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

(a) I am aware that a section of the Moyale-Dabel Road has been washed away by the current rains.

(b) Kshs1 million was allocated for maintenance of Moyale-Dabel Road for this financial year, 2003/2004. Before the rains started, Kshs550,000 had been spent and a balance of Kshs450,000 is available to repair the destroyed section immediately.

(c) This amount might not be enough to do all the necessary repairs, but since we are closing the financial year, the remainder of the repairs will be done immediately Parliament authorises the expenditure for the financial year 2004/2005.

Dr. Galgalo: Mr. Deputy Speaker, Sir, the road we are talking about is a stretch of more than 60 kilometres. The Minister says that they allocated this road Kshs1 million for a whole year. Surely, everybody will agree that Kshs1 million for a 60 kilometre road is peanuts. He has also told us that out

of the Kshs1 million, Kshs450 million has not been spent and the financial year is coming to a close. Why would the officers keep money when roads need to be done? Why did they not utilise this money to ensure that the road was done?

Mr. Raila: Mr. Deputy Speaker, Sir, the hon. Member will have to appreciate that the amount of money we have for maintenance has been spread across the country, and that this is just one of our many roads. At the time when allocations were being made before the rains, the road was in a relatively motorable condition. Therefore, the Kshs1 million was seen to be sufficient to keep it in a fair state of repair. However, because of the rains, there has been severe deterioration and, therefore, we are making provisions for more money in the new financial year.

Mr. Manoti: Mr. Deputy Speaker, Sir, it seems as if hon. Members are asking questions regarding bad roads everywhere. Since the Minister knows that these roads have been affected by heavy rains, could he ask his officers in the districts to do assessment of those roads which have been damaged by the rains? They should be given money to repair those roads instead of waiting for hon. Members to come and ask Questions here.

Mr. Raila: Mr. Deputy Speaker, Sir, in fact, I intend to issue a Ministerial Statement on this issue sometime in the House so that hon. Members do not have to keep on asking piecemeal questions on the state of our roads. For now, because of the neglect by the previous regime some roads were allowed to completely collapse and they require reconstruction. My Ministry needs Kshs100 billion to reconstruct those roads. I only have Kshs8 billion from the Fuel Levy Fund (FLF) which is peanuts compared to my needs. Therefore, hon. Members need to appreciate and understand this.

Dr. Galgalo: Mr. Deputy Speaker, Sir, how much money has the Minister set aside for this road in the next financial year?

Mr. Raila: Mr. Deputy Speaker, Sir, as I said, we have Kshs8 billion from the Fuel Levy Fund (FLF) which we spread to repair roads across the country. Therefore, I am not able to specifically say how much has been allocated for this particular road. There are several roads in this category.

Mr. Deputy Speaker: Very well! Now, for the second time, let us go back to the Question by Mr. Osundwa, by Private Notice.

ATTACK ON MR. WILLIAM MUKANGASIA
BY NISHI TRANSPORTERS GUARDS

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

(a) Is the Minister aware that on 6th May, 2004, at about 9.00 p.m. guards employed by Nishi Transporters in Mumias beat up Mr. William Onyango Mukangasia who later died while undergoing treatment at St. Mary's Mission Hospital in Mumias?

(b) Under what circumstances did the management of the above firm transport the body of the deceased from Mumias to Bungoma Hospital where a post-mortem was done without involving family members?

(c) Could the Minister explain why Mr. Mukangasia was kept in Mumias Police Station for three days despite the injuries sustained and only released when his condition worsened?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, I did answer this Question, but the matter was not concluded. We have written to the Attorney-General to provide reasons for the decision to charge the people involved with manslaughter instead of murder. However, we have not yet received the response.

Mr. Deputy Speaker: Hon. Members, indeed, you all recall that this is a matter that we last time dealt with for a long time. It is important that we get this matter resolved. I am appealing again to the Government to appreciate that we have such a backlog of Questions. If we can get rid of these

Questions faster, it will help this House a great deal. So, this Question will be deferred. Mr. Tarus, could you tell us up to when you think you can get this information so that we clear up with it?

Mr. Tarus: Mr. Deputy Speaker, Sir, given that tomorrow will be Budget day, I beg to answer this Question on Tuesday.

Mr. Deputy Speaker: Mr. Osundwa, what do you think?

Mr. Osundwa: Mr. Deputy Speaker, Sir, the issue was not just on why the officers decided to charge the three culprits with manslaughter. You will remember that when Mr. Mukangasia died, his body was taken to Bungoma District Hospital and a Government doctor gave a false post-mortem report that he died of malaria. This was a fact which was disputed by the family. The post-mortem was done for a second time in Kisumu where it was revealed that he died out of the beatings. Obviously, this was murder. I demanded to know what the Government would do against the doctor who gave the false report---

Mr. Deputy Speaker: Mr. Osundwa, I understand this matter because I was on the Chair and I remember that very well. I asked the Assistant Minister to look at the HANSARD. It is very clear that the issue of the doctor who gave a false report was also raised. Another issue was on the charge of manslaughter and not murder. So, Mr. Tarus, those are the issues you should address on Tuesday when you come before the House.

Therefore, this Question is deferred to Tuesday next week.

(Question deferred)

POLICE POST FOR SOUTH

"C" ESTATE

Mr. M. Maitha: Mr. Deputy Speaker, Sir, for the second time I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that there is no police station or police post in South "C" Estate?

(b) When will one be built to curb insecurity, especially car-jacking in the area?

Mr. Deputy Speaker: Mr. Tarus, you said that you did not have an answer to this Question. So, what is the position? Do we defer it again, and till when?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, defer it to Tuesday, next week.

Mr. Deputy Speaker: Mr. Tarus, this is a Question about a police station just here in Nairobi's South "C" Estate or is it another estate some where else?

Mr. Tarus: Mr. Deputy Speaker, Sir, in the event that I cannot answer this Question now, and it cannot appear again in the Order Paper in the afternoon, I thought it would be fair to defer it.

Mr. Deputy Speaker: Very well! I was just concerned about the time; from when it was first asked till now. I thought it would be simple answering it. Anyway, Tuesday is not far off. We give you that reprieve.

(Question deferred)

PUPILS' FAILURE TO SIT FOR

KCPE EXAMINATIONS

Mr. Moroto: Mr. Deputy Speaker, Sir, for the second time I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that two pupils of Nateleng Primary School in West Pokot District were denied a chance to sit for the KCPE exams last year?

(b) What steps has the Minister taken against the officers administering the exams?

(c) What further action is he taking to ensure that the pupils continue with their education?

Mr. Deputy Speaker: Mr. Moroto, it looks like Mrs. Mugo is still outside waiting for the response to this Question. So, I will defer this Question till Tuesday. The gracious lady could be told to relax until Tuesday.

(Question deferred)

Next Order!

ORAL ANSWERS TO QUESTIONS

Question No.151

IRREGULAR RELEASE OF *CHANG'AA* FERRYING VEHICLE

Mr. Keter asked the Minister of State, Office of the President under what circumstances the police at Sosiot AP Camp released vehicle, KAB 101K, Toyota pick-up, carrying *chang'aa* on 1st October, 2002 at 9.00 p.m.

Mr. Keter: Mr. Deputy Speaker, Sir, I would like to express my sentiments that for the third time now, I am receiving the same bogus answer, since it is not signed. I do not understand what is happening.

Mr. Deputy Speaker: Order, Mr. Keter! Last time I cautioned you about referring to answers as "bogus". I remember that I asked you to use the word "authenticate" when a response is not signed. Now, you still continue using the word "bogus". You must listen to the Chair's advice. Mr. Tarus, what is your response?

The Assistant Minister, Office of the President (Mr. Tarus); Mr. Deputy Speaker, Sir, I am not prepared to answer this Question. I have confirmed with the hon. Member the facts on the ground. I have compared these facts with what I have and I feel they are not sufficient. I have given them more time to make sure they bring appropriate information. May I call again for the understanding of the Chair that I come and answer this Question on Tuesday.

Mr. Deputy Speaker: I think the Assistant Minister is trying to give an honest answer and he should be understood. Mr. Keter, what do you think?

Mr. Keter: Mr. Deputy Speaker, Sir, while appreciating what the Assistant Minister has said, this is an incident which happened in front of Kabianga High School. Up to now, the students there are really in a state of panic because of the gun shots which were fired. I hope when the Assistant Minister comes up with an answer, he will come with a comprehensive one. I hope this time he will sign it. I would like to withdraw the word "bogus" which I used a while ago.

Mr. Deputy Speaker: Again, I would like the Assistant Minister to know that this is the second time we are deferring this Question. We will not defer it again. So, Mr. Tarus, we will give you more time, up to Thursday, next week, so that you will have no reason to ask for the Question to be deferred.

(Question deferred)

Next Question, Mr. Muiruri!

Mr. Muiruri: Mr. Deputy Speaker, Sir, I would like to take this opportunity to recognize the

presence of students of Kajiaga Boys and Girls High School who are seated at the Speaker's Gallery. All the same, I beg to ask Question No.264.

Question No.264

ALLOWANCES FOR DISTRICT
EDUCATION BOARD MEMBERS

Mr. Muiruri asked the Minister for Education, Science and Technology:-

- (a) if he is aware that members of the District Education Boards (DEBs) are not paid allowances, mileage or out of pocket expenses; and,
- (b) in view of the importance of their responsibilities to regulate and improve education standards in the country, if he could consider paying the allowances to them.

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

(a) I am aware that members of the DEBs are not paid allowances, milage or out of pocket expenses.

I wish to remind hon. Members that the services of the DEBs are voluntary. Once the members are nominated and appointed by the Ministry, they are asked to consent if they have accepted the appointment in writing. It is expected that the DEB members be sensitized on their expectations before taking up the appointments.

(b) Whereas my Ministry appreciates the great contribution made by the DEB members in the management of education in the district and, therefore, in the country as a whole, the education national budget as you are aware, is already over-stretched because of many commitments, including the free primary education programme. Therefore, the Ministry is not in a position to meet the cost of allowances of the DEB members.

Mr. Muiruri: Mr. Deputy Speaker, Sir, the answer by the Assistant Minister is out of the facts. The members of the DEB are very educated people. They are drawn from the Civil Service and retired education officers. They are also spread all over the districts. They travel long distances to attend these meetings. Sometimes the meetings are extended to the late hours and so they are forced to sleep over-night. This is not charitable work as such. The members of the DEBs must be compensated. There is no excuse whatsoever--

Mr. Deputy Speaker: Mr. Muiruri, ask your question!

Mr. Muiruri: Mr. Deputy Speaker, Sir, could the Assistant Minister consider compensating the DEB members considering the importance placed on education? Will he consider paying them?

Mr. Deputy Speaker: Order, Mr. Muiruri! Dr. Mwiria, what is your answer?

Dr. Mwiria: Mr. Deputy Speaker, Sir, Mr. Muiruri asked if we could consider paying them. But now, he is saying that they must be paid! We will consider paying them, but it should be made very clear that community members are expected to play some role with regard to supporting education in the country. There are many other people who do voluntary work!

An hon. Member: Will you consider?

Dr. Mwiria: I said we shall consider, but we expect Kenyans to, sometimes, do some voluntary work. That is the expectation of the District Education Boards (DEBs).

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, I am sure the Assistant Minister is aware that we live in a capitalist society. I think the era of offering voluntary services died long time ago. To come to the practical aspect, those people, sometimes, travel long distances, eat and do all those other things. I think it is only fair to give them some allowance, whether it is sitting allowance, travelling allowance or whatever!

Dr. Mwiria: Mr. Deputy Speaker, Sir, I agree with Dr. Kibunguchy. But I think it is not quite true to say that the era of voluntarism is gone. We still have missionaries doing a lot of work around the world, including priests. We shall consider the request---

An hon. Member: Is it a must?

Dr. Mwiria: It is not a must, but we shall consider.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, truly, if the Ministry of Education, Science and Technology wants the services of Kenyans who are retired and no longer on salary, it has to compensate them. Could the Assistant Minister tell us whether this Government has any plans to cut down on the lavish squandering of public funds by Ministers, and use some of that money to compensate people who serve on those boards?

(Applause)

Dr. Mwiria: Mr. Deputy Speaker, Sir, that question should not be directed to the Ministry of Education, Science and Technology alone. We have all agreed to cut down lavish expenses. Let us wait and see what is in the Budget. But I agree that we should do that.

Mr. Muriungi: Mr. Deputy Speaker, Sir, I would like to request the Minister to extend an allowance to another area which has not been addressed. That is the Constituency Bursary Fund (CBF).

(Applause)

There was a big problem when the money was being awarded because members spent long hours and there was no provision to reimburse what they had spent. If we look at the Constituency Aids Committee, for example---

Mr. Deputy Speaker: Order! Mr. Muriungi, you have asked a very pertinent question about the CBF. Why can you not let the Assistant Minister address that issue?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we are willing to extend that consideration as well. But I would like to say that we discussed that issue and agreed that, again, there was to be an element of voluntarism. We also requested hon. Members to see what they can do in terms of supporting some of those committees. Yes, we shall consider, but we would like to make it very clear that, already, the Ministry of Education, Science and Technology is taking a very large portion of this country's national Budget and yet, there are other Ministries. I think there should be a limit as to how much we should be asked to consider.

Mr. Sambu: Mr. Deputy Speaker, Sir, Cap 2(11) of the Education Act makes it mandatory for the DEBs to "superintend" - in fact, that is the word used in the Act - functions in primary schools and education activities in the districts. When district inspectors go out to inspect schools, they are paid allowances and mileage. Could the Assistant Minister allow us to bring an amendment, even if it is a miscellaneous amendment, so as to amend the Education Act to provide for payment of mileage and other allowances to members of the DEBs, some of whom are not employed and travel long distances?

Dr. Mwiria: Mr. Deputy Speaker, Sir, the reason why school inspectors are paid is because they are employed. They are not volunteers. So, that is quite a different matter. I would like to say---

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

Mr. Deputy Speaker: Order, Mr. Sambu! The Chair is very sensitive to interruptions when Ministers are answering Questions. Let him finish first, and then I will give you the point of order.

Dr. Mwiria: Mr. Deputy Speaker, Sir, as you are aware, Mr. Sambu is fond of that.

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

Mr. Deputy Speaker: Order, Mr. Sambu! There must be some order here. I have not given you a chance. Dr. Mwiria, you have the Floor!

Dr. Mwiria: Mr. Deputy Speaker, Sir, I have said that school inspectors are paid allowances because they are employed. When the Education Act or the Sessional Paper will be brought to Parliament, Mr. Sambu will be at liberty to introduce any ideas or amendments as he likes. But there is no guarantee that they will be accepted.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to impute an improper motive here, that I am fond of this or that? Is this a place for judging characters? Furthermore, is he in order to mislead the House that members of DEBs are volunteers? I have read that Act from the beginning up to the end. There is no provision in that Act which states that DEB members shall be volunteers. Is he in order to mislead the House? Which section of the Act says that?

Dr. Mwiria: Mr. Deputy Speaker, Sir, Cap 2(11) explains that they are volunteers.

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

Mr. Deputy Speaker: Order, Mr. Sambu! Last question, Mr. Muiruri. Mr. Sambu, relax!

Mr. Muiruri: Mr. Deputy Speaker, Sir, I would like to follow up Mr. Sambu's question. Could the Assistant Minister tell us the relevant section that specifically says that members of the DEBs are volunteers?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I have been informed. Mr. Muiruri knows that it is right here.

Question No.293

NUMBER OF CATTLE DIPS IN
BURA CONSTITUENCY

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

- (a) how many cattle dips are in Bura Constituency;
- (b) how many are operational; and,
- (c) what urgent measures he is taking to curb cattle diseases.

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

- (a) There is one cattle dip in Bura Constituency.
- (b) That one dip is not operational.

(c) The measures that my Ministry has taken to curb cattle disease include vaccination against Contagious Bovine Pleuromonia (CBPP). My Ministry is currently carrying out vaccination campaign against CBPP and up to 11th May, 2004, 48,000 herds of cattle had been vaccinated. There is poor response in the northern part of the district, but the people are being asked to present their animals, so that the disease could be controlled.

Mr. Deputy Speaker, the livestock movement control, which is an on-going exercise, is aimed at preventing the introduction and spread of livestock diseases. Testing of cattle for CBPP before they are allowed to move for fattening in other districts is a routine practice in Bura Constituency and in the district at large.

Mr. Wario: Mr. Deputy Speaker, Sir, we are talking of a constituency which is 12,000 kilometres square with only one cattle dip which is not operational. What is the Minister doing to operationalise this cattle dip?

Mr. Munyao: Mr. Deputy Speaker, Sir, Tana River District, in particular, has 12 communal

cattle dips and four private cattle dips and there are also the spray areas. Since cattle dips were privatised and now that the Government is encouraging livestock farmers to manage them, it is the responsibility of the livestock keepers to maintain their cattle dips.

Mr. ole Metito: Mr. Deputy Speaker, Sir, vaccination of livestock is supposed to be a preventive measure. But the Ministry is doing it as a curative measure. They only vaccinate the animals when there is a disease outbreak. What is the Ministry doing to ensure that vaccination of animals is continuous and will be undertaken as a preventive and not a curative measure?

Mr. Munyao: Mr. Deputy Speaker, Sir, what the hon. Member has said is absolutely the opposite of what the Ministry is doing. We have regular periods of vaccinations. It is only that at that time, **[Mr. Munyao]**

when there is shortage of drugs, it takes time before vaccination is done. Otherwise, vaccination is supposed to be a regular method of maintaining healthy animals.

Mr. Salat: Mr. Deputy Speaker, Sir, while this particular case is specific to Bura, I would like the Minister to tell the House what the Government's policy is with regard to reviving community cattle dips country-wide.

Mr. Munyao: Mr. Deputy Speaker, Sir, my Ministry has been addressing this issue, especially now that we are encouraging livestock farmers to keep healthy animals. We want to bring up a policy whereby we shall assist livestock farmers to maintain cattle dips. I would also like to appeal to the House that now that we have the Constituency Development Fund, each constituency should spare Kshs1 million to maintain the cattle dips country-wide and we will have healthy animals.

Dr. Kuti: Mr. Deputy Speaker, Sir, could the Minister tell us the difference between spraying and dipping, and which one is more applicable to nomadic pastoralists?

Mr. Munyao: Mr. Deputy Speaker, Sir, dipping is where you dig a normal trench, fill it with acaricides and you drive the animals in. The animals have to shake their bodies after getting out of the dips. But spraying is the manual application of the vaccines on the animals while in cages and the same system applies.

(Laughter)

Mr. Wario: Mr. Deputy Speaker, Sir, I have asked one specific Question concerning Bura and the Minister has concentrated on the whole district. What liberalisation mechanisms has he put in place to enable the pastoralist communities to take control of cattle dips in the country?

Mr. Munyao: Mr. Deputy Speaker, Sir, my technical officers in the Ministry are addressing themselves to that particular issue because we need to come out with a policy of assisting the livestock farmers country-wide. That is why I appealed that while we are in the process of coming up with a policy to assist the livestock farmers, let individual hon. Members, in their own constituencies, set aside some funds out of the Constituency Development Fund to assist.

Question No. 246

NUMBER OF DISTRICTS UNDER ENNDA

Mr. Muchiri asked the Minister for Regional Development:-

- (a) how many districts are included in the Ewaso Nyiro North River Development Authority (ENNDA); and,
- (b) whether the distribution of appointment of directors for the Authority was fair and in accordance with the ENNDA Act.

The Assistant Minister for Regional Development (Mr. Mungatana): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are 12 districts included in the ENNDA namely, Laikipia, Isiolo, Samburu, Marsabit, Moyale, Wajir, Garissa, Mandera, Nyandarua, Meru Central, Meru North and Nyeri districts.

(b) The distribution of appointment of directors for the Authority was fair and in accordance with the ENNDA Act.

According to Cap.448, Section 4(1) of the ENNDA Act, the Authority's board shall consist of the Chairman, the Permanent Secretaries for the time being in charge of Regional Development, Finance, Agriculture, Water Development and Environment. It shall also consist of the Provincial Commissioners for Central, Rift Valley, Eastern and North Eastern Provinces. It shall consist of the Inspector-General (Corporations), not more than 12 directors, ten of whom shall be from the area covered by the Authority and the Managing Director.

Currently, there are ten directors appointed under Section 4(1)---

Mr. Deputy Speaker: Mr. Mungatana, why do you not keep that more information so that we can get it through supplementary questions?

The Assistant Minister for Regional Development (Mr. Mungatana): No problem, thank you, Mr. Deputy Speaker, Sir.

Mr. Muchiri: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say there are directors from the different districts. Could he name the directors from each district?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the 10 directors are: Messrs. Daudi Denge Konso who covers Laikipia District, Guyo Tuke Dabelo who covers Isiolo District, Peter Lekisat who covers Samburu District, Gumato Ukur who covers Marsabit District, Mohammed Haji Wario who covers Moyale District, Abdinasir Mohammed Yarrow who covers Wajir, Hussein Barre Shill who covers Garissa, Sahara Hillow who covers Mandera, Elema Fila who covers Meru Central and Nthoitha M'Muthiaru who covers Meru North District. Those are the ten directors covering the area.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, maybe for the information of the Assistant Minister, Mr. Elema Fila is not only a political reject from North Horr, but he does not come from Meru. How come that he is representing Meru North? Secondly, how come that Mr. Daudi Denge Konso who comes from Marsabit District is representing Laikipia District? What has happened? I want the Assistant Minister to confirm to this House, that the board comprises of political rejects; people who did not even manage to get a single vote from the grassroots and who contested on NARC tickets. Could the Assistant Minister confirm or deny that?

Mr. Mungatana: Mr. Deputy Speaker, Sir, that is a good question. I can confirm to the hon. Member that Mr. Konso, who the hon. Member has mentioned, hails from Marsabit but he is representing Isiolo. He is a former Deputy Director of Education and he is currently doing business both in Isiolo and Laikipia Districts.

If I am to go through the list of all members of the Board, they come with qualifications and certificates which are relevant to the Authority. We have tried to avoid politicising these boards.

Mr. Waithaka: Mr. Deputy Speaker, Sir, the source of this river is actually Nyandarua and you have heard that there is no single director from Nyandarua District. Could the Assistant Minister consider, for the purposes of preserving the source of this river, to appoint a director from Nyandarua District? The source of a river is very important.

Mr. Mungatana: Mr. Deputy Speaker, Sir I agree that we did not appoint any director from Nyandarua District. We did not also appoint any director from Nyeri District. However, the Act says that we are to appoint a maximum of 12 directors, and we have already done ten. This board has a total of 24 directors. If the hon. Member feels that there is some special quality that a director from Nyandarua District will bring to the board, then we shall consider that.

Mr. Muchiri: Mr. Deputy Speaker, Sir, any river in this world has a source and a mouth. It is surprising that the source of this, River Ewaso Nyiro North is from Nyandarua as you have heard. Could the Assistant Minister tell us why he did not appoint a director from Nyandarua District?

However, more important is: What development has the Authority undertaken in Nyandarua District even to preserve the source? This is because I can foresee that **[Mr. Muchiri]** one time, there will be no water flowing downwards, because they are doing nothing to preserve the source. Could he tell us whether there is anything being done to preserve the source?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the board in this Authority consists of the Permanent Secretary for the time being in charge of the Ministry of Water Resources, Development and Management and the Permanent Secretary for the time being in charge of the Ministry of Environment, Natural Resources and Wildlife. We think that a lot is being done and they are well represented.

Question No.333

DEPLOYMENT OF STAFF TO SAMBURU
EAST DISPENSARIES

Mr. Deputy Speaker: Mr. Leshore is absent? I will not drop this Question. Does the Assistant Minister for Health, have something to say about this?

The Assistant Minister for Health (Mr. Konchella): Mr. Deputy Speaker, Sir, I am ready with the answer but I can still answer it on Tuesday next week or any other time.

Mr. Deputy Speaker: I will defer the Question to Tuesday afternoon. Mr. Leshore should be informed.

(Question deferred)

Question No.349

REVENUE REALISED BY TELKOM
FROM ITU IN 2001/2002

Mr. Bifwoli: Mr. Deputy Speaker, Sir, Mr. Wamunyinyi requested me to ask you to defer this Question.

Mr. Deputy Speaker: That is not the way to do it. He is not supposed to ask you to do that. He should be able to communicate with the Clerk or the Chair.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, he wanted me to ask this Question, but I do not have supplementary questions. Therefore, I am asking for the deferment.

Mr. Deputy Speaker: Very well! Then I will do that. I will defer the Question till Tuesday next week.

(Question deferred)

Question No.144

IMPLEMENTATION OF REP IN
KIBWEZI CONSTITUENCY.

Mr. Ndile asked the Minister for Energy:-

- (a) whether he is aware that some markets in Kibwezi Constituency, namely, Mbui-Nzau, Kibarani, Kinyambu and Machinery along the Mombasa-Nairobi Highway were left out under the Rural Electrification Programme (REP); and,
- (b) how much money he has set aside to extend the programme to cover the above markets.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) It is true that the said markets have no electricity supply. It is, however, incorrect to state that the markets were left out as they had not been earmarked for supply.

(b) No money has been set aside for the said markets due to financial constraints. However, Kambu Market in Kibwezi Constituency is earmarked for electricity supply this year at a cost of Kshs4 million. The remaining projects will be considered as per availability of funds and district priority basis.

Mr. Ndile: Bw. Naibu Spika, namshukuru Waziri Msaidizi kwa majibu yake. Lakini swali langu halikuhusu soko la Kambu kwa sababu nilijua kwamba sehemu hiyo ina stima, na ninamshukuru. Swali langu lilihusu soko la Mbui-Nzau. Ukiangalia soko hili, laini za stima zimepita juu na hata hazitusaidii. Pengine zingepitia chini tungeanika nguo. Hazijatusaidia kabisa kwa sababu zimepitia juu na zikaenda kwa soko lingine. Ni jukumu gani Waziri Msaidizi atachukua kuhakikisha kwamba mwaka huu pesa za mradi huo katika hilo soko zimetengwa?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the position is correct. However, we know for sure who did that; it is that Government that could take an electricity line on *ad hoc* basis to a single individual. However, this Government will make sure that it will step down power to the people of that market. At the same time, we are considering Mbui-Nzau Market for the next financial year.

Mr. Mukiri: Mr. Deputy Speaker, Sir, part of the reason why we have a problem with rural electrification is because the former directors of Kenya Power and Lighting Company (KPLC) squandered money that belongs to the people of Kenya. The other day, the Minister brought us a report here known as the Nyanja Report. He said that he was going to prosecute those people who squandered public money. Could the Assistant Minister tell us what happened to that Report and why nobody has been prosecuted so far?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, a sub-committee of the Board of the KPLC was set up to harmonise that Report and has already finished its work. However, you will agree with me that the KPLC management cannot prosecute those people. They can only prepare a good report, give it to Kenya Anti-Corruption Authority (KACA) to take action, which we have done.

Mr. Ndile: Bw. Naibu Spika, namshukuru Waziri Msaidizi kwa kuniambia kwamba watatenga Kshs4 milioni katika Bajeti ya mwaka huu. Hili ni jambo muhimu sana kwa sababu watu wangu watapata stima. Nilikuwa ninafikiri atasema kwamba hakuna pesa ili niwaambie wauze haya magari yao ya Kshs17 milioni.

Mr. Deputy Speaker: Uliza swali, Bw. Ndile!

Mr. Ndile: Bw. Naibu Spika, nimesema kwamba nimeshukuru, na sina maneno mengine.

(Laughter)

Question No.182

SUPPLY OF ELECTRICITY TO
LUGARI CONSTITUENCY

Dr. Kibunguchy asked the Minister for Energy:-

(a) how much money has been paid to the Kenya Power and Lighting Company by individuals/community groups from Lugari Constituency for the last ten years as deposit towards installation of electricity; and,

(b) when they will be supplied with electricity.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) A total of Kshs4,660,000 has been paid for the last ten years as capital contribution towards installation of electricity in Lugari Constituency. Out of this capital contribution, projects

worth Kshs2.4 million have been completed.

(b) It is not possible to indicate when the individuals/community groups who have not made full payment to KPLC will be supplied with electricity, as priority under the Rural Electrification Programme is given to income and employment generating activities at market centres. Public institutions are also subsidized heavily, based on merit order ranking by the District Development Committees (DDCs). However, individuals are expected to pay the full cost of electricity supply.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, this Question of rural electrification keeps coming up now and again. It is becoming almost like a circus. For the last ten years or more, there are people who were made to understand that if they paid 10 per cent to the KPLC, they would be supplied with electricity through the Rural Electrification Programme. These people obviously made their representations through the DDCs and, up to now, as you can see, like all the groups in my constituency, they have not been supplied with electricity. Obviously when they make the representation, the market places, schools, health facilities are usually considered---

Mr. Deputy Speaker: Dr. Kibunguchy, uliza swali!

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, the question is this: When are they going to be supplied with electricity? I would like some definite answers so that I can carry them home.

Mr. Deputy Speaker: Order, Dr. Kibunguchy! With respect, this Question on the Order Paper is not about your constituency.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, the Question is about my constituency.

Mr. Deputy Speaker: I am sorry. I withdraw and apologise. Could you respond, Mr. Kiunjuri?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I agree with Dr. Kibunguchy that people were misled. For sure, he knows who misled those people. It is the previous Government. However, the NARC Government has taken it upon itself to only commit itself to what it can fulfil. That is why the Government is no longer collecting monies from those groups. The Government is asking people to collect the money and keep it in their own bank accounts. This will enable them even to reap interests out of that money. Dr. Kibunguchy is even lucky because they have recovered Kshs2 million. I want to assure the hon. Member that we will complete those projects. However, I am not in a position to tell him which projects we are going to implement.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, in the whole country there are many people who have paid deposits to the Kenya Power and Lighting Company (KPLC). These deposits stay with the KPLC sometimes for over 10 years. Could the Assistant Minister confirm whether this money is put in some savings accounts to earn interest?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, when the NARC Government took over leadership, we never traced any account with the monies. The money was collected and misappropriated by those who were managing the Government and the KPLC. However, we have records showing that the monies were paid. So, the Government cannot deny that it never collected the monies.

Mr. Deputy Speaker: Just a minute! You say the money was misappropriated. I think it will be useful to assure Kenyans that even if the money was misappropriated, the Government is responsible for it because it received it, so that they do not think that their money is lost.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I fully agree with you. The Nyanja Commission clearly stated that the culprits who misappropriated this money will be charged accordingly. As I said, we have records and their monies will be refunded, or they will benefit from the meant project.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, one-and-a-half years down the road, this Government keeps on blaming the past regime for mistakes which it ought to correct. I think the NARC Government offered a theme last year of making a difference. Could the Assistant Minister tell this House what elaborate plans the Government has in place, especially back in the rural areas, in terms of Rural Electrification Programme, in this financial year?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the NARC Government will keep on reminding the Opposition of its misdeeds, lest we forget and repeat the same mistakes. I am sure this year's Budget will be approved by this House. Depending on the money we will be allocated, I will be able to answer that question in a comprehensive manner.

Mr. Weya: Mr. Deputy Speaker, Sir, what action has the Ministry taken against some of these officers who misappropriated people's money? I understand that some of them are even District Commissioners (DCs) who took money from the local people and kept it in their coffers.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we are only aware of the management of the KPLC receiving money. However, if the hon. Member has any information about any DC who received the money, he should let the Ministry know so that we can take appropriate action.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, in the spirit of devolving funds to constituencies, I think the NARC Government came up with a policy that we were going to have a Constituency Rural Electrification Fund. Could the Assistant Minister tell this House when the constituencies will start receiving this money, so that we start planning at the local level?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, this Ministry never committed itself to have a revolving fund. We shall allocate our monies to the districts and not to constituencies. It is within the powers of this House to amend the relevant Act to facilitate what the hon. Member is suggesting. However, the Ministry cannot do that without the approval of this House.

Mr. Deputy Speaker: Next Question by Mr. Munya!

Question No.225

ELEPHANTS MENACE IN URINGU LOCATION

Mr. Deputy Speaker: Is Mr. Munya not here? Now, we have been magnanimous today. We have deferred Questions for those who are not here. I think I will extend the same magnanimity to Mr. Munya and defer the Question. Prof. Maathai, do you have any objection?

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): No, Mr. Deputy Speaker, Sir. I accept that.

Mr. Deputy Speaker: Very well. The Question is, therefore, deferred to Tuesday, next week. Question by Mr. Lesrima!

(Question deferred)

Question No.252

COMPENSATION FOR MR.
GISHIRAN LESAREWA

Mr. Deputy Speaker: Is Mr. Lesrima also not here? The Question is deferred to Thursday, next week.

(Question deferred)

That marks the end of Question Time!

Mr. Muriungi: On a point of order, Mr. Deputy Speaker, Sir. Last Thursday, I rose to ask Question No.079, concerning the illegal acquisition/sale of Nature House. This Question was deferred to yesterday, but it did not appear on the Order Paper. It is not even there today. I expressed my fears

that there seems to be a cover-up concerning the sale of Nature House, which is valued at hundreds of millions.

Mr. Deputy Speaker: Mr. Muriungi, I appreciate that could be an error. However, on the question of why it is not included on the Order Paper, I think you are imputing a cover-up by the Office of the Clerk of the National Assembly and, therefore, the Chair.

*(Mr. Deputy Speaker consulted
with a Clerk-at-the-Table)*

I have been assured that your Question will be on the Order Paper on Tuesday, next week. So, come prepared.

Proceed, Mr. Salat!

POINT OF ORDER

STATUS OF UNIFIED NATIONAL SECURITY TELECOMMUNICATION BACKBONE NETWORK

Mr. Salat: Mr. Deputy Speaker, Sir, I rise to demand for a Ministerial Statement from the Minister of State, Office of the President, in charge of internal security, regarding the following: First, I would like to know the current status of the unified National Security Telecommunication Backbone Network (NSTBN). Secondly, I would like to know how much money will be spent in the procurement of the NSTBN facilities. I would also like to know whether all the procurement rules are being adhered to in order to safeguard it against abuse and corruption. Lastly, I would like to know what will happen to the existing communication network that has already cost the taxpayers over Kshs10 billion in the last 12 years. This communication network is said to be on the verge of being abandoned.

Mr. Deputy Speaker: Is the Minister of State, Office of the President, here?

Hon. Members: He is not here!

Mr. Deputy Speaker: Mr. Wetangula will pass on that information to the Minister of State, Office of the President!

MINISTERIAL STATEMENT BURSARY FUNDS ALLOCATION TO CONSTITUENCIES

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir. I would like to give a Ministerial Statement on bursary allocation, in response, to a request that was made by the hon. Member for Mosop, Mr. Sambu. The hon. Member was interested in knowing the number of students per constituency who have been allocated bursaries, the amount allocated per constituency, the formula used to allocate the various amounts, and the expected dates of receipt of those monies in the constituencies. The enrolment per constituency and the amount allocated to each constituency are contained in the attached list, which I will be happy to lay on the Table.

*(Dr. Mwiria laid the document
on the Table)*

The document lists the constituencies in order of districts, with Nairobi Province being listed as a district due to its structure. The data on enrolment, which is used in the bursary allocation is,

regularly provided by individual school principals through their District Education Officers (DEOs) and the Teachers Service Commission (TSC). Once received, the information is analyzed and stored in our data bank for planning purposes. For our budgeting process, the data used has to be received before the end of March of each calendar year. For this reason, the individual head teachers need to submit their returns in good time. It is important to point out that until now data on secondary school enrolment has been collected on school and district basis. It was not until the current financial year that the constituency became important in dealing with secondary school bursary allocation that we began to have enrolment numbers by constituency. This is the first time that the Ministry has broken down secondary school enrolment into constituency. The formula used in the allocation of constituency bursary funds, which has already been discussed in the *Kamukunji* was based on the following factors; the total number of secondary schools enrolment in each constituency, the total national as compared to the total national school enrolment, the district poverty index, the national poverty index and the total available resources.

On the expected date of receipt of funds---

(Loud consultations)

Mr. Deputy Speaker: Order! That corner there, we are receiving a very important Ministerial Statement from the Assistant Minister. Could we give him our undivided attention?

Proceed, Mr. Assistant Minister!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir. I was just reading out the last paragraph.

On the expected date that the monies should be received in the constituencies, I would like to inform hon. Members that all the cheques for the second disbursement of secondary school bursaries are ready. In fact, they have been ready for some time now. Individual constituencies should expect to receive their allocation latest by 15th June this year. I would like to say that the problem did not lie with the Ministry, but we were waiting for provision from the Exchequer.

Finally, I would like to urge hon. Members to work closely with heads of schools and our DEOs in order to ensure that there is a timely submission of data on their respective constituencies, especially with regard to enrolment.

Mr. Deputy Speaker: Is there any clarification on the Ministerial Statement the Assistant Minister has made?

Prof. Olweny: Thank you, Mr. Deputy Speaker, Sir. I think the Assistant Minister has made a good statement. With regard to the number of registered students within the constituency, there is a problem of students not joining secondary schools because of lack of money. That is the main problem many constituencies face. How has the Ministry taken care of that problem?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, it is very difficult for us to really account for students who have not enrolled in public schools. However, from previous experience, it is possible to do an estimate of the possible enrolment by the end of March. It is only after those students have enrolled that they can be considered for the bursary. Unfortunately, I do not know any other way of going about this issue.

Mr. Serut: Thank you, Mr. Deputy Speaker, Sir. I want to thank the Assistant Minister for the elaborate Ministerial Statement he has issued. The cheques for the second disbursement are dated 20th May, this year. What has caused the delay in the cheques being sent to their respective accounts?

Mr. Deputy Speaker: I thought the Assistant Minister said something to that effect, but he may respond.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy

Speaker, Sir, initially, we wanted those cheques to be out by the end of May this year, but it was not possible because we had not received the money from the Treasury. We have been assured now that the funds will be available. That is why I have assured hon. Members that latest 15th June, this year, they will have the money in their respective constituencies.

Mr. Deputy Speaker: I thought the matter is clear. Let me move on to Mr. Kembi-Gitura, and then the Chairman of the Departmental Committee on Education, Research and Technology.

Mr. Kembi-Gitura: Thank you, Mr. Deputy Speaker, Sir. The amount of money allocated to various constituencies in the second allocation is based ostensibly on the [Mr. Kembi-Gitura] number of students from a constituency. Could the Assistant Minister assure us that when taking a census on the students, he will not just take the students in the secondary schools in a constituency and ignore the fact that, that constituency may have students who are studying outside?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I absolutely agree with Mr. Kembi-Gitura. Let us, first of all, appreciate the fact that we have begun this process this year and we have realised that there are some overlaps. There are many constituencies with students in other constituencies. Again, those constituencies have students who do not come from within. So, there are some overlaps. But let me concede that this formula is not as refined as we would like it to be. We began this year and we hope we will have a better way of indicating the number of pupils or students in every constituency next year.

Mr. Karaba: Mr. Deputy Speaker, Sir, it is important for the Assistant Minister to note that many schools are facing a problem of increased prices of various foodstuffs. There are some areas where food is not even available. The Government should provide food to hunger-stricken areas and those without water. The Government should also provide food to schools which cannot afford to buy food because of escalating prices. What has the Assistant Minister done to increase bursary allocation to drought stricken areas?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, we have considered this matter. It is clear that the ASAL areas have an advantage in that they get some extra allocation from the Ministry in addition to the amounts we are giving out through the Constituency Bursary Fund. I would also like Mr. Karaba to know that there are some areas which are considered hardship districts. These districts are supplied with food by the Ministry and the World Food Programme (WFP).

Mr. Poghisi: Mr. Deputy Speaker, Sir, I am just keen to know where the money for ASAL areas is and when it will be disbursed. I am saying this because the amount for the second allocation for Kacheliba Constituency was miscalculated. There is no way some of the constituencies I know of could get more money than my constituency. There are some constituencies which were allocated a lot of money than they deserved. Kacheliba Constituency was allocated the least amount, and yet we have many students who are outside the district and we have to pay fees for them. What will we do about that situation?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I appreciate the point the hon. Member has raised. I conceded at the outset that this programme is not really perfect. We are doing everything possible to ensure that by next year we account for all the students from different constituencies. Let me also say that if hon. Members realise that we have not given the right figures for their districts, they should tell us. There is no way we will know at the Ministry that there are mistakes unless hon. Members come up with actual proof that they have problems in the number of students we say belong to their constituencies. So, we will be quite willing to listen to that and make the necessary adjustments.

Mr. Deputy Speaker: Very well. Next Order!

MOTIONAMENDMENT OF PENAL CODE
TO MAKE CATTLE RUSTLING A
NON-BAILABLE OFFENCE

THAT, considering that cattle rustling is a major cause of insecurity in many parts of the country, resulting in loss of property and sometimes loss of life; taking into account that culprits, when arrested, often walk to freedom as a result of the right to bail and light custodial sentences; this House do grant leave to introduce a Bill for an Act of Parliament to amend the relevant sections of the Penal Code, Chapter 63, of the Laws of Kenya, in order to provide for cattle rustling as a non-bailable offence punishable by life imprisonment.

(Dr. Khalwale on 2.6.2004)

*(Resumption of Debate interrupted
on 2.6.2004)*

Mr. Deputy Speaker: Who was on the Floor? Is it the same Motion by Dr. Khalwale?

Dr. Khalwale: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Dr. Khalwale, you had finished moving the Motion. Now, let us have the Secunder.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like to propose the Secunder.

Mr. Deputy Speaker: Who is he?

Dr. Khalwale: Capt. Nakitare.

Mr. Deputy Speaker: Very well! Capt. Nakitare, please, second the Motion!

Capt. Nakitare: Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion that deals with cattle rustling.

Mr. Deputy Speaker, Sir, cattle rustling was not prevalent as far back as 1992. It used to be---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! May I ask hon. Members who are standing to either sit down or walk out?

Capt. Nakitare: Mr. Deputy Speaker, Sir, many people who border our hostile neighbouring countries have suffered through cattle rustling. The early method, where one used to lose one head of cattle, turned into a mass collection of livestock from Kenya. I am a neighbour to Uganda, and from 1992, there was rampant killing and stealing of livestock. The political morphosis that existed at that time made many people lose their lives, livestock property and homes. There has not been a punitive sentence to cattle rustlers to deter that crime.

Mr. Deputy Speaker, Sir, Chapter 63 of the Criminal Procedure Code (CPC), in that context, is something that we have to look at. Where there is severe punishment, it will retard or reduce the rate of crime in our country. As I said, we lost very important people. Cattle rustlers came in numbers, armed with guns. But the most important questions to ask are: Where did those people get firearms? Who supplied them with ammunition?

Mr. Deputy Speaker, Sir, there was a case where our armed forces were involved. We had Division Three at Kanyarkwat. We had the police, the Anti-Stock Theft Unit (ASTU) and the General

Service Unit (GSU) using taxpayers' money to quell cattle rustling and recover livestock that had been stolen. Cattle rustlers are murderers! They have killed many of our people. As recently as last month, they killed four people in my Saboti Constituency. Mr. Wanyonyi lost his life and livestock. He left children studying at universities! He left children in national schools. Now, they are orphans and are not cared for by anybody. If we are going to go by the saying that cattle rustling is a sport, even the recent laws that forbid female genital mutilation should not have been enacted. This is a civilised country. People have been left poor because of cattle rustling. Trans Nzoia District used to be the hub of crop and livestock production. But due to cattle rustling, farmers gave up. After all, why struggle to keep a cow, only to lose your life? Cattle rustlers have invaded farms in Trans Nzoia District. They come from across the border. They come and graze in plantations where farmers have planted their crops. They say: "Well, we are grazing! This is grass and not maize!" The starvation that is there in this country is because people are scared of farming. Those who are displaced cry for compensation, and they do not get it. Those cattle rustlers and their masters do not pay any taxes when they steal that livestock. They commit crimes, but they are not checked.

The punitive punishment that we have to look at now is to review Chapter 63 of CPC, Laws of Kenya. Cattle rustling culprits should be taken in with unbailable conditions, so that they do not use the money they have collected from selling the stolen cattle to get freedom, or use the same money to buy armaments from across the border. That punishment will scare off the people who come from Sebei in Uganda to roam in our country like a no-man's-land. Those who come to steal, kill and walk away free. The following day, they drive expensive Mercedes Benzes. That is Kenyan blood money that they are enjoying. They have established milk creameries across the border at the expense our good livestock.

Mr. Deputy Speaker, Sir, the morale of keeping livestock has vanished, while the "granary of Kenya" has given up. If we give up on farming, what will happen to this country? In Kilgoris, the Kisiis and Maasais have a custom of stealing cattle from across the border using guns. It is an offence to carry an unlicensed gun! It is also an offence to protect a cattle rustler because, in that case, you are also a cattle rustler. I do not mean you, Mr. Deputy Speaker, Sir, but anybody who keeps a thief is also a thief! I can analyse the consequences of the devil that penetrated our country immediately after the introduction of multi-partyism.

Mr. Imbuye was attacked by 800 gun-totting cattle rustlers. They came and barricaded his farm. They invaded his house. Mr. Imbuye took refuge in a toilet. He had no gun. They drove away his livestock that included 800 head of cattle, 1,300 goats and 80 sheep across the border. Those were cattle rustlers. That is not an exercise that one would say is a sport. What is a sport? There are no injuries in sports. That is death! We have given our country freedom from jungle maniacs. I am speaking about that with a lot of anger because I have lost my people.

Mr. Deputy Speaker, Sir, I was a victim of cattle rustling and I know how it is. Anybody who feels that this Bill has a bad motive should think twice. That is because what happened to my farm would happen to yours too. When we look at Government expenses, the police are involved, the Kenya Army is involved, the GSU are involved and the Anti-stock Theft Unit are involved too. The Kenya Police Reservists (KPR), who are not paid a cent, are also involved, just because they are volunteers. They are given guns and risk their lives to follow those people.

Mr. Deputy Speaker, Sir, we have to consider this Bill and bear in mind that we are under-developed now because most of the money is being used by internal security organs to chase robbers and cattle rustlers. Well, there is no difference between a robber and a cattle rustler! The two crimes should not be bailable. We are not talking about politics here; we are talking about life. We are talking about the law. People are breaking the law without caring at all. We feel that this august House has to enact laws that can be obeyed. We have had political sycophants in the Provincial Administration. Whereas the rules are barely open, they are broken by the Provincial Commissioners,

District Commissioners and even the sub-chiefs. Most of these aliens who have come into this country carrying guns are invited. They do not know anybody here. Some of them are induced by bribery. We have been talking about corruption---

Mr. Deputy Speaker: Capt. Nakitare, your time is up!

Capt. Nakitare: Mr. Deputy Speaker, Sir, with those few remarks, I support and second this Motion.

(Question proposed)

Mr. Poghisio: Mr. Deputy Speaker, Sir, I would like to thank the hon. Member who has brought this Motion. I would like to declare my interest in this Motion in the following manner. I personally know that theft of livestock, as is known in the law, is a serious offence. I also know that my constituency suffers quite a lot from this crime. The other interest I have to declare is that I am at the forefront, personally, in fighting this vice called cattle rustling.

Mr. Deputy Speaker, Sir, however, I have reasons to oppose the Motion the way it is brought here. I oppose this Motion because it calls upon this House to amend relevant sections of the Penal Code. If it is calling upon this House to do that, then I have to be counted as part of that House. Since I have---

(Loud consultations)

Mr. Deputy Speaker: Order, Mr. Poghisio! There are some hon. Members who are disturbing us here. Could the Clerk-at-the-Table tell them to observe the rules of the House?

Continue, Mr. Poghisio!

Mr. Poghisio: Mr. Deputy Speaker, Sir, I have reasons to oppose this Motion. One of the reasons is that I have to be convinced that it is necessary to amend sections of the Penal Code this time to take care of a situation which already is provided for under the Penal Code. Seven years with hard labour which is already provided for for stock theft is punitive enough. As far as I know, there is no evidence of people walking out of prison or the courts once they have been arrested for cattle rustling. In the case of the people that I know, some of them have served more than seven years. So, already, the provisions are there and I am not sure we should be even trying to talk about amending some sections of the Penal Code in what I call selective justice.

Mr. Deputy Speaker, Sir, the Mover of this Motion has not been able to convince me that I need to be enjoined in this particular declaration, that this House do amend sections of the Penal Code. He has not been able to convince me for this one reason. From the time the Mover moved this Motion, all his examples have been that the Pokot people are the cattle rustlers and the Luyia people are the recipients or the offended. Now, for that reason alone, you cannot bring a Motion to amend sections of the Penal Code just because we have a quarrel with, maybe, some Pokots and some Luyias stealing cows from each other. So, I do not understand why we should reduce cattle rustling to just those communities.

Mr. Deputy Speaker, Sir, the Seconder of the Motion has also given exactly the same examples. It is Messrs Imbuye and Shimechero's cows. We might as well call this Motion "Mr. Shimechero Motion". So, for that reason alone, I am not convinced that we are going to interfere with the Penal Code just because 800 cows belonging to somebody were taken. If I give you the statistics of how many Pokot cows are stolen every year, they are in hundreds of thousands, and I am not going to say let us amend this law because what we have already is sufficient to punish cattle rustlers.

Mr. Deputy Speaker, Sir, I need to understand what is "livestock". I would be ready to second or support a Motion if livestock theft included chickens.

(Applause)

You know the hon. Members who are bringing this Motion love chicken but they do not want to be enjoined in this because chickens are not part of the definition of this particular section of the law. So, I think this is actually selective justice. It is meant simply to create division, and it is targeted upon certain people. So, I would like to have an amendment from these hon. Members saying chickens are included in cattle rustling and stock theft.

(Applause)

Mr. Deputy Speaker, Sir, even in murder cases, murder can be reduced to manslaughter. A very heinous act like murder has a chance of being reduced to manslaughter because, even in judgement, a mistake can be made. Here we are saying that: "This House do amend the Penal Code". I would like to say that if the Motion reads:-

"To amend the relevant sections of the Penal Code, Chapter 63 of the Laws of Kenya, in order to provide for cattle rustling as a non-bailable offence punishable by life imprisonment".

Then what kind of human beings are we dealing with? Even murder can be reduced to manslaughter. Now, what are we going to reduce cattle rustling to when it comes to court?

Ms. Abdalla: Chicken rustling!

(Laughter)

Mr. Poghiso: Mr. Deputy Speaker, Sir, there is a motive here, which is behind this Motion and I think that is what is causing me not to be enjoined as a person with the general call for this House to move.

Mr. Deputy Speaker, Sir, I have seen what Chapter 63 of the Laws of Kenya says. It is punitive enough. In fact, I know of a case where somebody from Kapenguria is now serving 14 years for attempting to steal livestock. So, the leeway is there already. The judges can use the various sections available for that punishment if they see that cattle rustling is on the rise. However, a more difficult issue to deal with is the fact that cattle rustling is not defined in our Penal Code. There is no such thing as cattle rustling listed in the Penal Code as a crime.

Mr. Deputy Speaker, Sir, the other issue which we need to address is that cattle rustling is an international activity. It should be in the East African Court because the bulk of the livestock that is stolen goes to Uganda, Ethiopia and Sudan. So, what are we saying if all of us are not synchronised in our laws? If that is the case, then we are going to have a problem. First of all, it is difficult to pin down the cattle rustler. How are you going to differentiate that person from a common thief, because he has stolen something? So, my reason for not supporting this his Motion is that it has bad motives. It is in bad taste. It is targeting specific people, and it is done for a specific reason. They suspect that we who keep livestock need to spend a lot of our time in jail at the expense of seeing the sun. This is tantamount to being locked up and the key being thrown away. Generally, it is against basic justice, and I know it is all because it targets specific people.

Mr. Deputy Speaker, Sir, when you send children to school and they get educated, there is no such thing as cattle rustling in their vocabulary. The solution to cattle rustling is to make the rustlers send their children to school. Once they get educated--- As far as I know, those who are educated never go back to cattle rustling. It is better to deal with the roots of the problem, rather than fight to reduce the symptoms. Let the Government seize this chance to build schools and encourage children to go to school, and by so doing, it will reduce the number of cattle rustlers. So, why, then, should we target the penal code when we can actually deal with cattle rustling without tampering with it? So, it is

really a challenge to the Government. These people are called cattle rustlers simply because they have not been exposed to something else. They need to be educated. Those of us who had a chance to go to school have never gone back to cattle rustling.

Mr. Deputy Speaker, Sir, another issue that has been raised here is that people get killed and livestock get stolen. In a case where people are killed, the killers are supposed to be charged as murderers and not as cattle rustlers. If anybody is caught killing---

(Loud consultations)

Mr. Deputy Speaker, Sir, could you protect me from the interference by the hon. Members seated behind me?

Mr. Deputy Speaker: Order, Members! You are seated behind the hon. Member on the Floor and you are disturbing him.

Mr. Poghiso: Mr. Deputy Speaker, Sir, why are we trying to create a situation here where, first of all, we shall have to define the term "cattle rustling", which is not in the penal code at the moment, and include, it when we have the option of charging persons with murder if that is the case? If it is stealing of stock, already there is a section in the penal code that deals with it. Rustling involves going to somebody's home and taking cattle from the persons in that home. A fight might ensue and you might get killed or kill. So, murder, assault and stealing are all involved. All these situations are provided for in the penal code. My quarrel is not with the spirit of dealing with crime. We must deal with crime, although I oppose this particular Motion.

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Deputy Speaker, Sir, for according me this opportunity to contribute to this Motion. I am not a cattle rustler, neither am I a chicken rustler. However, I hope my contribution will be taken in a positive way.

Mr. Deputy Speaker, Sir, although some hon. Members might feel that this Motion is untimely, I think it is important as a nation to look at the issue of cattle rustling which has been a big threat to the lives of many people in this country. I would not like it this Motion being handled in a manner suggestive of tribalism or ethnicity. I want to appeal to the hon. Members that, if need be, the Mover of this Motion will consult with the hon. Members who feel strongly opposed to the Motion. That way, we shall be able to achieve the objective of dealing with crime. Here, the issue is to do with the crime of cattle rustling which, has been a big problem to this country. Personally, I would like to envision a situation whereby this problem is permanently addressed once and for all.

Mr. Deputy Speaker, Sir, I want to agree entirely with the Mover of this Motion that somebody who commits the crime of stealing animals worth millions of shillings is equal to a bank robber who breaks into a bank along Koinange Street and also takes millions of shillings. It is a question of property and in which form it is. The person who commits the crime is a thief and he must be dealt with as one, irrespective of whether he is stealing livestock or hard currency. It is crucial to note that cattle rustling has resulted to loss of people's lives and livestock. We would not want to see that practice going on. We must put it to an end.

[Mr. Deputy Speaker left the Chair]

[The Temporary Deputy Speaker

(Mr. Poghiso) took the Chair]

Mr. Temporary Deputy Speaker, Sir, I want to commend the Office of the President for the efforts it has made, so far, since NARC took over power. In the previous administration, cattle rustling was so rampant, but now, I am happy that the Government has put in a lot of effort to stop cattle rustling. The various

communities affected are involved in the curbing of the practice. However, I would hate to see a situation where we give our people authority to kill innocent people in the name of cattle rustling, committing arson and killing people indiscriminately. That is quite unfair, and those caught doing so, even before we know the fate of this Motion, are dealt with firmly by the Government. They are charged with murder or any other preferable charge.

Mr. Temporary Deputy Speaker, Sir, I also find it interesting that cattle rustling still persists. This kind of practice or culture needs to be done away with. We have some cultures which are negative. We need to look at our cultures and do away with those negative cultural practices. Cattle rustling is one of them. We also need to approach the practice in a more civilised manner, so that we can solve the problem once and forever. In some cultures, you will be seen and recognised as a man if only you invade somebody's farm and come out with a number of livestock. This is a very retrogressive practice and we need to do away with it. I would want to see a situation where we set aside more money for civic education in the communities affected by cattle rustling so that they may be able to understand the impact the practice has on others. We may need to set aside funds to go round and educate people on alternative ways of earning a living, instead of practising cattle rustling as a way of life. We need to engage the youth, as one of my colleagues has said, by getting them to school. We should engage the boys in sporting activities. This will dispel the notion that cattle rustling is a sporting activity. That is the approach I would want to see adopted; that is, ensuring that the youth are kept busy with other activities. As leaders, that is our responsibility.

Mr. Temporary Deputy Speaker, Sir, you will agree with me that from where I come from, we used to have the problem of cattle rustling with our neighbours. Every now and then, our brothers from Maasailand used to invade us in Ukambani and moving away with our cattle. The Kambas would also retaliate. That was long ago. However, when leaders convened a meeting and talked about the matter, that became the end of cattle rustling in the area. So, many people used to be killed because, in Ukambani, we use bows and arrows and our neighbours, the Maasai, use spears. We would shoot our arrows at the people in the meeting. These are some of the issues that were handled by leaders. They sat down and agreed on how to go about the problem. I want to urge leaders to participate more in the fight against the menace of cattle rustling so that we wipe it out permanently. Without talking to our neighbours and setting aside personal and political differences, we shall never see the practice wiped out.

Those involved in this kind of practice should realise that times have changed. We are now in a different type of economy. Communities and cultures are dynamic and are prone to change as time goes by. I would want to see this kind of practice, which to me is primitive, being done away with. The aspect of this practice going beyond the boundaries of Kenya calls upon, not only an approach that focuses on Kenya, but also one that would involve our neighbours. I would also want us to look for a way of even getting our neighbours to understand the situation, then we can have a common way of approaching the issue of cattle rustling, which has become a major problem in this country.

Mr. Temporary Deputy Speaker, Sir, I would like to appeal, if necessary, that the leaders sit down even here in the House because I have heard the few hon. Members who have contributed talking about "these people who have brought this Motion", which, to me, gives the connotation of a tribal element to it. I would want us to look at this Motion positively, see how best we can amend it, if need be, so that we can capture the aspect of how best we can deal with the issue of cattle rustling. But a thief is a thief, whether he has stolen money from a bank or cattle from the fields out there. A thief should be dealt with as a thief. As we stand, all thieves should be dealt with firmly by this Government, even if this Motion does not go through.

Mr. Temporary Deputy Speaker, Sir, as an hon. Member of this House, I want to assure you that I support the Motion. However, I am ready to support any amicable way of making amendments to it. With those few remarks, I beg to support.

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir. I beg to move that the Motion be amended as follows:-

By deleting the words "walk to freedom as a result of the right to bail" and inserting in its place the words "get away with".

My second amendment is as follows:-

By deleting the words "a non-bailable" appearing in the last sentence and inserting in its place the word "an".

My third amendment is as follows:-

By deleting the words "life imprisonment" appearing in the last sentence and inserting in its place the words "an enhanced sentence of a minimum of seven years to a maximum of life imprisonment".

Mr. Temporary Deputy Speaker, Sir, the amended Motion will read as follows:-

THAT, considering that cattle rustling is a major cause of insecurity in many parts of the country, resulting in the loss of property and sometimes loss of life; taking into account that culprits, when arrested, often get away with light custodial sentences; this House do grant leave to introduce a Bill for an Act of Parliament to amend the relevant sections of the Penal Code, Chapter 63 of the Laws of Kenya, in order to provide for cattle rustling as an offence punishable by an enhanced sentence of a minimum of seven years and a maximum sentence of life imprisonment.

Mr. Temporary Deputy Speaker, Sir, this amendment is important because this House has a duty to protect the liberty of every subject; and the liberties of the subjects are guaranteed by Chapter 5 of the Constitution, which deals with the fundamental rights and freedoms, and, in particular, Section 72 Sub-section 5 of the Constitution of Kenya. One can only be denied the right to bail if they have committed an offence that will result in the punishment of death.

Mr. Temporary Deputy Speaker, Sir, we are talking about enhancing the punishment meted out to a person to life imprisonment. That is not a ground upon which a subject can be denied the right to bail. The right to bail is a constitutional guarantee as long as you are not facing a capital offence which will result in the punishment of death. So, this amendment is important as it will re-assure all Kenyans that their liberty is protected by the Constitution, and that the presumption of innocence will always prevail until one is tried and found guilty.

Mr. Temporary Deputy Speaker, Sir, you will recall that last year, this House did endorse an amendment to Section 278 of the Penal Code, which generally deals with the stealing of stock. This House was able to amend that provision relating to the sentence by removing the provisions of corporal punishment. In effect, the sentence that now remains under that section is that one can get a minimum of seven years' imprisonment if found guilty, and a maximum of 14 years' imprisonment. This Motion underscores one important point; that we cannot play down the issue of stealing of cattle all over the country. Much as the section deals broadly with the issues of livestock, which also covers ostriches and other things related to that nature, I think the issues of cattle rustling are really special. The incidents we have seen all over the country are a cause for concern. So, this amendment will ensure that the amendments that this House endorsed last year do not make the offence less, because, previously, the sentence carried a minimum of seven years, plus corporal punishment. But corporal punishment has now been removed, which means that the offence is now lighter than anticipated before.

However, Mr. Temporary Deputy Speaker, Sir, putting a minimum of seven years and a ceiling of life imprisonment gives discretion to the trial magistrate, depending on the gravity of a particular offence, to award punishment accordingly. It is not mandatory that one is going to get life imprisonment, but it will entirely be in the discretion of the trial magistrate depending on the impact of the offence on the community. We have seen incidents, for example, where the effects of cattle rustling

have resulted in the total displacement of people. Children, women and men have been living in caves in parts of Marakwet. So, we are saying that the magistrate will be able to weigh the seriousness of the matter and decide whether the case deserves a minimum of seven years, 30 years, or life imprisonment. We are really giving the discretion to the trial magistrate, after evaluating the evidence and the circumstances surrounding the offence. There is really no question of targeting a particular community or a particular individual.

Mr. Temporary Deputy Speaker, Sir, I am aware that in this country, we are still reeling under the thinking of our traditions; the issues relating to *moranism*; that one has to graduate to a *moran* by actually conducting a cattle raid in an enemy territory and bringing the herds home. Those ideas still exist in the minds of our people. It is important to appreciate that we have to educate our people hand in hand by making the necessary amendments to the law. Much as I agree that some communities in this country still treat cattle rustling as a tradition; others treat it as a sport, while others treat it as part of the graduation to *moranism*, it is important that this practice be discouraged.

Mr. Temporary Deputy Speaker, Sir, you will appreciate that the pastoralist communities do not have a constitutional guarantee for what they possess, because in most of the pastoral community areas, land titles have not been issued. So, the constitutional guarantee in the Constitution, under Section 75, which guarantees the land owner the right to own property, does not cover the pastoralist communities. The wealth of a pastoralist community is basically the cattle and sheep that they hold. So, what we are trying to say here is to ensure greater guarantees of the right to own what they call their property, which is basically the animals.

Mr. Temporary Deputy Speaker, Sir, if you look at the areas which have suffered from tribal clashes like Laikipia, Nakuru and, I believe, parts of Western Province, people no longer keep animals because the sport has, basically, been to come and steal your cattle at night. To guarantee the people of this country their right to have animals at their homesteads without any fear, it is important that this sentence be enhanced. We should leave it entirely to the discretion of the court to deal with the offenders as firmly as possible. In my view, this will be a deterrent.

Mr. Temporary Deputy Speaker, Sir, if you look at the comparable provisions of the Penal Code, you will find that under Section 277, stealing a testamental grant is a serious offence. If you steal somebody's will, just a piece of paper where he shows how he will distribute his properties to his successors, it earns you ten years imprisonment. So, you can see the seriousness with which the law looks at the issues of property. If stealing a testamental grant could send you to prison for ten years, how many years would a fellow who steals 5,000 head of cattle and leaves so many families without any means of livelihood and living in caves because of fear, be imprisoned? He deserves to be imprisoned for more than the seven years they are getting. I believe there is a case to enhance imprisonment for cattle rustlers, which has now become a very lucrative business.

Mr. Temporary Deputy Speaker, Sir, it is not a poor man's game to go stealing cattle. They steal cattle because there is a ready market where they can dispose of these animals. The law needs to reach out to the persons who are encouraging cattle rustlers by providing a ready market for the cattle. The amendment is important in terms of reassuring all the stakeholders that we are trying to fight a crime, and that we are not targeting a particular community and the liberty of every Kenyan will be guaranteed.

Mr. Temporary Deputy Speaker, Sir, I beg to move, and request Mr. Rotino to second the amendment.

Mr. Rotino: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to second the amendment because of the following reasons.

All of us are good citizens of this country and cannot condone theft of any kind, be it bank robbery, stealing money, chicken or cattle. When theft has occurred, we should define it. The chapter of the laws of Kenya that we are talking about does not exactly define cattle rustling. It talks about

stealing of stock. We know the complicity of stock. So, cattle rustlers must be punished by the courts. As leaders of this country, we should address the real cause of cattle rustling. When we talk about cattle rustling, we should differentiate between cattle rustling and cattle theft. When somebody steals one cow or two, that is cattle theft. When 100 people steal 200 head of cattle, that is cattle rustling. The Government should address the causes of cattle rustling.

Mr. Temporary Deputy Speaker, Sir, at the moment, our prisons are very comfortable resting places because we have television sets, mattresses and good food. This will encourage people to steal, so that they can be jailed and go to watch television because they do not even have television sets in their homes. They can go and relax there. Also, there is a lot of poverty in our rural areas.

I support this amendment because it proposes a minimum sentence of seven years and a maximum of a life imprisonment depending on the judge or the magistrate hearing the case. For example, sometime back, a Turkana was arrested for stealing chicken. When he was taken to a Kitale court, the magistrate asked him to plead in litigation. He asked the magistrate whether there was food in jail. He was told that there were beans, ugali and *sukuma wiki*. He requested the magistrate to increase the sentence to more than ten years because he would enjoy himself in jail.

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Rotino, who is a Pokot, to insinuate improper motive against the Turkana? He has said that the Turkana man wanted to be jailed for a longer term because of the availability of food and other facilities in our prisons.

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, there was also a Boran from Marsabit who did the same thing. He asked for a longer jail term because of the good food in prison. There is a lot of starvation in Marsabit. If these people are jailed, they will enjoy watching television, which they do not have in their homes. So, they would like to be imprisoned.

On a serious note, Mr. Temporary Deputy Speaker, Sir, we should address the cause of cattle rustling---

The Temporary Deputy Speaker (Mr. Poghismo): Order! On a serious note, Mr. Rotino, what is the authority or the source of that information that you have?

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, I am talking about what I heard and read about a Turkana who requested a magistrate in Kitale to increase his sentence because there was good food in prison. If you want me to bring this evidence, I can do so. I will get the evidence from Kitale.

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to insinuate improper motive against the plight of the Turkanas? He has told us that the Turkanas are very hungry and that they would like to stay in jail. Could he withdraw or substantiate that allegation?

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, I do not have to withdraw the obvious. I can bring evidence to this effect. I am a neighbour to the Turkanas and I know the problems they are facing.

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Rotino! This is how you get into trouble. It does not matter what information you have, but you have to stand by it. In other words, it has to be something that you can substantiate. If not, the best way out is, normally, to withdraw, apologise and proceed.

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, I do not have the evidence now but, with time, I can produce it. For the time being, I want to apologise to the Turkanas and the Borans.

I was saying that we should address the cause of cattle rustling. Mostly, this happens because of lack of education. The Government has not given deliberate attention to the plight of the people in the ASAL areas. The level of poverty in our country encourages cattle rustling. We should develop good policies that will address the problems that are evident in our societies.

Mr. Temporary Deputy Speaker, Sir, there are a lot of illegal guns in these areas and the

Government should make a deliberate effort to address the movement of guns from our neighbouring countries. This should not just be a Kenyan problem only. We should handle it internationally. The problem must be addressed by the governments of Uganda, Tanzania, Somalia and Kenya. When we had the traditional arms such as the arrows and the spears, cattle rustling was not as rampant as it is today. The availability of guns has made this problem rampant. We should not just target some areas. We have gangsters with guns moving around in many pastoral areas of this country. The Government is proving to have been defeated in controlling movement of guns. This failure is evident because when there is a problem in this country, it is not able to solve it.

Recently, some Marakwets sprayed some children, who were in a school, with bullets. One child was killed. Up to now, no one has been arrested, yet those who committed the crime are known. Their names are with the police. This is one of the reasons that is making us say that the Government has been defeated in fighting crime. We have chiefs, assistant chiefs, DOs, and even DCs all over the country. When something like that happens, and the police are not able to arrest the culprits, it encourages other people to do the same since they know that they will not be arrested. As much as we advocate for prosecuting people, we must also realise that the Government machinery that is supposed to enforce security is not efficient. *Wananchi* have no confidence in the machinery that is currently in place. We are, therefore, saying that the Government ought to address this problem very seriously.

With those few remarks, I beg to support.

(Question of the first part of the amendment, that the words to be left out be left out, proposed)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I would like to support this amendment. The issue of cattle rustling--

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon Members! We are trying to dispose of this amendment as soon as we can. We will, therefore, only allow one person to contribute and then move on. This is a timed Motion.

Dr. Ojiambo, proceed!

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I rise to support the amendment and emphasise the fact that the issue we are discussing here is very important. It should not be confined to the communities which experience cattle rustling. I do not come from a cattle-rustling area. However, I come from an area where fish and even chicken rustling exists. One hon Member has said that cattle rustling is associated with people who steal cattle. We have also witnessed groups of people coming to wrestle with villagers and take away household effects, goats and chicken. In the process, people have been injured, killed and maimed. This problem is of importance and should be looked into as a national issue. It should be considered carefully by this House. Those who live along the lake know that groups of people have crossed into our territory in large numbers and even taken away our fishing nets. Fish, chicken, goats and cows belong to the category of livestock. I am glad that we are considering this as a very important area. It is important to our people and our livelihood as a whole.

A few years ago, our Government, in an effort to help our people curb cattle rustling, gave villagers guns to protect themselves. This is one of the ways in which guns started penetrating into the villages. Why did the Government do that? It was because it realised that our people were being injured while pursuing cattle rustlers. People owe it to themselves to make sure that they live in peace

and security. This House should make it possible for law to be enforced so that people can be protected, not only in areas that experience cattle rustling, but also in areas that experience other forms of crime of the same magnitude.

Mr. Temporary Deputy Speaker, Sir, I want to emphasise availability of law enforcement personnel. Our police should be prompt when assisting victims of cattle rustling and other kinds of crime along our borders. Incidents of this nature always take place. Villagers have been left for days without any help after being injured by property rustlers. I feel that security should be intensified at the border areas, so that our people can get help when incidents of this nature occur. Those who are exposed to these incidents should not be left alone. Their enemies are always armed with bows, arrows and pangas. The innocent cattle-keepers do not have such weapons. They are, therefore, attacked in the process of their property being taken away. Protection should be provided to our people at the right time and place.

When criminals are arrested and taken to court, the court must act fast enough, and be conscious of the fact that those who happen to have been attacked do not want to spend their days standing outside courts. We have witnessed incidents at law courts which have not been very encouraging. When one's property is stolen, he or she is told to report to the nearest police station. He or she then goes to the law courts where he or she moves up and down, and keeps on meeting those who took away their property. This can take many days. One may end up spending all of his or her only remaining resources attending court, yet judgement may not be delivered in good time.

Mr. Temporary Deputy Speaker, Sir, the courts have been lax in some of these incidents and we want to encourage them to take appropriate action. I support Mr. M. Kariuki's amendment to the effect that there should be a sentence of a minimum of seven years and a maximum of life imprisonment. The courts must take these cases very seriously. You will find that a person steals all the cattle belonging to a certain villager, or all the property belonging to a family, and yet he is only given a very light sentence and allowed to come back to the community again. Maybe he took these cows to somebody else for safe-keeping during his jail period. He then comes back, buys a Mercedes Benz car and returns to live in the village. The poor person from whom the cattle, or property, was stolen is left without anything. It is very sad that these people are given such light sentences. This leaves us wondering whether there is collusion between these cattle rustlers and the courts. Why should the courts mete out such light sentences when this issue is so serious?

I want to agree with my colleagues who have talked about poverty as something that should be considered a cause of crime. When theft happens to one of us, they tend to think that somebody is envious of them because they have cattle while the thief does not have them. Or, one might think that he is inviting envy because his house is full of beautiful furniture while the other person does not have it; therefore, he wants to take my furniture. He wants to sell it, get some money and use it on something else. It is true that we need to emphasise on poverty reduction. Our Government must step up activities aimed at reduction of poverty.

We should continue educating our people that taking away other people's property does not help to alleviate one's misery. In our society, if neighbours discover that you have stolen somebody's property, they will also steal from you. So, it does not help. People should learn not to take away from others, but to work hard to get property through their own sweat.

With those few remarks, I support the amendment.

(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)

(Question of the second part of

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

*(Question of the Motion
as amended proposed)*

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Motion for a number of factors. I believe that the Mover and those who support this Motion are mainly of a sedentary background and do not appreciate the prevailing circumstances, especially for those who are engaged in cattle rustling. I also tend to think that policy-makers and planners in this country have been of the same view about those disadvantaged regions, where this particular vice is rampant, and have neglected those regions for a long time.

I feel that we should have had more concentration today on the spiralling crime rate in this country, especially in the urban areas, where we really feel insecure. In order to help those people who think that this Motion is of any importance, I will elaborate a number of issues that affect people in those areas, which actually move them into this vice, which we do not encourage as leaders. Quite often we find that in those areas there is scarcity of resources, particularly water and pasture. Further, in those very areas, whenever we have clan conflicts as a result of scarcity of the resources I have just mentioned, we realise some cases of cattle rustling. It is not that people in these areas really do wish to engage in cattle rustling as a career. It is because of the general poverty situation that has arisen as a result of inability by the Government to plan very well for these people. Successive Governments in this country have been guilty of this omission since Independence.

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am surprised to hear those suggestions from my colleague here. Does he mean that---

The Temporary Deputy Speaker (Mr. Poghisio): What is your point of order?

Capt. Nakitare: Is he in order to tell this House that cattle rustling is a simple issue when the Karamajong from Uganda come to Kenya to take our livestock? They have finished our livestock in Trans Nzoia and he is encouraging this practice!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Capt. Nakitare! That is simply a good argument.

Proceed!

Mr. Abdirahman: Thank you, Mr. Temporary Deputy Speaker, Sir. I was on the point about inability by the Government to adequately plan for the people who live in these areas in order for them to have an alternative source of livelihood and their basic needs such as education, water and health. As another hon. Member before me has rightly pointed out, if we plan for these people and give them their basic needs, then this vice, which we do not encourage among ordinary citizens, will not be there.

It is known that a few communities may practise cattle rustling as a traditional kind of activity. That can be abandoned through education for those people. So much resources have been committed to eradication of female genital mutilation by governments and the international community. If the Government educates these people, I am sure they will get rid of this vice. Dealing with it, therefore, does not call for such severe measures as life imprisonment.

I also want to help my colleagues, who support this Motion, understand that there are perennial food shortages in these regions resulting from drought and other calamities. Since our Government does not plan appropriately for emergencies, when food shortages occur, the affected people are forced to engage in cattle rustling.

The other thing I want to point out is the inability by Government officers; the Provincial Administration and other security officials to handle or arrest these issues kindly. Since they do not

understand these communities very well, they allow them to continue clashing over time because they make profits out of this. Billions of shillings have been spent in these disadvantaged regions for years on end on security when that money could have been put into good use for development purposes. This money would have really benefited these communities to move out of the abject poverty which they have experienced for many years. There is evidence to show that good planning has not been done for our people in those pastoralist districts. That is why they are in that kind of a situation. There is also sufficient evidence in the resident welfare monitoring survey carried out by the Central Bureau of Statistics (CBS). The CBS does not rate districts, for example, in northern Kenya at all in the poverty index. I do not know where they are ranked.

Mr. Temporary Deputy Speaker, Sir, going down a little more on the cross-border conflicts, which those who supported the Motion persistently referred to, it is because of the uncertainty around this country with its neighbours. We know there is a lot of political instability in Somalia, Sudan and in northern Uganda. That is why we have those issues of insecurity coming down to areas such as north-west Kenya and, probably, North Eastern Province where these problems persist. All these come back to the Government institutions that have to help in establishing cordial relations; and move Kenyans out of this problem which they constantly complain of. It is not in the interest of individuals from these communities to engage in this vice which does not help them and which affects other Kenyans.

Mr. Temporary Deputy Speaker, Sir, I wish to say very categorically that if this Motion goes through, it will be to the detriment of the innocent Kenyans who actually do not engage in this particular vice. The blame will squarely lie on the lap of the Government which has failed to put in place effective strategies that can help combat both the general poverty and help alleviate the general problems, which our people are complaining about.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to strongly oppose this Motion.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to contribute to this Motion. I want to oppose it because it seeks to achieve what is already provided for in the existing laws. In the Laws of Kenya there is actually no offence known as cattle rustling. What we have is stock-theft. Section 278 of the Penal Code, Cap.63 of the Laws of Kenya provides that:-

"If the thing stolen is any of the things following; that is to say, a horse, mare, a gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, or the young thereof, the offender is liable to imprisonment with hard labour for a term not less than seven years and not more than fourteen years."

Mr. Temporary Deputy Speaker, Sir, it used to have corporal punishment which we amended and deleted.

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

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I will not accept any information, I have just started. I have not even said anything!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Munya!
Proceed, Mr. Wetangula!

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

The Temporary Deputy Speaker (Mr. Poghisio): Capt. Nakitare, it had better be a point of order!

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, the Motion seeks to amend Section 63 of the Penal Code. Is the Assistant Minister---

The Temporary Deputy Speaker (Mr. Poghisio): What is your point of order?

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, cattle rustling is different from

stock-theft because guns are not used. The cows are forcefully taken from where they are tethered. Is the Assistant Minister in order to mislead this House about this issue?

The Temporary Deputy Speaker (Mr. Poghisio): Capt. Nakitare, it is difficult for me to understand your point of order!

Mr. Wetangula, proceed!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, if Capt. Nakitare had listened to me, he would have appreciated what I said. I will repeat myself for clarity. There is no offence in our laws called "cattle-rustling". What we have is stock-theft. Cattle-rustling is a loose term used when a large number of cattle are stolen. That is what I meant.

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister, who I respect as my senior in law, to mislead this House? The intention of this Motion is to introduce that offence. That is why we are amending this section, so that we could introduce that offence which we want to call "cattle-rustling".

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, it is obvious that my learned junior has not read and understood the Motion properly. What I am saying is that whatever the Motion wants to introduce in the current laws of Kenya is adequately covered by the same laws. We have to pay attention to the causes of crime and find ways of tackling them. I, personally, do not believe that punishment *per se* can solve problems of crime. I do not believe that by focusing on punishment, we will, in any way, reduce crime.

*(Mr. Abdirahman crossed to the
Government side without
bowing to the Chair)*

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Abdirahman! I have just noticed that casual departure from the Chamber where a Member slips out to the other side of the House without bowing to the Chair.

Mr. Abdirahman, could you properly withdraw from the Chamber?

*(Mr. Abdirahman bowed to the
Chair and withdrew from the Chamber)*

Proceed, Mr. Wetangula!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, cattle rustling or stock theft exists in some parts of this country as a cultural practice. In some parts it exists as common crime. In the last couple of years, I do not think we can classify this as a menace. It has not been as rampant as it used to be. There is a sensible control of the crime. We need to moralise on this issue. When it comes to the issue of stock theft, whether you steal one cow or a 100 of them, the punishment is the same. In my mind, if you jail somebody for 14 years, it amounts to a life sentence, by any standards. Surely, that is more than enough punishment. If you lock up a 50-year-old person for 14 years, where the life expectancy is 50 years or 55 years, you have virtually sentenced that person to life imprisonment.

Mr. Temporary Deputy Speaker, Sir, we do not need to provide for any life imprisonment. What we need to focus on is for the Government to move to cattle rustling-prone areas and provide for facilities that would make cattle rustling unattractive. It should set up commercial activities, provide more schools and get the *morans* and the young boys who engage in stealing cattle more socially engaged, so that they could move away from the habit. As I said, if somebody steals one cow - the Act even says one ostrich - you will be liable to life imprisonment. That is because you are left to

the whim of the magistrate to exercise his or her discretion. I do not think that, that will be fair. The punishment will not be befitting the crime. We will be using a hammer to kill a fly, which is not sensible both in law and in fact.

Mr. Temporary Deputy Speaker, Sir, perhaps, what Dr. Khalwale could have asked Parliament to do is to qualify degrees of offences. For example, where the marauding invaders have deadly weapons like guns and, while in the process of stealing, they cause death and are caught up with, they can be charged with murder. There might be some graduated offence that would carry a much heavier sentence. But in communities where we have closed community theft of cattle and other stock, it will be helpful for this House to encourage compensation and restitution, other than punishment. I would encourage my friends from Pokot, Turkana and other outlying areas where those offences are regular, to form cross-community committees that would constantly discuss and review cases of such nature. I am reluctant to open the gates of prison and flood in our young men simply because, out of desperation, they have picked a cow or a bull. It is not good. I believe---

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister---

The Temporary Deputy Speaker: Order, Capt. Nakitare! I have not recognised you!

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that taking somebody's property is---

The Temporary Deputy Speaker (Mr. Poghisio): Capt. Nakitare, you are out of order!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I do not know why my friend, Capt. Nakitare, is so agitated!

I was saying that we need cross-community committees that can bring harmony between our people. The role of this Parliament is not to prescribe punishment. We should strive to prescribe harmony and peaceful co-existence between communities. Where offences have been committed, this Motion does not seek to bring anything new to our laws. We already have sufficient provisions in the law that could deal with people who commit offenses. It is not seeking to create any laws and, as such, it is not adding any value to the existing laws.

On that note, I oppose it and urge other hon. Members to do so.

The Temporary Deputy Speaker (Mr. Poghisio): Could I have just one more person? All these are pastoralists! Mr. Wario!

Mr. Wario: Bw. Naibu Spika wa Muda, ahsante kwa kunipa fursa hii, ili niweze kuchangia Hoja iliyo mbele yetu. Mimi nasimama kupinga Hoja hii. Naipinga kwa sababu inasema kwamba kiwango kikubwa cha usalama wa nchi hii unavurugwa na wizi wa mifugo. Kabla sijaendelea, ningependa kumuuliza yule aliyelea Hoja hii aende katika jela za hapa Nairobi, Mombasa na Kisumu, na aangalie ni watu wangapi ambao wamefungwa huko. Kisha, aende wilaya za wafugaji aone ni watu wangapi wamefungwa huko.

Bw. Naibu Spika wa Muda, karibu kila siku katika televisheni yetu, tunaona wezi wakiuawa katika miji mikubwa. Hawa watu wanaouawa, wanaoshtatikwa na kufungwa, si watu ambao wamevamia na kuiba ng'ombe? Ni watu ambao wamevamia watu na kuwanyang'anya mali kimabavu. Hii haihuziani na---

Dr. Khalwale: On a point or order, Mr. Temporary Deputy Speaker, Sir. Looking at the clock, I am worried that, maybe, we might not have time for the Official Government Responder?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir, I did not indicate that my contribution was the official Government Response. It was, indeed, the official Government Response.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker. This is a very important matter. The Motion is mine. Two Assistant Ministers, who do not come from the relevant office, have spoken here with divergent views. None of them indicated that he was speaking on behalf---

The Temporary Deputy Speaker (Mr. Poghisio): What is your point of order? Order! Order, Dr. Khalwale! You are the Mover. Secondly, this is a Private Members' Motion and if there is no person within the Government ranks who wants to give the official Government position, the Motion can go on. If you do not accept an Assistant Minister as a Minister and you want a specific Minister, that really defeats the purpose of being in this House, because one Assistant Minister or Minister speaks for the rest. It is not actually within your responsibility to question that. Your responsibility as the Mover is to move and to reply. So, I am only telling you to wait for your time to reply and, in any case, no Standing Orders have been broken or violated by that. So, that is not a point of order. It is just a very good argument.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! I need to remind you that this is the only time reserved for this Motion. When the clock reaches where it is supposed to reach, it will be finished. This is not something that we can extend. The more time you take raising arguments, the more you have the Motion's time eaten into. Proceed, Mr. Wario!

Mr. Wario: Ahsante, Bw. Naibu Spika wa Muda.

Nimesimama kupinga Hoja hii kwa sababu inadai kuzorota ama kuvurugwa kwa usalama katika sehemu kubwa ya nchi kunachangiwa na wizi wa mifugo. Hiyo si kweli. Kuzorota au kuvurugwa kwa usalama ni kwa sababu ya umaskini katika nchi ya Kenya na ukosefu wa nafasi za kazi. Haihusiani vyo vyote na mambo ya wizi wa mifugo.

Nimempa Mbunge mwenzangu mfano aangalie katika miji mikubwa ya hii nchi. Wale wanaouawa kila siku si kwa sababu ya kuvamia mifugo, lakini ni kwa sababu ya hatia zingine za uvamizi wa kimabavu.

Nikisema hivyo, siungi mkono uvamizi ama wizi wa mifugo, wala siungi mkono mila yoyote ile ya kuua mtu yeyote. Ninataka sheria ambayo itaangalia haki ya Wakenya kwa usawa. Iwapo hii Hoja itapita iwe sheria, itakuwa sheria mbaya. Hii ni sheria ya mtu binafsi ambaye ana matatizo ya kibinafsi na haiwezi ikanufaisha Mkenya yeyote. Hii ni sheria mbaya.

Bw. Naibu Spika wa Muda, aliyenitangulia alivyozungumza, tuna sheria za kutosha zinazoshughulikia matatizo yanayohusiana na wizi wa mifugo. Kuna ile sheria ya wizi wa mifugo ambayo inamfunga mtu kuanzia miaka saba hadi 14. Tuna sheria dhidi ya uvamizi wa kimabavu; unyang'anyi, ambayo hata mtu anaweza akanyongwa. Sasa leo, ni nini kipya tunacholeta katika sheria? Ni nini kipya ambacho tunahimiza Wakenya wafanye? Hakuna kitu kipya hapa, ila ni mambo ya kibinafsi ambayo hatimaye yataleta vurugu kati ya jamii zinazoishi pamoja.

Nafikiri kuwa wajibu wa Bunge ni kutunga sheria na wala sio kutoa hukumu. Bunge haliwezi likitunga sheria na hilo hilo Bunge tena limwambie jaji eti asimhukumu mtu hivi bali vile. Hii sheria imerekebishwa na inaenda kumwambia jaji asifanye hivi bali vile. Huu si wajibu wa Bunge. Jaji awachwe na fursa yake na asishurutishwe na Bunge kumfunga mtu miaka saba, 14 au hata maisha. Si kazi ya Bunge hiyo!

Bw. Naibu Spika wa Muda, sisi kama Waafrika tuna mila. Mila ina sehemu ya uzuru na ubaya. Kuna jamii ambayo kweli wanaiba mifugo na wengine huiba hata kuku. Je, anayeleta sheria hii, anataka mtu akiiba kuku afungwe maisha?

Kwa hayo machache, nimesimama kupinga Hoja hii.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! It is now time for me to call upon the Mover to reply.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Before I reply, I request your indulgence to allow Mr. Munya to contribute to the Motion for five minutes.

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Khalwale, if you have any other person that you are going to give time, you had better do it at the beginning. I will not allow you to give any other time after that, unless you give it now, in advance.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I will also give Mr. Wamunyinyi two minutes!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I would like to thank Dr. Khalwale for allowing me to contribute to this very important Motion.

It is the wearer of the shoe who knows where it pinches. My community has been a victim of cattle-rustling over the years, especially when KANU was running this country.

Dr. Galgallo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member's community is known for growing potatoes and not keeping livestock. Is he in order to mislead the House that they have cattle which is stolen while they have none?

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, the hon. Member who has spoken does not even seem to realise where my community lives. In 1996, about 4,000 head of cattle belonging to people from my constituency were stolen. It is a terrible crime when you have taken years to bring up your herd, develop it and take care of it and then a thief, carrying a gun, comes and takes it away from you. If you were there, you would have seen old men shedding tears because all that they owned in their lives had been taken away. Time has come for us to have strong legislation against this very retrogressive practice.

Mr. Temporary Deputy Speaker, Sir, when we jail or hang a robber who has used a gun to rob a bank and only give light sentence to a robber who has used a gun to steal cattle from poor people, we are saying that those people's lives are cheaper than the lives of the people who live in towns. This is why this Motion is very important.

Cattle-rustling - you should understand why some people are opposing this Motion - was used as a political weapon by the previous regime. It was used as a political reason to punish communities that did not support the previous regime. That is why it has gone down after NARC took over.

Hon. Members: He is not even in NARC!

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead the House, and the whole nation, that the previous regime used cattle-rustling to punish other communities? Could he prove that or apologise?

An hon. Member: Yes! Trans Nzoia!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, how else can we explain the fact that, immediately the NARC Government took over leadership, incidents of cattle rustling went down? The previous regime must have been supporting cattle rustling! I want to explain--

Mr. Wario: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House when immediately after the NARC Government took power, members of the Turkana community were raided, many people killed and their livestock stolen?

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, as I was explaining, the traditional cattle rustling is very different from the modern cattle rustling. In the traditional cattle rustling, people used spears and *pangas*. Because of modern sophisticated weapons, cattle rustling is now a big business which is sponsored by very prominent people who want to make money. That is why the Government must come in to control cattle rustling. The dangers of cattle rustling are very many--

Mr. Wario: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard Mr. Munya say that prominent people are the fellows who are mobilising other people to carry out cattle rustling. Would I be in order to ask the Chair to prevail upon him to name those prominent people who he is claiming are involved in cattle rustling?

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I said because of this problem of cattle rustling, the Government cannot even implement development programmes in areas prone to cattle rustling because there are "armies" controlling those areas. We have what we call, "race for arms", in those areas. That is why we are not able to implement development programmes. My constituency, for example, neighbours Isiolo Town. There was a lot of insecurity before the 2002 General Elections.

People started migrating away from Isiolo Town and the surrounding areas due to cattle rustling.

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

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I want to state from the outset that I support this very important Motion. We have had very serious problems of cattle rustling in Trans Nzoia, Bungoma, Laikipia and many other districts in this country. We need to put in place stiffer penalties to ensure that we deal with the problem of cattle rustling.

Mr. Temporary Deputy Speaker, Sir, I have been made to understand that one of the Ministers who spoke here, and who claims to have spoken on behalf of the Government, alleged that the position of the Government is that, there are enough laws in place to deal with cattle rustling. I think we need to put in place stiffer laws to ensure that we deal with cattle rustlers.

Dr. Galgallo: On a point of order, Mr. Temporary Deputy Speaker, Sir!

Mr. Wamunyinyi: Some of these hon. Members here are cattle rustlers! This one here is a cattle rustler!

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Wamunyinyi! What is your point of order, Dr. Galgallo?

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, I think now I have two points of order to raise. First of all, Mr. Wamunyinyi has just walked into the Chamber and started giving his own stories about what a Minister said in the House. Is he in order to imagine what he did not hear? Secondly, is he in order to call me a cattle rustler? Could he apologise and withdraw the remarks?

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I will not apologise for as long as the hon. Member supports cattle rustling.

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Wamunyinyi! Your time is up! Could you respond, Dr. Khalwale?

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I support the Motion.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank everybody for the interest he or she has shown in this particular Motion. That shows that this Motion represents an issue which cannot be wished away. I request hon. Members to support this Motion and ignore the views of Mr. Wetangula because he has a law firm in Bungoma which has benefited from cattle rustling.

(Applause)

Mr. Temporary Deputy Speaker, Sir, with those few remarks---

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Dr. Khalwale to impute improper motives on me when he ought to know that in my 23 years of practice, I have never acted for a cattle rustler?

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

(Applause)

The Temporary Deputy Speaker (Mr. Poghio): Order, hon. Members!

(Question of the Motion as amended put and negatived)

IMPLEMENTATION OF RURAL
ELECTRIFICATION PROGRAMME
IN SUBUKIA

Mr. Wamwere: Bw. Naibu Spika wa Muda, ninaomba kutoa Hoja:-

KWAMBA, ikifahamika kuwa makundi mengi ya wananchi huko Subukia yaliahidiwa kwamba yangewekewa umeme na Shirika la Kutoa Nguvu za Umeme Nchini (Kenya Power and Lighting Company) iwapo wangelipa asilimia kumi ya gharama; ikijulikana kwamba mengi ya makundi hayo yalikamilisha malipo hayo chini ya mpango wa kusambaza umeme mashambani na kuidhinishwa na Halmashauri ya Maendeleo ya Wilaya (DDC); Bunge hili linahimiza Serikali itekeleze ahadi hiyo haraka iwezekanavyo.

Ninaanza kupendekeza Hoja yangu kwa kusema kwamba katika kipindi cha miaka 10 iliyopita, makundi 36 kutoka Subukia yalichanga pesa kiasi cha Kshs23,400,000 kama asilimia kumi ya gharama ya kupata umeme.

Bw. Naibu Spika wa Muda, ukihesabu pesa hizo pamoja na riba yake katika kipindi cha miaka kumi, zimefika Kshs60,800,000. Imesemekana kwamba Wizara ya Kawi imechukua kiasi cha Kshs7 bilioni kutoka kwa wananchi, ikiahidi kwamba itazitumia kuwaletea wananchi umeme, bila ya kufanya hivyo.

Hivi majuzi, kumetolewa ripoti iliyoeleza wazi kwamba katika kampuni ya Kenya Power and Lighting Company (KPLC), kumekuwa na ufisadi wa hali ya juu. Kwa sababu hiyo, nalazimika kuuliza swali hili: Ikiwa Kshs7 bilioni hazikutumiwa kuwapatia wananchi umeme, basi ziko wapi? Ni nani alizichukua? Na kama zilichukuliwa na hazikufanya kazi zilizochangiwa, na zikatumiwa kwa njia nyingine---

QUORUM

Mr. Keter: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that there is quorum in the House?

The Temporary Deputy Speaker (Mr. Poghisio): It is evident that there is no quorum. So, ring the Division Bell for five minutes.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members. Due to lack of quorum, the House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.13 p.m.